

## **RULE 6. FAMILY LAW**

### **6.1 GENERAL INFORMATION**

These Rules apply to all matters related to the Family Law Act, the Uniform Parentage Act, the Domestic Violence Prevention Act, and the Uniform Child Custody Jurisdiction and Enforcement Act. (Eff. 7/1/03) *As Amended Eff. 1/1/11*

### **6.2 DOCUMENTS PRESENTED FOR FILING**

All documents presented to the Court for filing shall be in conformance with the California Rules of Court and with Rule 2 of these Plumas County ~~Local~~ Superior Court Rules. Judicial Council forms shall be used for all filings for which such forms have been adopted. (Adopted Eff. 7/01/08) *(As Amended Eff. 1/1/11)*

### **6.3 FAMILY LAW CASE MANAGEMENT**

The Plumas Superior Court's policy is to assist all parties in family law cases in managing their cases so that a timely resolution is reached with the least possible cost. Case management conferences will be set in all family law matters involving dissolution, legal separation or nullity for parties to a marriage or domestic partnership, cases to establish parental relationship and any other cases assigned to case management by the family law judge filed after September 1, 2010. (Adopted Eff. 1/1/11)

#### **6.3.1 DOCUMENTS ISSUED UPON FILING OF PETITION**

Upon the filing of a family law petition, the Clerk will provide the Petitioner with two (2) copies of each of the following documents. One of these copies is to be served by Petitioner on Respondent when a copy of the Petition and Summons is served:

- a. Notice of Family Law Case Management Conference. This document provides the parties with the date, time and location of the Family Law Case Management Conference.
- b. A blank Case Management Conference Statement. This document must be completed by the Petitioner and Respondent, either separately or jointly and filed 10 days prior to the Case Management Conference.  
(Adopted Eff. 1/1/11)

#### **6.3.2 FAMILY LAW CASE MANAGEMENT CONFERENCE**

- a. Family Law Cases Management Conferences will be held on Wednesdays at 1:30 p.m. Cases where parties are self-represented will be held the first

and third Wednesdays of each month. Cases where parties are represented by counsel will be held the second and fourth Wednesdays of each month. The first case management conference will be scheduled at least 120 days after the filing of the petition..

- b. At the Case Management Conference, the Court may order the following:
  - 1. An order establishing a discovery schedule
  - 2. An order referring the case to Mediation/Investigative Evaluation
  - 3. An order requiring the filing of further documents
  - 4. An order setting the case for mandatory settlement conference/trial
  - 5. An order dismissing the action in whole or in part or imposing sanctions
  - 6. An order requiring counsel or the parties to engage in a meet and confer discussion
  - 7. An order continuing the case for further Case Management
- c. Telephonic court appearances may be allowed with the approval of the judicial officer. A written request must be submitted to the court at least 5 days prior to the Case Management Conference. (Adopted Eff. 1/1/11)

#### **6.36.4 CHILD CUSTODY AND VISITATION / ORDERS PENDING HEARING**

**(a) Visitation Policy.** It is the policy of the Court that the child(ren)'s previously established living situation should not be radically altered during the pendency of custody and visitation disputes. Only under extraordinary circumstances will the Court deny access of one parent to the child(ren) or change any child(ren)'s principal place of residence pending a hearing on the matter. Therefore, any application to change the child(ren)'s living situation prior to a Court hearing shall include the following:

- The current Court Order (if any);
- The current child-sharing schedule or agreement (if any);
- Any change in the child(ren)'s place of residence in the previous 120 days and the circumstances surrounding those changes;
- The proposed time-sharing plan;
- Reasons for any proposed changes in the child(ren)'s living situation; and
- Any other relevant information.

**(b) Supervised Visitation.** In some cases, the Court ~~will~~ **may** order visitation supervised by Plumas County Family Court Services. The Court will regularly evaluate the costs of such supervision programs and will order the parent whose visit is supervised to pay for such supervision costs unless good cause is shown. This parent must make payment arrangements with Plumas County Family Court Services. Supervised visitation will not take place unless the supervision fee is paid prior to the visitation unless good cause is shown. ~~the County Treasurer's office. If the parent falls more than \$250 behind in payments toward the cost of supervised visitation, then the visitations will cease until the arrearages are brought back to \$250 or less.~~ (As Amended, Eff. 1/1/05)(As Amended 1/1/11)

#### **6.46.5 MEDIATION**

Parents who are not in agreement regarding custody and visitation in the matter before the Court will be required to attend mediation in an effort to resolve the dispute. ~~Generally, this will happen before any Court orders are made; the~~ The Court may make temporary orders where necessary, ~~pending further order of the Court to be made at a scheduled hearing, until~~ **mediation is concluded and/or a hearing is held.** The purpose of mediation is to develop a custody and time-sharing agreement ~~which~~ **that** is in the child(ren)'s best interest.

Prior to participating in mediation, each parent will be required to attend an orientation session designed to help the parents focus on the needs of the children and the court process. ~~which will lead to the issuance of orders for custody and visitation.~~

~~Parents are entitled to two two-hour mediations without charge in any twelve-month period unless they are enrolled in the Restart Program, in which case they are entitled to additional mediations without charge. Parents who continue to be unable to resolve their parenting disputes after two mediations in a twelve-month period may have continued mediation at a rate of \$50.00 per hour or the then-current rate charged by Family Court Services. (As Amended Eff. 7/01/08)(As Amended Eff. 1/1/11)~~

**(a) Scheduling of Mediation.** ~~When an Order to Show Cause or a Motion is filed requesting orders~~ Any dispute regarding custody and/or visitation **will be referred to mediation.** ~~the parties will be required to attend mediation. They shall~~ The parties must contact Plumas Family Court Services ~~for assignment of a mediator and~~ to make an appointment for the mediation, and an appointment for orientations prior to the mediation. The telephone number is (530) 283-4792. (As Amended, Eff. 7/01/08)As Amended Eff. 1/1/11)

Where a protective order as defined in Family Code § 6218 is in effect, or when there is a history of domestic violence, or when either party requests separate sessions, the mediator shall meet with the parties separately and at separate times.

(b) ~~Challenge of Complaint about Mediator.~~ A person having a complaint about a mediator regarding the mediator's professional conduct and/or procedures used during mediation must make the complaint in writing to the Court Executive Officer. The Court Executive Officer or designee will conduct an investigation and report the findings of the investigation in writing to the complaining person and mediator within 30 days of the complaint being filed. ~~In accordance with Family Code, § 3163, if a person wishes to challenge or change the mediator assigned to the case, he/she should do so by contacting Plumas Family Court Services, which will make a determination regarding the request. (As Amended, Eff. 7/01/08)(As Amended Eff. 1/1/11)~~

(c) **Who May Attend Mediation.** Generally, the only persons in attendance at a mediation session are the two parents and the mediator. However, the mediator has discretion to allow other person(s) to participate in the mediation process.

When visitation issues arise between persons other than the parents (such as grandparents or step-parents), the persons attending mediation shall be determined by the mediator.

~~(d) **Conduct of Mediation.** Mediation proceedings shall be held in private and are confidential. All verbal communications from the parties to the mediator shall be deemed to be confidential information, not to be discussed unless such information impacts issues of safety to the parties or the children.~~

~~(e) (d) **Mediator's Report. Recommendation.** If the parties reach an agreement during mediation, the mediator will have the parties sign the agreement and present the agreement to the Court. If the parties are unable to reach a full agreement, the mediator must submit recommendations regarding custody and visitation to the Court. A copy of any agreement or recommendation must be provided to the Court, all counsel and all self-represented parties. The mediator will write a report to the Court, giving copies to the parties and their attorneys, if they are represented by counsel. If the report delineates terms of an agreement, the parties will be asked to sign the report after they have reviewed it with their attorneys. (As Amended, Eff. 7/01/08)~~

~~If the parties are unable to agree regarding custody/visitation, the mediator will not make a recommendation to the Court regarding custody/visitation. However, the Court may request that the mediator summarize the respective positions of the parties at a subsequent contested hearing. (As Amended Eff. 1/1/11)~~

(e) **Objection to Mediation Report.** When the parties do not reach an agreement, the mediator presents his/her written recommendations to the Court. The recommendations can be reviewed at a hearing noticed by the parties. If any party wants to examine the mediator at a contested hearing, it is that party's responsibility to secure the mediator's attendance as a witness. (Adopted Eff. 1/1/11)

(f) **Ex Parte Communications.** The mediator will not initiate *ex parte* communication with the Judge regarding a particular case except where there are questions regarding procedure in that case. If the mediator finds it necessary to discuss substantive issues with the Judge, the mediator shall so inform each of the parties of the communication. (Eff. 7/1/03)

## ~~6.5~~ ~~CONTESTED CASES~~

~~Following mediation, if there are still unresolved issues regarding custody and visitation, the Court may schedule a hearing. The Court may order a custody evaluation before hearing the case. At the time that the Court orders the custody evaluation, the Court may make temporary orders pending the completion of a custody evaluation. The parties will be ordered to pay for the cost of the custody evaluation pending the contested hearing. (As Amended Eff. 7/01/08, Prev. Amended Eff. 7/1/03)~~

~~The Court may close the courtroom to allow only parties and necessary persons in certain custody and visitation proceedings where it would not be in the best interest of the children to have their issues heard in public.~~

## 6.6 6.5 CUSTODY EVALUATION

If a custody evaluation is ordered by the Court, the Clerk will inform Plumas Family Court Services for assignment of a child custody evaluator. The parties or their attorneys will be informed of the assignment of the evaluator by written notice. (Amended, Eff. 7/01/08)

(a) **Challenge of Evaluator.** If a person wishes to challenge the assignment of the child custody evaluator, he/she should do so by filing a notice of the challenge with the Court Executive Officer within 10 calendar days after receiving the notice of assignment from Plumas Family Court Services. The challenge will be reviewed by the judge and a written determination will be sent to all parties within 5 days of the receipt of the challenge. ~~If such a challenge of the evaluator is made, it must be filed within 10 calendar days of receiving the notice of assignment of evaluator from Plumas Family Court Services.~~ (Amended, Eff. 7/01/08) (As amended Eff. 1/1/11)

~~(b) Evaluation Process.~~ The child custody evaluator will contact the parties directly to request information to begin the process. The parties will respond promptly; any delay in response may create delays in completing the evaluation and thus delay resolution of the custody dispute.

~~(e)~~ **(b) Ex Parte Communications.** The child custody evaluator will not conduct *ex parte* communication with the Judge regarding a particular case except where there are questions regarding procedure in that case. If any substantive issues are discussed with the Judge, the evaluator shall so inform each of the parties of the communication.

~~(d)~~ **(e) Evaluation Report.** A Court date will be set to receive the report of the child custody evaluator. The report will be sent to the Court, the parties, and their attorneys prior to that date. The parties may stipulate to accept the recommendations of the child custody evaluator, or the Court may set the matter for a contested hearing.

~~(e)~~ **(f) Payment for Custody Evaluation.** ~~Both parties will be referred to the County Treasurer's office to set up payment arrangements for the custody evaluation. The court will periodically review the costs incurred in performing custody evaluations and will set the custody evaluation fee accordingly.~~ The financial responsibilities for payment of the cost of the custody evaluation will be reviewed by the judge, and the judge will order such payment arrangements as are applicable to the case. All payments will be made to the Plumas Superior Court. If a party ~~should fail to set up payment arrangements,~~ or should fail to make ~~periodic~~ payments for the custody evaluation, then the custody evaluator may unilaterally cancel the custody evaluation. In such event, the custody hearing will go forward without the custody evaluation, and the court may take into consideration a party's non-compliance with the payment arrangements. *(As Amended Eff. 1/1/11) As Previously Amended Effective 7/01/08, Prev. Amended, Eff. 1/1/05)*

## **6.7 6.6 CHILD AND SPOUSAL SUPPORT/INCOME AND EXPENSE DECLARATION**

A current Income and Expense Declaration must be filed by each party where support is at issue. If current facts are temporary, both the actual current facts and estimated prospective facts may be shown if properly identified. If attorney's fees and/or costs are requested, the paragraph pertaining to attorney's fees must be completed.

Wage earners must attach legible copies of their paycheck stubs for the most recent two months. In the event no paycheck stubs are available, other appropriate documentation must be attached. Self-employed parties shall bring their most recent profit and loss statements, balance sheets, quarterly sales tax reports, the last filed tax return, or similar documentation evidencing income from

all sources. All social security information should be deleted from these documents prior to submission to the Court. (As Amended Eff. 1/1/11; As Previously Amended Eff. 7/01/08, Prev. Amended Eff. 7/1/03)

#### ~~6.8~~ 6.7 TAX RETURN

The parties may be asked to provide legible copies of their last three state and federal income tax returns, including all attachments. All social security information should be deleted from these documents prior to submission to the Court. (As Amended Eff. 1/1/11; As Previously Amended Eff. 7/01/08, Prev. Amended Eff. 7/1/03)

#### ~~6.9~~ 6.8 SUPPORT MODIFICATIONS

Every motion to modify support shall set forth the date of the prior order and the amount of the prior order.

At a hearing on modification of spousal support, the supported spouse shall be prepared to give evidence of his or her compliance with Family Code § 4330 by demonstrating progress toward becoming self-sufficient. (As Amended Eff. 7/01/08, Previously Amended Eff. 7/1/03)

#### ~~6.10~~ 6.9 MEET AND CONFER REQUIREMENTS; EXCHANGE OF DOCUMENTS

Prior to any hearing, counsel and the parties must meet and confer in good faith, in an effort to resolve all issues. While conferring, or prior thereto, litigants must exchange all documentary evidence that is to be relied ~~on~~-upon for proof of any material fact. Failure to meet and confer or to exchange documents in a timely manner may result in the matter being dropped from the calendar or continued. At the hearing, the attorneys for the parties must advise the Court as to what issues have been settled by agreement and what issues remain contested. (As Amended Eff. 1/1/11)

#### ~~6.11~~ 6.10 AT-ISSUE MEMORANDUM

A family law case may be put on the case management calendar for trial setting by filing ~~an~~-a Family Law-At Issue ~~Form~~. Memorandum. The form may be found on the Court's website at <http://plumascourt.ca.gov>. (Amended Eff. 1/1/11; Adopted 7/01/08)

#### ~~6.12~~ 6.11 FAMILY LAW COMMISSIONER (Formerly PCR 6.13)

The Family Law Commissioner shall hear all Title IV-D support cases, support enforcement, and other family law matters as assigned. The Title IV-D cases and other family law cases as assigned will be heard on the day and time set forth in

the Superior Court calendar available on the Court's web site at <http://plumascourt.ca.gov>. ~~on Wednesdays at 9:30 a.m.; other cases will be on Wednesdays at times as scheduled by the court.~~ (Amended Eff. 1/1/11; As Previously Amended Eff. 7/01/08, Previously Amended Eff. 7/1/03)

#### 6.12 TELEPHONIC APPEARANCES – FAMILY SUPPORT HEARINGS

Telephonic appearances in Title IV-D (family support) cases are permitted pursuant to California Rule of Court 5.324. Any party appearing telephonically must comply with that rule. (Adopted Eff. 1/1/11)

#### 6.13 ORDERS AFTER HEARING (Previously PCR 6.17)

**Orders After Hearing.** ~~Counsel should come to a hearing with a written Order After Hearing (OAH), prepared to present it to the Court at the conclusion of the hearing. If the Court makes decisions that require the further drafting of the OAH, the~~ At the hearing the Court shall designate one counsel to prepare the written Order After Hearing (OAH). This draft OAH should be submitted to the other counsel/party for approval as to form and forwarded to the Court. ~~Faxed OAH's are acceptable.~~ All OAH's must be submitted to the Court within 14 days following the hearing; failure to do so may result in the imposition of sanctions. If opposing counsel does not respond to the request for approval as to form within five days, the proposed OAH may be submitted directly the Court with an attached declaration indicating counsel's attempts at notifying opposing counsel. (As amended Eff. 1/1/11, As Amended Eff. 7/01/08, Previously Amended, Eff. 1/1/05)

#### 6.14 DEFAULT OR UNCONTESTED JUDGMENTS (Formerly PCR 6.18)

~~(a) Judgment by Default / Notice and Acknowledgment of Receipt. Unless the Court orders otherwise, a default will not be entered based on a upon Notice of Acknowledgment of Receipt signed by a person other than the party to whom it is directed.~~

(b) **Child Support, Spousal Support or Attorney's Fees Awards.** No award of child support, spousal support or attorney's fees will be granted unless there is either an attached written agreement between the parties settling those issues or there is sufficient information on which the Court may base an order, including a fully completed and executed Income and Expense Declaration with information on both parties where available.

(c) **Community and/or Separate Property.** No division of community property (assets or debts) or confirmation of separate property will be ordered unless there is either an attached written agreement between the parties settling those issues, or there is a completed Property Declaration attached to and served with the Request to Enter Default.

**(d) Visitation.** Where the judgment is taken by default, if there is no attached written agreement ~~of parties~~ concerning custody and visitation, and either supervised visitation or a denial of visitation is requested, an attached factual Declaration under penalty of perjury shall be submitted with the judgment and shall set forth the following:

- (1) Where the party is seeking to deny visitation between the child(ren) and the defaulting party:** The specific reasons visitation should be denied; the last time there was visitation between the child(ren) and the defaulting party; and whether the whereabouts of the defaulting party is known, and, if so, his or her address.
- (2) Where the party is seeking supervised visitation between the child(ren) and the defaulting party:** The reasons such visitation should occur; the person or agency to do the supervision; and how the supervision is to be paid for.
- (3) Other information:** The declaration shall inform the Court when the parties separated, who has been the primary caretaker of the child(ren) during the last 6 months and the extent of contact between the child(ren) and the non-caretaker parent during that time.

The declaration shall be mailed to the defaulting party with the Request to Enter Default, and proof of mailing shall be filed with the Court. (*Eff. 7/1/03*)

~~**(e) Notarized signature.** If a stipulated judgment is submitted for entry in a Dissolution which is proceeding by default, the defaulting spouse's signature on the judgment must be notarized, in accordance with Family Code § 2338.5(a). (*As Amended Eff. 7/01/08*)~~

**6.15 WAIVER OF FINAL DECLARATION OF DISCLOSURE** (*Formerly PCR 6.19*)

If a stipulated judgment is submitted for final dissolution of divorce without a hearing, and if that stipulation includes a waiver of service of the final declaration of disclosure, that stipulated waiver must be signed under penalty of perjury in accordance with Family Code § 2105(d). (*As Amended, Eff. 7/01/08*)

**6.16 SETTLEMENT CONFERENCE** (*Formerly PCR 6.20*)

(a) **Settlement Conference.** All contested ~~dissolutions~~ family law cases will be set for a settlement conference. The parties and the attorneys ~~shall attend~~ must be present at the conference.

(b) **Settlement Conference Statement/Time Requirements.** At least one week prior to, each party or their attorney shall prepare, file and serve on the other party or the opposing attorney, a Settlement Conference Statement with contents as indicated below.

~~**Caption.**— The caption shall contain the times and dates of the settlement conference and the Trial.~~

**Income and Expense Declaration.** A current signed and dated Income and Expense Declaration shall be prepared on the Judicial Council form. Copies of current pay stubs or other income verification shall be attached. All social security information should be deleted from these documents prior to submission to the Court.

**Community Property (assets and liabilities).** A current signed and dated Schedule of Assets and Debts shall be prepared on Judicial Council forms. The Settlement Conference Statement shall indicate the claimed values of the assets and the proposal for division. The Statement should also include a proposed division of the community property debts.

**Separate Property.** Where one party claims that an asset is his or her separate property, and if the other party has not stipulated to that fact, the Statement should include a description of the assets, the date of acquisition, the encumbrance at the time of acquisition, the present encumbrance and a statement as to how the title is held.

**Spousal Support.** Each party shall set forth specific proposals regarding ~~child and/or~~ spousal support For permanent spousal support the parties will prepare the Permanent Spousal Support Worksheet form which is available on the Court's web site under Local Forms at <http://www.plumascourt.ca.gov>

**Statement of Facts and Legal Arguments.** On any contested legal issue, the Statement should include a recitation of the relevant facts and a brief discussion of the relevant law. (*As Amended Eff. 1/1/11, Eff. 7/1/03*)

## 6.17 CONDUCT OF TRIAL (*Formerly PCR 6.22*)

The trial will be conducted in accordance with rules and procedures for all other civil trials. (*Eff. 7/1/03*)

## **6.18 FAMILY LAW FACILITATOR**

The Plumas Superior Court has established an office of Family Law Facilitator for self-represented litigants. The office of Family Law Facilitator has all the duties allowed under Family Code §10000 et seq. (Adopted Eff. 1/1/11)

## **6.19 FAMILY LAW FACILITATOR COMPLAINT PROCESS**

Complaints concerning the Family Law Facilitator should be submitted to the Presiding Judge or his/her designee in writing. The Court will investigate the complaint and respond to the complaint within thirty (30) days after receipt of the complaint. (Adopted Eff. 1/1/11)

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