

## **Proposed Changes to the Local Rules for the Superior Court of the of the State of California, County of Napa – July 2020**

The Napa Superior Court proposes to adopt the following changes to its Local Rules, to be effective July 1, 2020. We welcome your comments, which must be submitted by May 2, 2020 to:

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### **Summary of Proposed Additions/Changes**

**3.3 Courtesy Copies of E-Filed Documents** – Add to the rule that parties need to submit color documents as courtesy copies. Change the rule to have parties submit courtesy copies the day after e-filing instead of three court days before the hearing.

**6.6.1 Service of Complaint** – Change reference to “ADR Information Packet” to “ADR Information Sheet” to reflect what a plaintiff receives after filing a civil complaint.

**7.7 Hearings – General; 7.10 Child Custody and Visitation; 10.1 Competency Requirements for Counsel; 10.2 Minimum Standards of Education and Training; 10.4 Caseload Standards; 10.5 Procedures for Reviewing and Resolving Complaints; and Appendix A Locating a Qualified Private Child Custody Evaluator** – Eliminate gender pronouns.

**9.10 Hearing Dates for Conservatorships and Guardianships** – Eliminate “clerk of the court” to allow parties to pick a hearing date.

**Forms GU-1 Order for Court Investigation Regarding Appointment of Relative Guardian(s) and GU-2 Order for Investigation of Non-Relative Guardian(s) by Health & Human Services, Child Welfare Division** – Add subdivision (a) to the reference to Probate Code section 1513.

**Forms CR-11 Advisement and Waiver of Right to Counsel (Faretta Waiver); Form CR-20 Plea Form; Form CR-27 Misdemeanor Plea Form; Form CR-51 Waiver of Personal Service; Form CR-52 DUI Court Trial Waiver; Form CR-91 Order for Military Diversion; Form CR-92 Order for Diversion Evaluation; and Form CR-93 Order for Diversion** – Eliminate gender pronouns.

**Text of Proposed Additions/Changes to the Local Rules**

<b>Current Local Rule</b>	<b>Proposed Local Rule</b>
<p><b>3.3 Courtesy Copies of E-Filed Documents</b></p> <p>Parties must provide a courtesy copy of any e-filed document exceeding 15 pages (including exhibits). Courtesy copies shall be delivered to Court Counsel at least three court days before a hearing. For <i>in limine</i> motions or matters on which the hearing will be two court days or fewer from filing, parties shall deliver the courtesy copies the same day as filing. This rule does not apply to administrative records in writ proceedings.</p>	<p><b>3.3 Courtesy Copies of E-Filed Documents</b></p> <p>Parties must provide a courtesy copy of any: (1) e-filed document exceeding 15 pages (including exhibits); and (2) any color document (e.g., color photographs, maps, charts). Courtesy copies shall be delivered to Court Counsel or the clerk of the court no later than the next court day after filing.</p>

### 6.6.1 Service of Complaint

Upon the filing of a Complaint, the plaintiff shall receive the following from the clerk for service upon the parties:

1. Notice of Case Management Conference indicating the courtroom, date, and time of conference. The Case Management Conference will be set within 180 days of the filing date of the original Complaint. The court may continue this date if necessary to comply with Government Code section 68616.

2. An ADR Information Packet

- A. Forms with Summons and Complaint and Return of Proof of Service.** The plaintiff shall serve the Summons and Complaint, which must be served together with a Notice of the Case Management Conference and the ADR Information Packet promptly after the pleading is filed. Proof of service shall be filed with the court within ten (10) days of this service. The ADR Information Packet need not be served on any defendant in any civil action brought by the District Attorney or the Attorney General in the name of the People of the State of California.
- B. New Parties in Cross-Complaint.** If a Cross-Complaint names new parties, the cross-complainant shall serve copies of the Notice of Case Management Conference and the ADR Information Packet on the new parties at the same time that the Cross-Complaint is served.

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1. Notice of Case Management Conference indicating the courtroom, date, and time of conference. The Case Management Conference will be set within 180 days of the filing date of the original Complaint. The court may continue this date if necessary to comply with Government Code section 68616.

2. An ADR Information Sheet.

- A. Forms with Summons and Complaint and Return of Proof of Service.** The plaintiff shall serve the Summons and Complaint, which must be served together with a Notice of the Case Management Conference and the ADR Information Sheet promptly after the pleading is filed. Proof of service shall be filed with the court within ten (10) days of this service. The ADR Information Sheet need not be served on any defendant in any civil action brought by the District Attorney or the Attorney General in the name of the People of the State of California.
- B. New Parties in Cross-Complaint.** If a Cross-Complaint names new parties, the cross-complainant shall serve copies of the Notice of Case Management Conference and the ADR Information Sheet on the new parties at the same time that the Cross-Complaint is served.

**7.7 Hearings - General**

- A. Presence of Parties and Attorneys.** If a party or attorney cannot appear because of illness, extreme economic hardship, or other good cause, that party or his or her attorney must immediately contact the other party and every reasonable effort shall be made to continue the hearing. In the absence of a negotiated continuance or settlement, the party must file a declaration detailing the communication or attempted negotiations with the other party and a request for a reasonable continuance.
- B. Failure to Appear.** Failure of the moving party or attorney to be present at the calendar call or to have informed the clerk of his or her presence shall result in the matter being removed from the calendar, and if the responding party has appeared, attorney fees and costs may be awarded to the appearing party. In the event the responding party fails to appear, the court may continue the matter and award attorney fees or enter an order on the pleading and testimony of the moving party.

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<p><b>7.10 Child Custody and Visitation</b></p> <p>9. <u>Mediation Complaints and Requests for New Mediator.</u> Complaints regarding a mediator are handled as follows:</p> <p>a. Complainant shall complete a form provided by Family Court Services and mail or deliver it to the Court Executive Officer.</p> <p>The Court Executive Officer or his/her designee ("investigator") will conduct an investigation of the matter including consultation with the mediator(s) assigned to the case. Within 15 days, the investigator will determine whether to replace the challenged mediator, add a second mediator to the case, or take no action. The date and action will be recorded by the investigator and the complainant will be informed promptly in writing. The investigator's decision is final.</p>	<p><b>7.10 Child Custody and Visitation</b></p> <p>9. <u>Mediation Complaints and Requests for New Mediator.</u> Complaints regarding a mediator are handled as follows:</p> <p>a. Complainant shall complete a form provided by Family Court Services and mail or deliver it to the Court Executive Officer.</p> <p>The Court Executive Officer or that officer's designee ("investigator") will conduct an investigation of the matter including consultation with the mediator(s) assigned to the case. Within 15 days, the investigator will determine whether to replace the challenged mediator, add a second mediator to the case, or take no action. The date and action will be recorded by the investigator and the complainant will be informed promptly in writing. The investigator's decision is final.</p>
<p><b>9.10 Hearing Dates for Conservatorships and Guardianships</b></p> <p>Unless the court orders otherwise, the clerk of the court shall set a hearing date generally no sooner than 45 calendar days after the filing date to allow time for preparation of the court investigator's report, unless a temporary guardianship or conservatorship is granted ex parte, in which case the hearing shall be set within 30 days. (Prob. Code, § 2250, subd. (1))</p>	<p><b>9.10 Hearing Dates for Conservatorships and Guardianships</b></p> <p>Unless the court orders otherwise, a hearing date shall be set generally no sooner than 45 calendar days after the filing date to allow time for preparation of the court investigator's report, unless a temporary guardianship or conservatorship is granted ex parte, in which case the hearing shall be set within 30 days.</p>

**10.1 Competency Requirements for Counsel**

**A.** All attorneys who represent parties in juvenile court dependency proceedings shall meet the minimum standards of training and/or experience set forth in California Rules of Court, rule 5.660(d)(3). Each attorney of record for a party to a dependency matter who has not been previously certified under these rules, and who believes that he or she meets the minimum standards of competency, shall, within ten (10) days of his or her first appearance in a dependency matter, complete and submit to the Court Executive Officer of the court a memorandum certifying that he or she meets the standards of competence as set forth in California Rules of Court, rule 5.660(d)(3).

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**E.** In the case of an attorney who maintains his or her principal office outside of this county, proof of certification by the juvenile court of the California county in which the attorney maintains an office shall be sufficient evidence of competence to appear in a juvenile proceeding in this county.

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**E.** In the case of an attorney who maintains a principal office outside of this county, proof of certification by the juvenile court of the California county in which the attorney maintains an office shall be sufficient evidence of competence to appear in a juvenile proceeding in this county.

**10.2 Minimum Standards of Education and Training**

...

- B.** When a certified attorney fails to submit evidence that he or she has completed at least the minimum required training and education to the court by the due date, the court must notify the attorney that he or she will be decertified. That attorney shall have 20 days from the date of the mailing of the notice to submit evidence of his or her completion of the required training or education.
- C.** After initial certification by the court, attorneys shall submit a new certificate of competence to the court at least every three (3) years. The attorney shall attach to the renewal certificate of competence evidence that he or she has satisfied the continuing education requirements of California Rules of Court, rule 5.660(d)(3).
- D.** If the attorney fails to submit the required evidence or fails to complete the required minimum hours of continuing training or education, or the court makes a finding under rule 10.1(C), the court must order, except in cases where a party is represented by retained counsel, that certified counsel be substituted for the attorney who fails to complete the required training. In the case of retained counsel, the court must notify the party that his or her counsel has failed to meet the minimum standards required by these rules. The determination whether to obtain substitute counsel shall be solely within the discretion of the party so notified, except for child's counsel, who may be removed by the court.

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- B.** When a certified attorney fails to submit evidence of completion of at least the minimum required training and education to the court by the due date, the court must notify the attorney of decertification. That attorney shall have 20 days from the date of the mailing of the notice to submit evidence of completion of the required training or education.
- C.** After initial certification by the court, attorneys shall submit a new certificate of competence to the court at least every three (3) years. Attorneys shall attach to the renewal certificate of competence evidence they have satisfied the continuing education requirements of California Rules of Court, rule 5.660(d)(3).
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**10.4 Caseload Standards**

Every attorney appointed to represent children must take care to ensure that he or she can adequately and competently represent all of the attorney's clients in a manner consistent with the requirements of Welfare and Institutions Code section 317(c), California Rules of Court, rule 5.660, and these rules. Any attorney who is unable to meet these requirements because of the size of the attorney's caseload or the demands of a particular case or cases, must notify the juvenile court judge that the attorney is unable to accept any new cases. Further, said attorney must move to be relieved as attorney of record in any existing case in which the attorney cannot provide adequate and competent representation. Upon an adequate showing, the court must appoint substitute counsel for the child.

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<p><b>10.5 Procedures for Reviewing and Resolving Complaints</b></p> <p>A. Any party to a juvenile court proceeding may lodge a written complaint with the court concerning the performance of his or her appointed attorney in a juvenile court proceeding. In the case of a complaint concerning the performance of an attorney appointed to represent a child, the complaint may be lodged on the child’s behalf by the social worker, a caretaker relative or a foster parent, or CASA.</p> <p>...</p> <p>E. If, after reviewing the complaint, the response, and any additional information, the court finds that the attorney acted incompetently, the court may order that the attorney practice under the supervision of a mentor attorney for a period of at least six (6) months, or that the attorney complete a specified number of hours of training or education in the area in which the attorney was found to have been incompetent, or both. In cases in which the attorney’s conduct caused actual harm to his or her client, the court shall order that competent counsel be substituted for the attorney found to have been incompetent, and may, in the court’s discretion, refer the matter to the State Bar of California for further action.</p>	<p><b>10.5 Procedures for Reviewing and Resolving Complaints</b></p> <p>A. Parties to a juvenile court proceeding may lodge a written complaint with the court concerning the performance of their appointed attorney in a juvenile court proceeding. In the case of a complaint concerning the performance of an attorney appointed to represent a child, the complaint may be lodged on the child’s behalf by the social worker, a caretaker relative or a foster parent, or CASA.</p> <p>...</p> <p>E. If, after reviewing the complaint, the response, and any additional information, the court finds that the attorney acted incompetently, the court may order that the attorney practice under the supervision of a mentor attorney for a period of at least six (6) months, or that the attorney complete a specified number of hours of training or education in the area in which the attorney was found to have been incompetent, or both. In cases in which the attorney’s conduct caused actual harm to the client, the court shall order that competent counsel be substituted for the attorney found to have been incompetent, and may, in the court’s discretion, refer the matter to the State Bar of California for further action.</p>
<p><b>Appendix A Locating a Qualified Private Child Custody Evaluator</b></p> <p>It is the responsibility of the parties to ensure that a private child custody evaluator meets or exceeds the legal qualifications for a court-appointed evaluator and to verify his or her credentials. The court does not endorse, evaluate, supervise, or monitor private child custody evaluators nor does the court verify their legal qualifications or credentials.</p>	<p><b>Appendix A Locating a Qualified Private Child Custody Evaluator</b></p> <p>It is the responsibility of the parties to ensure that a private child custody evaluator meets or exceeds the legal qualifications for a court-appointed evaluator and to verify an evaluator’s credentials. The court does not endorse, evaluate, supervise, or monitor private child custody evaluators nor does the court verify their legal qualifications or credentials.</p>