

## **7. FAMILY LAW RULES**

### **ADMINISTRATION OF FAMILY LAW LITIGATION**

#### **7.1 CITATION**

These family law rules should be cited as "Marin County Rule, Family" or "MCR Fam" followed by the rule number (e.g., Marin County Rule, Family 7.1, or MCR Fam 7.1). For the purposes of these rules, "parties" means actual parties, counsel for parties and self-represented litigants.

*[Rule 6.1 adopted effective 5/1/98; amended 7/1/15; renumbered as Rule 7.1 effective 1/1/22]*

#### **7.2 APPLICATION OF RULES**

These rules are intended to supplement California law and Rules of Court, and to cover family law programs specific to Marin County. In the event of any inconsistency between these rules and any California statute or any of the rules in the California Rules of Court, the statewide statute and/or rule shall control.

Family Law matters include all matters governed by the Family Law Act, Uniform Parentage Act, the Domestic Violence Prevention Act, the Uniform Child Custody Jurisdiction and Enforcement Act, and any other matters in which family law issues are present.

*[Rule 6.2 adopted effective 5/1/98; amended 1/1/20; renumbered as Rule 7.2 effective 1/1/22]*

#### **7.3 ASSIGNMENT TO JUDICIAL OFFICER**

All family law matters, with the exception of those in which the Department of Child Support Services (DCSS) appears, shall be assigned for all purposes (other than settlement conferences) to a Family Law Judge. In the absence of the assigned judge, the case is temporarily reassigned by the Presiding Judge to the other judge hearing such family law cases. If a disqualification pursuant to Code of Civil Procedure § 170 et seq. is filed, the case may be temporarily reassigned by the Presiding Judge until the issue of disqualification is resolved. Matters in which DCSS appears will be assigned to the Child Support Commissioner for all appearances concerning child support so long as DCSS is appearing. Assignment of matters will be made at the time the petition or initial pleading or motion to modify is filed.

*[Rule 6.3 adopted effective 5/1/98; amended 1/1/20; renumbered as Rule 7.3 effective 1/1/22]*

#### **7.4 CONFORMED COPIES OF FILINGS**

The following applies to those who have been excused by the Court from E-filing (Parties should review MCR 1.51(B)(1), 1.51(B)(2)(d), 1.51(B)(3) and (4) to determine if they may be excused from E-filing). If a conformed copy is desired, an additional copy must be submitted. The Court will conform a maximum of two copies of any pleading at the time of filing. Parties requesting that the Court mail them conformed copies of their filings must provide a self-addressed stamped envelope of proper size and with sufficient postage. If no envelope is provided, the conformed copy will be placed in the Will Call cabinet in the Clerk's Office in Room 113 for a maximum of sixty (60) calendar days. If the envelope provided or the postage is insufficient to mail the conformed copy, it will be placed in the Will Call cabinet for a maximum of sixty (60) calendar days.

*[Rule 6.4 adopted effective 5/1/98; amended and renumbered as Rule 7.4 effective 1/1/22]*

## 7.5 FAMILY CENTERED CASE RESOLUTION

**A. Policy and Effective Date.** It is the Court's policy to benefit the parties by providing judicial assistance and management to the parties for the purpose of expediting the processing of the case, reducing the expense of litigation, and focusing on early settlement. This rule applies to all actions for marital dissolution (except summary dissolution), nullity, legal separation, domestic partnership dissolution, establishment of parental relationship, and such other cases assigned to the program by the Supervising Family Law Judge filed after January 1, 2012.

**B. Forms to be Issued by Clerk Upon Filing of Petition.** Upon the filing of a petition in a family law action, the petitioner shall receive the following from the Clerk:

1. Notice of Case Assignment and First Case Progress Conference;
2. Petitioner's Guide and Resource List (Local Form FL061);
3. Respondent's Guide and Resource List (Local Form FL060).

**C. Service of Summons and Petition - Forms to be Served on Other Party.** The petitioner shall serve the following documents on the opposing party:

1. Summons, Petition, and petitioner's completed Declaration Under Uniform Child Custody Jurisdiction Enforcement Act;
2. Blank form of Response;
3. Blank Declaration Under Uniform Child Custody Jurisdiction Enforcement Act;
4. Notice of Case Assignment and First Case Progress Conference;
5. Respondent's Guide and Resource List.

### **D. Case Progress Conferences.**

1. *Calendar.* The first Case Progress Conference shall be set 120 days after the filing of the Petition. This Conference shall be dropped from the calendar if a judgment resolving all issues has been filed before the date of the first Case Progress Conference.

2. *Effect of submission of judgment packet on pending Case Progress Conference.* A pending Case Progress Conference shall be dropped from the calendar if a judgment resolving all issues has been submitted before the date of the Case Progress Conference. The Court may set a subsequent Case Progress Conference, with notice to the parties, if the judgment contains deficiencies or defects.

3. *Service of Case Progress Questionnaire.* Each party must file and serve a Case Progress Conference Questionnaire at least five (5) court days prior to each Case Progress Conference. The Case Progress Conference Questionnaire is a local form (FL003) available in the Clerk's Office, at Legal Self Help Center, or online at [www.marincourt.org](http://www.marincourt.org).

4. *Continuances of Case Progress Conference.* The Court allows the parties one stipulated continuance of the first Case Progress Conference up to 150 days at no charge. Prior to the court date, the parties shall file a Stipulation & Order to Continue Case Progress Conference, which is a local form (FL007) available in the Clerk's Office, at Legal Self Help Center, or online at [www.marincourt.org](http://www.marincourt.org). The Court will require parties to pay the applicable filing fees for any further stipulations to continue Case Progress Conferences.

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5. *Purpose.* At the Case Progress Conference, the Court will review the status of the case, determine whether the parties have filed proof of service of their preliminary declaration of disclosure as required by Family Code § 2104, and discuss discovery plans, settlement options, alternative dispute resolution, and unresolved issues. The Court may make orders as authorized by Family Code §§ 2450 and 2451.

6. *Appearance Mandatory.* Appearance at the Case Progress Conference, either by counsel or, if the party is self-represented, the party, is mandatory. The case is subject to dismissal if both parties fail to appear at the Case Progress Conference. (Code of Civil Procedure § 575.2(a).)

*[Rule 6.5 adopted effective 1/1/06; amended 1/1/20; renumbered as Rule 7.5 effective 1/1/22]*

### **7.6 EX PARTE MATTERS AND ORDERS**

**A. Ex Parte Applications.** All ex parte applications shall be made to the assigned judicial officer unless that judicial officer is unavailable. All applications for ex parte relief will be heard in the assigned family law department at that department's calendar start time, Monday through Friday. Ex parte matters involving the Department of Child Support Services (DCSS) will be heard at the beginning of the regularly scheduled DCSS calendar. The ex parte procedure shall be used only in emergencies. At the time of the hearing parties should be prepared to make a showing justifying their emergency to proceed ex parte.

The ex parte application filing fee shall be paid in the Clerk's Office prior to the hearing in a department.

**B. Conditions for Issuance of Ex Parte Orders.** Before submitting ex parte applications, parties shall comply where applicable with, Family Code §§ 2045, 3060-3064, and CRC 5.151 et seq., including all requirements for a declaration setting forth that notice to the other party has been given or, alternatively, the reason notice has not been given. A party seeking an ex parte order shall, complete and file Judicial Council form FL-303, which is available at Legal Self Help Center or online at [www.courts.ca.gov](http://www.courts.ca.gov) and attach to the application a conformed copy of any prior order(s) which the applicant seeks to enforce or modify. The party seeking the order must notify the Court by calling (415) 444-7044 and leaving a message no later than 10:00 a.m. the court day before the ex parte appearance. Parties appearing at the ex parte hearing shall serve the ex parte application or any written opposition on all other appearing parties at the first reasonable opportunity. Absent exceptional circumstances, no hearing shall be conducted unless such service has been made.

**C. Orders Shortening Time.** If an order shortening time for the hearing and/or service is requested, the supporting declaration shall state whether the responding party has been contacted and has agreed to the date and time proposed for the hearing and/or service. If the responding party has not been contacted or has not agreed to the proposed setting, the supporting declaration shall clearly demonstrate why the hearing and/or service should be set on the proposed date without the consent of the responding party. Provision for immediate delivery of the pleading to responding party should be set forth in the order. If an order shortening time is granted, it shall state on its face a reasonable schedule for filing of responsive and reply declarations.

*[Rule 6.6 adopted effective 5/1/98; amended and renumbered as Rule 7.6 effective 1/1/22]*

**7.7 SPECIAL PROCEDURES FOR RESTRAINING ORDERS AND INJUNCTIVE RELIEF PERTAINING TO DOMESTIC VIOLENCE (FAMILY CODE §§ 6200-6389)**

Applicants for protective orders under Family Code § 6200 et seq. (Domestic Violence Prevention Act) shall file their request for restraining order in any existing or concurrently filed Family Law/Parentage action rather than file a new case. There is no filing fee for domestic violence restraining orders.

A party seeking the protection of a court restraining order may obtain the necessary forms and information about how to file for a temporary restraining order in the Clerk’s Office or at Legal Self Help Center. The Clerk’s Office and Legal Self Help Center also have instruction pamphlets and referrals to agencies that may assist with filling out the forms.

An applicant for a domestic violence restraining order must submit a Request for Order (DV-100), Temporary Restraining Order (DV-110), Notice of Court Hearing (DV-109), , and blank Restraining Order After Hearing (DV-130) and (if counsel) file it electronically or (if a self-represented litigant who does not wish to file electronically) give it to the clerk in room 113 before 10:30 a.m., Monday through Friday. (An applicant may need additional forms if the applicant has children with the proposed restrained party or seeks an order to transfer a wireless telephone account.) The clerk will give the completed forms to a judge to review. The applicant may pick up the temporary restraining order documents at the Clerk’s Office after 2:00 p.m. The clerk will set a date for the hearing.

If the applicant for a domestic violence restraining order seeks to modify an existing order regarding custody and/or visitation, in the supporting declaration the applicant should explain why *ex parte* notice of the request was not given to the proposed restrained party.

*[Rule 6.7 adopted effective 5/1/98; amended and renumbered as Rule 7.7 effective 1/1/22]*

**LAW AND MOTION AND REQUEST FOR ORDER PROCEEDINGS**

**7.8 FORMAT OF SUPPORTING DOCUMENTS AND EXHIBITS**

**A. Minimize Number of Attachments.** The Court discourages the practice of attaching voluminous and numerous exhibits to declarations and points and authorities used in Law and Motion or Request for Order proceedings. Quote the applicable portion of a document, correspondence, deposition, or pleading, at the appropriate point in a declaration or points and authorities rather than use an attachment. However, if it is believed to be necessary to attach supporting documents and exhibits, then such documents and exhibits shall be submitted and bookmarked in an organized fashion, in compliance with CRC 3.110(f).

**B. Discovery Motions.** All motions or requests for order pursuant to The Civil Discovery Act (Code of Civil Procedure §§ 2016.010-2036.050) presented for filing must state “Discovery Motion” on the caption page.

**C. Discovery Exhibits.** A party relying on discovery materials such as interrogatory answers, deposition testimony, or responses to requests for admissions shall properly authenticate such evidence. Any exhibits should be limited to those questions and answers, testimony and/or responses relevant to the issues presented. Unless the party filing the exhibits has been excused by the court from E-filing (see MCR 7 Fam 7.4) each exhibit must be bookmarked. Deposition testimony must be preceded by the title page of the transcript indicating the name of the deponent and the date of deposition; only relevant pages of the transcript shall

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be included. The original page numbers of the deposition must be clearly visible, and the material portions of the deposition testimony shall be highlighted.

**D. Prior Court Order.** Where a prior order of the Court is relevant, it is not necessary to submit a copy of the entire order as a separate exhibit. Instead, reference may be made to the date the order was filed and the pertinent language of the order (or a summary if not in dispute).

**E. Attachment of Previously Filed Documents.** Parties are strongly discouraged from attaching previously filed documents to a pleading, pending motion or request for order. If a litigant wants to ensure that the court was able to locate a previously filed document, that person may deliver a courtesy copy of that document to the judge hearing the matter.

**F. Address Verification in Post-Judgment Proceedings.** In all post-judgment proceedings, parties must submit an Address Verification Declaration for Post-Judgment Request for Order. The Address Verification Declaration to be used for matters other than those related to minor children is a Local Form (FL070) available in the Clerk's Office, at Legal Self Help Center, or online at [www.marincourt.org](http://www.marincourt.org).

*[Rule 6.8 adopted effective 5/1/98; amended and renumbered as Rule 7.8 effective 1/1/22]*

### **7.9 HEARING DATES**

The Clerk's Office will assign all motion and request for order hearing dates at the time the motion or request for order is filed unless otherwise ordered by the Court. Parties cannot reserve dates or obtain them over the telephone.

*[Rule 6.9 adopted effective 7/1/14; amended 7/1/15; renumbered as Rule 7.9 effective 1/1/22]*

### **7.10 CONTINUANCES**

After service, three continuances, by agreement, may be obtained by telephoning the Clerk's Office at (415) 444-7040 no later than 4:00 p.m., three (3) court days before the hearing date, and paying the continuance fee, regardless of whether a response has been filed. A confirming letter must be sent by the party requesting the continuance to the Clerk with a copy to the opposing party. Additional continuances, or continuances within three (3) court days of the hearing date, may not be by stipulation but only by order of the Court upon a showing of good cause.

*[Rule 6.10 adopted effective 5/1/98; amended 7/1/15; renumbered as Rule 7.10 effective 1/1/22]*

### **7.11 REMOVING MATTERS FROM CALENDAR**

A matter with opposition on file may be taken off calendar only by agreement. An unopposed matter may be taken off calendar unilaterally by the moving party. The parties, their attorneys, or their authorized representatives shall so notify the Law and Motion Clerk by telephone no later than noon on the date the tentative ruling is to be released; otherwise, a tentative ruling will be issued. This notification shall be followed by a written transmittal signed by the party and/or the attorney confirming that the matter is to be taken off calendar.

*[Rule 6.11 adopted effective 5/1/98; amended 7/1/15; renumbered as Rule 7.11 effective 1/1/22]*

## 7.12 HEARINGS

**A. Tentative Rulings.** Marin County utilizes a tentative ruling system pursuant to CRC 3.1308 for family law cases set for hearing on the Law and Motion and Request for Order Calendar. The moving party in any family law matter shall attach to any Order to Show Cause or Request for Order the Notice to Parties in Family Law Matters, a Local Form (FL008) available in the Clerk's Office, at Legal Self Help Center, or online at [www.marincourt.org](http://www.marincourt.org), concerning the availability of tentative rulings by telephone. The moving party's proof of service shall indicate that this notice has been served or the hearing may be continued on the Court's own motion or on request of the party aggrieved by the non-compliance.

**B. Obtaining Tentative Rulings.** Parties may obtain tentative rulings online ([http://www.marincourt.org/tentative\\_landing.htm](http://www.marincourt.org/tentative_landing.htm)) or by calling (415) 444-7260 from 2:00 to 4:00 p.m. on the court day preceding the scheduled hearing. Family law cases that are designated as confidential by California law will not be posted online. Tentative rulings in those matters may be obtained by telephone from the judicial secretary at (415) 444-7260. Confidential cases include matters involving unmarried parents.

**C. Oral Argument.** If a party wants to present oral argument, the party must contact the Court at (415) 444-7046 and all opposing parties by 4:00 p.m. the court day preceding the scheduled hearing. Notice may be by telephone or in person to all other parties that argument is being requested (i.e. it is not necessary to speak with counsel or parties directly.) Unless the Court and all parties have been notified of a request to present oral argument, no oral argument will be permitted except by order of the Court. If oral argument is not requested, the tentative ruling shall become the order of the Court.

**D. Length of Hearings.** Non-evidentiary hearings on the Law and Motion and Request for Order Calendar are limited to a maximum of 20 minutes.

*[Rule 6.12 adopted effective 5/1/98; amended 1/1/20; renumbered as Rule 7.12 effective 1/1/22]*

## 7.13 FINANCIAL INFORMATION TO BE PROVIDED TO THE COURT

**A. Income and Expense Declaration With Supporting Documentation.** A fully completed Income and Expense Declaration shall be filed by each party with their moving or responsive papers in all proceedings involving requests for child support, spousal support, attorney's fees, or other financial relief.

**B. Full Financial Disclosure.** A fully completed Income and Expense Declaration shall include all facts relevant to the parties' employment status, income, living arrangements, and payment of household expenses. Those facts include but are not necessarily limited to:

1. Commission, bonuses and overtime, with 2-year history and amounts.
2. All employment benefits, whether in cash or in kind, with 2-year history and amounts.
3. If depreciation has been claimed as a deduction or reduction of income, it must be explained and justified. Ordinarily, depreciation will be disregarded as a non-cash item.
4. If annual income fluctuates, an income history of not less than 2 years, and description of the method used to calculate monthly income.

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5. The identity of each income producing household member, the relationship of each to the party, gross and net income, contributions to household expenses, and financial arrangements, if any, between each household member and the party.

6. If a party is unemployed, an explanation must be provided. If relevant, a description of the party's most recent employment, reason for and verification of termination, gross and net income prior to termination, and a description of all efforts to seek employment since termination, if any, shall be set forth. If a party is disabled, retired or incarcerated, all pertinent facts shall be set forth.

**C. Required Supplemental Documentation.** In all proceedings where child or spousal support, attorney's fees, or Family Code §271 sanctions are an issue, in addition to filing fully completed Income and Expense Declarations, each party is required to serve on the opposing party and lodge (under seal) the following additional financial information and documentation: copies of the party's two most recent state and federal income tax returns and all K-1's for those years; documentation of all income of the filing party since the period covered by his/her most recent tax return (including W-2's, 1099's and K-1's); and copies of the two most recent federal income tax returns filed by any entity in which the party has or has had a 25% or greater interest within the past two years, together with statements of current income and expenses and current assets and liabilities of each such entity. A self-employed party shall provide his or her most recent annual business profit and loss or financial statement, together with current year to date profit and loss or financial statement for the business. These materials shall be served and lodged no later than the dates by which the parties' moving or responsive pleadings are due. All materials lodged under seal pursuant to this Rule may be returned upon request to the party submitting same at the conclusion of the hearing unless ordered to be retained by the Court. Such records are confidential and may not be used for purposes other than court proceedings. Such materials will be destroyed by the Court within a reasonable time after the hearing unless the submitting party requests their return.

**D. Support Calculations.** In all matters where child or temporary spousal support is an issue, a support calculation and explanatory declaration shall be filed, setting forth the assumptions and calculations utilized by that party to determine gross and net income figures, the amounts of child and spousal support calculated pursuant to current state law and/or guidelines, and any other assumptions used in calculating the support, including time-share, tax filing status, etc. If it is contended by either party that the guideline or presumed level of support is inappropriate, that party's declaration shall set forth his or her calculation of the amount alleged to be proper and the reasons therefor. Such declaration shall include all reasons or justifications urged by the party for varying from the guideline support levels. Further:

1. The responding party's calculations/declaration shall be filed and served with the response. The moving party's calculations/declaration shall be filed and served with the reply.

2. The support calculations and explanatory declarations shall be signed by the party.

The Family Law Facilitator is available to assist self-represented parties in preparing child and/or spousal support calculations.

*[Rule 6.13 adopted effective 5/1/98; amended 1/1/20; renumbered as Rule 7.13 effective 1/1/22]*

## 7.14 CHILD AND SPOUSAL SUPPORT PROCEEDINGS

**A. Computer Software Use.** All family law departments except DCSS use the DissoMaster program to calculate guideline child support and temporary spousal support. DCSS uses the California Guideline Child Support Calculator to calculate guideline child support and temporary spousal support. DCSS also uses the DissoMaster program to prepare bonus support schedules when needed.

**B. Temporary Spousal Support.** The following presumptions for temporary spousal support will apply:

1. In cases where the recipient of spousal support is not receiving child support from the same payor, the presumed temporary spousal support will be 40% of the net income of the payor less 50% of the net income of the payee.
2. In cases where the recipient of spousal support is also the recipient of child support from the same payor, the presumed temporary spousal support will be 35% of the net income of the payor (after deduction of child support), less 45% of the net income of the payee (without addition of child support).

The Court may deviate from the presumed level of temporary spousal support, in its discretion, for good cause shown.

**C. Calculation of Time-Share With Children.** For purposes of determining the time-share factor for calculation of child support, the Court may use the following guidelines:

1. Full weekend = End of school Friday to beginning of school Monday = Three (3) days.
2. Short weekend = Dinner time Friday to dinner time Sunday = Two (2) days.
3. One evening per week = After school to after dinner = One-half (1/2) day.
4. One night per week = After school overnight = One (1) day.
5. Summer = Ten (10) weeks = Seventy (70) days.
6. Holidays:
  - a. Christmas school vacation = Fourteen (14) days.
  - b. Thanksgiving = Seven (7) days.
  - c. **Mid-Winter**, Spring or Easter break = Seven (7) days.
  - d. Other holidays: Normally includes Martin Luther King, Jr. Day, President's Day, Memorial Day, Mother's Day, Father's Day, Independence Day, Labor Day, Veteran's Day. Each equals one (1) day.

The Court strongly discourages the counting of hours in determining time-share.

By way of example, the Court will presume the following time-share percentages for the following scenarios:

- Alternating full weekends = 78 days = 20%
- Alternating short weekends = 52 days = 15%
- Alternating full weekend + one month in summer = 78 + 24 = 102 days = 30%



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- One full weekend per month = 10%
- Three days per week = 45%
- Four days per week = 55%

The Court may vary from these time-share guidelines in its discretion for good cause shown.

**D. Modification.** Every motion to modify child or spousal support shall include a declaration setting forth the following:

1. The date of the prior order.
2. The amount of the prior order.
3. Each party's gross and net incomes at the time of the prior order and the findings on which the prior order was based.
4. A specification of the substantial change in circumstances since the last order.

*[Rule 6.14 adopted effective 5/1/98; amended 1/1/20; renumbered as Rule 7.14 effective 1/1/22]*

## **DISCOVERY MATTERS**

### **7.15 GENERAL DISCOVERY PROVISIONS**

**A. Policy Regarding One Deposition Rule.** The Court construes the one deposition rule of Code of Civil Procedure § 2025.610 as permitting the taking of a bifurcated deposition. For example, a party may be required to appear for a deposition concerning the limited issues raised by an application for temporary relief and thereafter to submit to further deposition on other issues. Where issues in a particular case have been ordered bifurcated, the deposition of a party also may be bifurcated and separate depositions taken which are limited to those issues to be addressed in each stage of the bifurcated proceeding. Parties electing to conduct a bifurcated deposition under this rule shall, in the deposition notice, conspicuously state such election and clearly specify the issue(s) to be addressed at the bifurcated deposition.

*[Rule 6.15 adopted effective 5/1/98; amended 7/1/15; renumbered as Rule 7.15 effective 1/1/22]*

### **7.16 DISCOVERY FACILITATOR PROGRAM**

**A. Participation in the Discovery Facilitator Program.** Parties to a dispute regarding discovery in a family law case may participate in the Program by stipulation or may be referred to the Program by order of the Court.

1. *Before the Filing of a Discovery Motion.* The parties may request referral to the Program, before the filing of a discovery motion, by submitting a stipulation for such a referral to the ADR Coordinator. The filing of such stipulation will toll the time for filing a motion to compel discovery of the disputed issues until notice of resolution of the discovery dispute is filed with the Court.

2. *Upon the Filing of a Discovery Motion.* Upon the filing of any Request for Order (RFO) or Motion to Compel Discovery, the RFO or Motion will be immediately referred to the Discovery Facilitator Program.

**B. Discovery Motions.** All discovery motions shall be clearly labeled as such in the caption of the pleading.

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**C. Discovery Facilitator Panel.** A list of qualified Discovery Facilitators shall be maintained in the Court. Each panelist on the list must be an active member of the State Bar licensed for at least 10 years or a retired judge.

**D. Selection of a Discovery Facilitator.** The Discovery Facilitator shall be selected as follows:

1. The ADR Coordinator shall select, at random, a number of names from the panel of qualified Discovery Facilitators equal to the number of sides plus one, and shall prepare a list of the names of the randomly selected Discovery Facilitators.

2. Upon agreement on the selection of a Discovery Facilitator the ADR Coordinator shall be notified of such agreement within ten (10) calendar days following the date of the stipulation or order. If the parties cannot agree on a Facilitator, then within such 10 calendar day period, each side shall submit a written rejection to the ADR Coordinator identifying no more than one name on the list of potential Facilitators that is not accepted.

3. Promptly on the expiration of the 10 calendar day period, the ADR Coordinator shall appoint one of the persons on the list who was either agreed upon or whose name was not rejected to serve as Discovery Facilitator.

4. The ADR Coordinator shall promptly assign the case to the Discovery Facilitator and shall serve the "Notice of Appointment of Discovery Facilitator" on all parties and on the Discovery Facilitator. Upon receipt of the "Notice of Appointment of Discovery Facilitator," the parties shall promptly deliver to the Discovery Facilitator copies of such pleadings and discovery as is necessary to facilitate resolution of the dispute.

**E. Facilitator Process.** The Discovery Facilitator shall establish the procedures in each case to be utilized by the parties, through telephone conferences, exchange(s) of letters or emails and/or in-person conferences, for discussion and attempted resolution of the discovery dispute.

**F. Compensation.** Beginning from the time the Discovery Facilitator receives notice from the parties or the Court of his or her appointment, the Discovery Facilitator shall devote up to two (2) hours, without charge to any of the parties, in an attempt to facilitate resolution of the discovery dispute. In the event a resolution cannot be achieved within that period of time, the parties may agree to continue to confer with the Discovery Facilitator provided that agreement is reached between and among the parties and the Discovery Facilitator as to compensation of the Discovery Facilitator.

**G. Resolution.** If a discovery motion or request for order is pending and resolution of the discovery dispute is achieved, no later than five (5) calendar days before the scheduled law and motion hearing date the motion shall be withdrawn by the moving party and dropped from calendar.

**H. Declaration of Non-Resolution.** If a pending motion or request for order is not resolved with the assistance of the Discovery Facilitator, each party shall file and serve five (5) court days prior to the hearing a pleading entitled "Declaration of Non-Resolution" no longer than three pages briefly summarizing the remaining disputed issues and each party's contentions. The caption of the Declaration of Non-Resolution shall include the name of the motion and the date of the hearing. If the Declaration of Non-Resolution is not filed prior to the

hearing date, the Court will presume the discovery issues are resolved and drop the hearing from calendar.

*[Rule 6.16 adopted effective 7/1/15; amended 7/1/1; renumbered as Rule 7.16 effective 1/1/22]*

## **CHILD CUSTODY/VISITATION**

### **7.17 PROCEDURES**

**A. Initial Child Custody Recommending Counseling.** Any Request for Order will be referred, through the Clerk’s Office, to Family Court Services of the Marin County Superior Court for orientation and child custody recommending counseling (hereinafter “CCR counseling”). CCR counseling is an opportunity for the parents to work with a child custody recommending counselor (hereinafter “CCR counselor”), either together or separately, in order to create a detailed agreement that suits their children’s specific needs. This agreement will be signed by a judicial officer and become the custody order. Absent an agreement between the parties, the CCR counselor will make a written recommendation for an order of custody and visitation. Such report will be available to each party prior to the hearing. As to the CCR counseling process, the parties are referred to the Child Custody Recommending Counseling Orientation Booklet available through Family Court Services. Both Parents will receive a certified letter, with return receipt requested, advising them of the date, time and location of their appointment. If a parent prefers to receive the appointment letter via email or regular first class mail, they may fill out and deliver Local Form FL079 to Family Court Services.

**B. Existence of Criminal Protective Order.** When issuing child custody or visitation orders, the family court will make reasonable efforts to determine whether there exists a criminal protective order and/or domestic violence restraining order that involves any party to the action.

**C. Documents Provided to the CCR Counselor.** Parties shall not submit original documents (e.g. school records, medical records, etc.) to the CCR Counselor. If parties wish to provide documents to the CCR Counselor to be considered in the CCR Counselor’s report and recommendations to the Court, the parties shall provide copies of these documents to the CCR Counselor. The CCR Counselor will not return any such documents to the parties following submittal of the report and recommendations or at any later time. Any documents provided to the CCR Counselor must also be provided to the opposing party at the time they are submitted to the CCR Counselor.

**D. Contact With Family Court Services.** Ex parte communication in child custody proceedings is governed by Family Code § 216 and CRC 5.235. Parties who submit written communications to Family Court Services regarding issues raised in the Request for Order must provide a copy to the other party at the same time it is provided to Family Court Services.

**E. Statement of Agreement/Disagreement with FCS Recommendations.** Both parties may file and serve a Statement of Agreement/Disagreement with Family Court Services Recommendations (FL027), which is a Local Form available in the Clerk’s Office, at Legal Self Help Center, or online at [www.marincourt.org](http://www.marincourt.org), at any time before the custody/visitation hearing.

**F. Settlement Conferences.** Upon the request of either party, or on the Court’s own motion, the Court may set a contested custody/visitation matter for a settlement conference. Both parties are required to appear in person at the settlement conference and to appear with counsel if he/she is represented. The Court may, in its discretion, appoint a panel to assist the

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Court and the parties at the settlement conference. The panel may include attorneys, mediators, and/or mental health professionals. Experience requirements for panelists may be obtained from the Court's Alternative Dispute Resolution Coordinator (415-444-7040) or from the Court's website. Any such panelists will be appointed to serve as the Court's own expert pursuant to Evidence Code § 730, and the Court may find good cause to permit the panelists to review Family Court Services' recommendations and other confidential information in the file, pursuant to Family Code § 3025.5.

**G. Required Local Forms.** The moving party requesting an initial custody/visitation order or a modification to a custody/visitation order shall attach to any Request for Order, the "Family Court Services Child Custody Recommending Counseling Program" form, (Local Form FL005) which is available in the Clerk's Office, Legal Self Help Center, or online at [www.marincourt.org](http://www.marincourt.org). The moving party's proof of service shall indicate that this notice has been served. Petitioners and Respondents with minor children who are referred to Family Court Services for custody and visitation matters shall submit a fully completed FCS Intake Sheet to the Court. The Family Court Services Intake Sheet (FL016) is a Local Form available in the Clerk's Office, at Legal Self Help Center, or online at [www.marincourt.org](http://www.marincourt.org).

### **H. Interview of Child and Child in Court.**

1. Counsel (except for court-appointed counsel for a child(ren)) are prohibited from interviewing children for any purpose whatsoever.
2. The CCR counselor may interview the child as appropriate.
3. Within the guidelines and provisions of Family Code § 3042 and CRC 5.250, it is the policy of the Court not to have any child in the courtroom or at any Court proceedings without the Court's prior consent. Children shall remain in the corridor outside of the courtroom or elsewhere in the courthouse in the care of a responsible adult, if for unavoidable reasons they must be brought to court.

**I. Child Endangerment.** If, during CCR counseling, a concern arises about a child's immediate well-being (serious abuse, neglect or endangerment), the CCR counselor shall refer the case to Child and Family Services (CFS) for investigation and notify the parties, counsel, and Court by written memorandum. CCR counseling shall be stayed during the investigation by CFS. The CCR counselor will continue to monitor the case and shall resume CCR counseling upon being notified by CFS of the conclusion of the investigation.

**J. CCR Counselor Recommendations and Testimony.** Marin County is a recommending County. (See Family Code § 3183.) Any subpoena requiring the appearance of a Family Court Services CCR counselor/evaluator at deposition or trial shall be hand delivered to Family Court Services at least ten (10) days prior to the appearance date with fees deposited as required by Government Code § 68097.2.

**K. CCR Counselor Complaint Procedure.** The procedure for processing a complaint concerning a Family Court Services CCR counselor shall be as follows:

1. The complainant must register the complaint in writing with the manager of Family Court Services, who will make a record of the complaint.
2. The manager will conduct an investigation of the matter including consultation with the CCR counselor. Within fifteen (15) days, the manager will determine whether to replace the challenged CCR counselor, add a second CCR counselor to the case, or

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take no action. The date and action will be recorded by the manager and the complainant will be informed promptly in writing.

3. The complainant may appeal the manager's action by noticed motion to the Judge of the Unified Family Court to whom the case is assigned for all purposes. The Judge will rule on the complaint within fifteen (15) days of the date of the hearing.

*[Rule 6.17 adopted effective 5/1/98; amended 1/1/20; renumbered as Rule 7.17 effective 1/1/22]*

### **7.18 COUNSEL FOR CHILD**

**A. Appointment of Attorney for Child.** Appointment of counsel for a child will be in compliance with Family Code § 3150 and CRC 5.242; any such attorney is required to complete Judicial Council Form FL-322 and submit it to the Court within ten (10) days after being appointed and before the commencement of work on the case.

**B. Complaint Procedure for Minor's Counsel.** In a family law proceeding in which the Court has appointed counsel for minor children, any party or counsel or minor child may present a complaint about the performance of appointed counsel. The complaint must be in writing, filed and served on all counsel and self-represented parties, and a copy must be delivered to the courtroom clerk of the Judge to whom this case is assigned for all purposes. The Judge shall respond to the complaint, either by setting the matter for hearing or by issuing a written response.

*[Rule 6.18 adopted effective 5/1/98; amended 1/1/20; renumbered as Rule 7.18 effective 1/1/22]*

### **7.19 CHILD CUSTODY EVALUATIONS**

**A. Child Custody Evaluators.** This rule is adopted to implement CRC 5.220(d)(1).

**B. Appointment.** Appointment of a private child custody evaluator shall be in compliance with CRC 5.225 on Judicial Council Form FL-327; any such evaluator is required to submit Form FL-327 to the Court Executive Officer within ten (10) days of his/her appointment, as required by CRC 5.225(1)(a)(B).

**C. Contact With Evaluator.** No attorney for any party shall initiate any oral or telephone contact with an evaluator to discuss the merits of the case. Any written material provided by a party shall be maintained by the evaluator and, following completion of the evaluation, be provided to either party upon written request from the party/attorney. This does not apply to raw data of the evaluator.

**D. Raw Data of Evaluator.** If either party wishes access to the raw data of the evaluator, then upon appropriate subpoena, the evaluator will deliver copies of the raw data only to a qualified expert.

**E. Report of Evaluator.** The evaluator shall deliver a copy of the report to the Court and to the parties' attorneys and to any unrepresented party. If the evaluator believes that providing the report directly to a party will create a clear and present danger of personal injury or harm to a party or child, the Court may issue protective orders or any other orders that the Court may deem appropriate.

**F. Prohibition of Dissemination of Report.** No party or attorney shall give, show or describe an evaluation report or any part of it to anyone other than his or her own experts. This means that they are specifically prohibited from showing, giving or describing the report or any part of it to any member of the public, to any child of the parties (except that an attorney for a

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child may discuss the report with his/her client or, in appropriate cases, allow the child to read it or have a copy), anyone connected with either party, including, but not limited to employers, employees, friends, relatives, teachers, mental health professionals other than those treating the minor child and/or the party providing the report. Except by court order, no party shall give, show or describe any part of the report dealing with the other party or the child to the mental health professional treating the party providing the report. The evaluator's report shall not be furnished to any third parties without a written stipulation signed by both parties and minor's counsel, or court order.

**G. Peremptory Challenge to Evaluator.** No peremptory challenge is allowed to a Court-appointed evaluator, whether such person is a Family Court Services staff member, any county employee, or a mental health professional. (See CRC 5.220(d).)

**H. Withdrawal by Evaluator.** A Court-appointed evaluator may petition the Court to withdraw from a case. Any such petition shall be served on all parties, and may be made on any of the following grounds:

1. Both parties have refused to cooperate with the evaluator, making it impossible or unreasonably difficult for the evaluator to complete his/her responsibilities.
2. One or both parties have harassed or annoyed the evaluator, or have made threats of physical or emotional harm to the evaluator, making it impossible or unreasonably difficult for the evaluator to complete his/her responsibilities.
3. One or both parties have failed to complete their financial obligations to pay the evaluator for the cost of the evaluation as ordered by the Court.
4. Any other good cause for allowing withdrawal.

**I. Evaluator Complaint Procedure.** The procedure for processing a complaint concerning a court-appointed evaluator shall be as follows:

1. The complainant shall attempt to resolve the matter with the evaluator before pursuing his/her complaint as provided in this rule.
2. Except in extraordinary circumstances, complaints about the performance of an evaluator shall be addressed after issuance of the evaluation report.
3. Written notice of a complaint, specifying the conduct objected to, shall be provided to the evaluator and the other party and lodged with the Court by direct delivery to the judge to whom the case is assigned for all purposes within twenty (20) days after issuance of the evaluation report. A written response from the evaluator (and the other party, at his/her election) shall be provided to both parties, as well as lodged with the court, no later than ten (10) days after the complaint was provided to the evaluator, the other party, and the Court.
4. Within ten (10) days after receipt of the evaluator's response the Court shall issue a written statement as to what action, if any, it deems appropriate to deal with the complaint including, but not limited to, finding that the complaint is not justified and no action will be taken, setting a settlement conference, setting a hearing, appointing an adjunct evaluator, or removing the evaluator from the case.

5. If either party or attorney for a minor is not satisfied with the Court's determination, he/she may file a motion requesting other specified relief. Such motion

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shall be served on the evaluator as well as the other party. The evaluator shall appear at the hearing. The cost of the evaluator's appearance shall be advanced by the complainant, with the Court reserving jurisdiction over the allocation of such cost.

**J. Fees.** The Court will determine and allocate between the parties any fees or costs of the evaluation.

**K. Evaluator Domestic Violence Training.** All evaluators appointed by the court must comply with CRC 5.230(f) by attaching to their reports certificates of completion of the initial twelve (12) hours of advanced instruction and of the most recent annual four (4) hour update training in domestic violence.

**L. Submission of Child to Evaluation.** If an evaluation is ordered by the Court, neither parent shall subject the child to further examination or evaluation by another expert without the consent of the Court or of the Court-appointed counsel for the child.

*[Rule 6.19 adopted effective 5/1/98; amended 1/1/20; renumbered as Rule 7.19 effective 1/1/22]*

### **7.20 SUPERVISED VISITATION**

The court maintains a list of professional visitation supervisors who have certified their qualifications per Family Code § 3200.5. That list may be obtained from Court Administration.

*[Rule 6.20 adopted effective 7/1/09; amended 1/1/14; renumbered as Rule 7.20 effective 1/1/22]*

### **7.21 PARENTING COORDINATOR**

In cases in which a Court-ordered parenting plan is in place, the parties may stipulate to the appointment of a Parenting Coordinator. A Parenting Coordinator may only be appointed by agreement of both parties and the proposed Parenting Coordinator. The parties are encouraged to use the Stipulation and Order Re: Appointment of Parenting Coordinator (Local Form FL041, available in the Clerk's Office, at Legal Self Help Center, or online at [www.marincourt.org](http://www.marincourt.org)) in connection with the appointment of a Parenting Coordinator. Any modifications to the provisions of this Local Form must be agreed upon in writing by the parties and the Parenting Coordinator, and approved by the Court.

*[Rule 6.21 adopted effective 1/1/15; amended 7/1/15; renumbered as Rule 7.21 effective 1/1/22]*

## **TRIAL SETTING/READINESS AND BENCH/BAR SETTLEMENT CONFERENCES**

### **7.22 TRIAL READINESS CONFERENCE**

**A. At-Issue Memorandum.** Neither party shall file an At-Issue Memorandum until both parties have served a preliminary declaration of disclosure, or pursued available remedies, as set forth in Family Code §§ 2103 and 2104, and the respondent has filed a response to the petition. The At-Issue Memorandum is a Local Form (FL018) available in the Clerk's Office, at Legal Self Help Center, or online at [www.marincourt.org](http://www.marincourt.org).

**B. Mandatory Trial Readiness Conference.** Upon the filing of an At Issue Memorandum, the Clerk shall send to each party a Notice of Mandatory Trial Readiness Conference, the purpose of which is to develop a case progress plan tailored to the particular needs of each case and to give the parties adequate time to prepare before a Bench/Bar Settlement Conference is set. Except by stipulation of the parties, no case shall be set for a



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Bench/Bar Settlement Conference without first having had a Mandatory Trial Readiness Conference.

1. *Appearance Required.* Represented parties may appear through counsel and self-represented parties are required personally to appear at the Mandatory Trial Readiness Conference.

2. *Trial Readiness Conference Statement.* Each party shall serve and file with the Court a Trial Readiness Conference Statement no later than five (5) court days prior to the Conference. The Trial Readiness Conference Statement is a Local Form (FL064) available in the Clerk's Office, at Legal Self Help Center, or online at [www.marincourt.org](http://www.marincourt.org).

3. *Early Settlement Conference.* If the parties and counsel agree that a case may be settled without the necessity and expense of preparing for and appearing at a Bench/Bar Settlement Conference, the Court may set the matter for an early settlement conference before the trial Judge.

4. *Subsequent Trial Readiness Conferences.* The Court may set subsequent Trial Readiness Conferences before determining that the case is ready to be set for a Bench/Bar Settlement Conference.

*[Rule 6.22 adopted effective 5/1/98; amended 1/1/20; renumbered as Rule 7.22 effective 1/1/22]*

### **7.23 SETTLEMENT CONFERENCE AND TRIAL SETTING**

When the Court determines at a Trial Readiness Conference that a case is adequately prepared and ready for a meaningful settlement conference, a Bench/Bar Settlement Conference ("BBSC") shall be set.

**A. Panel.** The BBSC shall be conducted by a panel to be appointed by the Court.

**B. Attendance.** Each party and the trial counsel for each party shall personally attend the BBSC. Counsel and parties are expected to be available for the entire day or until excused by the BBSC Panel. Written approval from the Court must be obtained in advance by any party or counsel requesting to appear telephonically, and such permission will not be given except in extraordinary circumstances.

**C. Trial Setting Conference.** If the parties do not reach a settlement and place it on the record at the BBSC, they will be ordered to appear in court the next day for trial setting. The parties are reminded that under Family Code § 2105 they are required to file proof of service of their final declarations of disclosure forty-five (45) days before the date first set for trial.

**D. Continuances.** Settlement conferences and trials may be continued only by order of the Court upon a showing of good cause.

*[Rule 6.23 adopted effective 5/1/98; amended 7/1/15; renumbered as Rule 7.23 effective 1/1/22]*

### **7.24 BENCH/BAR SETTLEMENT CONFERENCE STATEMENT GENERALLY**

**A. Issues and Contentions.** Each party shall serve and file a BBSC Statement, which shall set forth the issues and all contentions and positions to be raised at trial by that party. The BBSC Statement shall be filed, not lodged.

**B. Filing.** At least fifteen (15) court days before the BBSC, the court's ADR coordinator will notify the attorneys or self-represented parties, as the case may be, of the name and mailing



address of the assigned Judge Pro Tem and the two BBSC panelists who will serve at that day's BBSC.

The parties/counsel shall personally deliver or mail their BBSC statements to the Judge Pro Tem and to the two panelists no later than ten (10) court days before the BBSC. Parties may transmit the BBSC statement electronically only after obtaining consent by the Judge Pro Tem and individual panelists to do so.

If neither party submits timely BBSC Statements, the BBSC will be taken off calendar; in that case, the parties are ordered to appear in the assigned department's morning calendar the day after the BBSC was scheduled. At that time, the court will consider a monetary sanction against either or both parties for their failure to comply with BBSC procedures.

If one party submits his/her BBSC statement late, the case will not be removed from the BBSC calendar, but the court may sanction the party who fails timely to submit a BBSC statement in the sum of \$99 per day payable to the court.

**C. Updated Preliminary Declarations of Disclosure.** At the time of filing the BBSC Statements, each party shall update his or her preliminary Declaration of Disclosure as necessary to reflect any material change in income or expenses of the party and any material change in the characterization or value of separate or community property and/or debts.

*[Rule 6.24 adopted effective 5/1/98; amended 1/1/20; renumbered as Rule 7.24 effective 1/1/22]*

## **7.25 FORM AND CONTENTS OF BENCH/BAR SETTLEMENT CONFERENCE STATEMENT**

**A. Form.** The Statement shall be entitled "Bench/Bar Settlement Conference Statement." Self-represented parties may obtain a sample BBSC Statement at Legal Self Help Center.

**B. Contents: Statement of Issues, Property, and Income and Expense Data.** The Statement shall set forth the following information in the following order, as it applies to the filing party:

1. *Introductory Paragraph.* The statement shall contain an introductory paragraph setting forth in summary form the date of the marriage, the date of separation, length of marriage, the names, ages and birth dates of any minor children. The introductory paragraph shall also set forth the parties' ages and health, education, business or professional experience, current occupation, a general statement concerning the marital standard of living, and any pendente lite or temporary orders. If there are any special health or other needs of either party or the minor children, those needs shall also be discussed in this paragraph.

2. *Separate Property.* List each item of separate property, the date it was acquired, the basis upon which it is claimed to be separate property and, if a mixed asset, the basis for apportioning between separate and community. For each asset, state the current market value, the terms and balance of each encumbrance against the property, and the title history to the present of titled property.

3. *Community Property.* List each item of community property, the date it was acquired, the basis upon which it is claimed to be community property and, if a mixed asset, the basis for apportioning between separate and community. For each asset, state the current market value, the terms and balance of each encumbrance against the property, and the title history to the present of titled property.

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4. *Tracing.* If either party claims a separate property interest in an asset, describe in detail, including dates, values and dollar amounts, all transactions relevant to the tracing and, if there is an issue about allocation of community and separate interests in a single asset, the basis for calculating the respective values of the community property and separate property interests.

5. *Funds Held By Others and Future Interests.* Identify and describe in detail all community property and separate property funds of the parties or either of them held by persons and entities other than the parties and all future interests of each party, and, as to each such fund or interest, state whether it is claimed to be community property or separate property or a mixed asset and describe the basis upon which such characterization is founded. Include all pertinent data (e.g., account numbers, etc.), state the conditions, if any, upon which the parties or either of them may access or acquire each such asset, and describe in detail all encumbrances relating thereto.

6. *Current Obligations and Claimed Credits.* Separately list all debts and obligations of the spouses which are liabilities of the community and, so far as known, debts and obligations which are alleged to be the separate liabilities of the respective parties. Identify each creditor, the purpose for which each debt was incurred, the date upon which it was incurred, the balance currently due thereon, the terms of payment, and the security, if any, held by the creditor. Credits claimed by either party against the other party or against the community and claims for reimbursement to the community from the separate property of either party (e.g., for community property debts paid from separate property, separate property debts paid with community property, fair rental value of community property or separate property used by a party post-separation, etc.) which are not fully detailed in a party's BBSC Statement shall be deemed waived.

7. *Current Income and Expenses.* If child support, spousal support or attorney's fees are sought, complete and attach a current Income and Expense Declaration. Previously filed Income and Expense Declarations may be attached if they were filed within three (3) months of the filing of the BBSC Statement and if financial circumstances have not changed.

8. *Contentions About Child and Spousal Support.* Each party shall specify their contentions as to the amount of child support and amount and duration of spousal support. Include calculations showing guideline child support. If any child is a recipient of public assistance, and the County is the assignee of the support, the statement shall show that the DCSS has been notified of the time and date of the BBSC and provided copies of all pertinent, current financial documents (i.e., Income and Expense Declaration, Support Calculations, etc.).

9. *Contentions About Attorney's Fees, Accountant's Fees, Expert Fees, and Costs.* Each party shall include in their statement their position regarding requests for attorney's and accountant's fees, other expert fees, and court costs. Where appropriate, such requests shall be supported by adequate documentation.

10. *Public Assistance Status.* If applicable, set forth that the family is receiving public assistance, the amount, and how long public assistance has been paid for the family. If public assistance is being received, the statement must also provide that "the children are recipients of public assistance from \_\_\_\_\_ County and that county is the

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assignee of all rights to support herein. The DCSS of \_\_\_\_\_ County has been notified of the time and date of this conference."

11. *Notification of Use of Expert at Bench/Bar Settlement Conference.* Any party planning to use a forensic expert of any type either in person, by telephone or otherwise at the BBSC, shall include in the Statement the name, address and telephone number of the forensic expert and identify the issues on which the expert will be consulted.

12. *Proposed Division/Allocation of Property and Obligations.* Set forth a specific and detailed proposal for dividing and/or allocating community property, separate property, and all debts and obligations.

13. *Certification Re: Compliance With Disclosure Obligations.* Each party shall certify that his or her preliminary Declaration of Disclosure is current and complete and that he or she is unaware of any material changes in it. Such certification shall be signed by the party personally – signature of counsel is not sufficient.

*[Rule 6.25 adopted effective 5/1/98; amended 1/1/20; renumbered as Rule 7.25 effective 1/1/22]*

### **JUDGMENTS**

#### **7.26 DEFAULT OR UNCONTESTED JUDGMENT BY AFFIDAVIT OR DECLARATION**

To obtain a Judgment by Declaration (non-appearance) pursuant to Family Code § 2336, the judgment packet submitted to the Clerk's Office must include:

1. Family Law Judgment Checklist (Local Form FL015).
2. Declaration for Default or Uncontested Dissolution or Legal Separation (Judicial Council Form FL-170).
3. Request to Enter Default (Judicial Council Form FL-165) with a copy and a stamped envelope for Respondent, or Appearance, Stipulations and Waivers (Judicial Council Form FL-130) as appropriate.
4. Judgment (Judicial Council Form FL-180) with any attachments: original and two (2) copies.
5. Notice of Entry of Judgment (Judicial Council Form FL-190): original and two (2) copies with two (2) envelopes addressed to the parties (or the attorneys of record) of sufficient size and with proper postage for the return of a copy of the Judgment and any attachments. The return address should be that of the Court Clerk.

*[Rule 6.26 adopted effective 5/1/98; amended and renumbered effective 1/1/22]*

#### **7.27 DEFAULT OR UNCONTESTED JUDGMENTS GENERALLY**

**A. Support and/or Fee 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).

**B. Child Support.** The amount of child support must either be specified in the order or reserved. Beginning, ending and due dates must be provided. A wage assignment must be

ordered or an alternative authorized by law provided. All agreements for child support shall be accompanied by the Judicial Council form "Stipulation to Establish or Modify Child Support" or must contain language consistent with that form. If either party is receiving public assistance, the signature of an attorney in the DCSS consenting to the child support provision must be affixed to the judgment. The judgment shall contain a provision for health insurance pursuant to Family Code §§ 3750-3753.

**C. Spousal Support.** Spousal support for each party must be addressed. A support amount may be requested, support may be terminated, or the issue may be reserved. Spousal support provisions must state beginning, ending and due dates. A marriage of 10 years or longer is presumptively a long-term marriage. In such cases, absent a written agreement to the contrary, the Court will reserve jurisdiction to award spousal support to both parties.

**D. Child Custody and Visitation.** All judgments must contain provision for legal and physical custody. Where the judgment is taken by default, and either supervised visitation or denial of visitation is requested, unless a written agreement of the parties concerning custody and visitation is submitted with the judgment, a factual declaration under penalty of perjury shall be submitted with the judgment which shall include the following:

1. *Where a party is seeking to deny visitation between a child and the defaulting party:* The specific reasons visitation should be denied; the date upon which the last visitation between the child and the defaulting party occurred; and a statement either that the whereabouts of the defaulting party is unknown, or, if known, the defaulting party's address.

2. *Where a party is seeking supervised visitation between a child and the defaulting party:* The reasons such visitation should be supervised; when and where supervised visitation should occur; the name and address of the person or agency who/which will perform the supervision; and the method by which the supervisor is to be compensated.

3. *Other information.* The date upon which the parties separated, the identity of the primary caretaker of the child(ren) during the last six months and the extent of contact between the child 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.

**E. 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.

*[Rule 6.27 adopted effective 5/1/98; amended 1/1/20; renumbered as Rule 7.27 effective 1/1/22]*

## **7.28 DEFAULT JUDGMENT WITH WRITTEN AGREEMENT OF THE PARTIES**

Marin County permits the entry of a default judgment with a written settlement agreement attached. Respondent's signature on the agreement must be notarized. In all other respects, the judgment will be reviewed as if Respondent had made a formal appearance. Specifically, both parties must comply with the financial disclosure provisions of Family Code § 2100 et seq.

*[Rule 6.28 adopted effective 1/1/13; renumbered as Rule 7.28 effective 1/1/22]*

## **FAMILY LAW FACILITATOR**

### **7.29 GENERAL**

The Office of the Family Law Facilitator is located at the Court's Legal Self Help Center. The Facilitators' office hours and location are available on the court's website.

A Family Law Facilitator is an attorney, who provides educational materials to parents concerning the process of establishing parentage and establishing, modifying and enforcing child support and spousal support in the courts; distributes necessary court forms and voluntary declarations of paternity; provides assistance in completing forms; prepares support schedules based on statutory guidelines; and provides referral to the local child support agency, family court services, and other community agencies and resources that provide services for parents and children.

In furtherance of the policy of this state to furnish a speedy conflict-reducing system for resolving financial issues that is accessible to families with low- and middle-incomes, the Facilitator can work with Family Court Services and self-represented parties simultaneously to mediate financial issues along with custody issues.

Pursuant to Family Code § 10005, the Facilitator's duties may also include:

1. Meeting with litigants to mediate issues of child support, spousal support, and maintenance of health insurance, subject to Section 10012. Actions in which one or both of the parties are unrepresented by counsel shall have priority.
2. Drafting stipulations to include all issues agreed to by the parties, which may include issues other than those specified in Section 10003.
3. If the parties are unable to resolve issues with the assistance of the Family Law Facilitator prior to or at the hearing, and at the request of the court, the Family Law Facilitator shall review the paperwork, examine documents, prepare support schedules, and advise the Judge whether or not the matter is ready to proceed.
4. Assisting the clerk in maintaining records.
5. Preparing formal orders consistent with the court's announced order in cases where both parties are unrepresented.
6. Providing the services specified in Section 10004 concerning the issues of child custody and visitation as they relate to calculating child support, if finding is provided for that purpose.

If staff and other resources are available and the duties listed in subsections 1-6 above have been accomplished, the duties of the Family Law Facilitator may also include the following:

7. Assisting the court with research and any other responsibilities that will enable the court to be responsive to the litigants' needs.
8. Developing programs for bar and community outreach through day and evening programs, video recordings, and other innovative means that will assist unrepresented and financially disadvantaged litigants in gaining meaningful access to family court.

*[Rule 6.29 adopted effective 7/1/99; amended 1/1/20; renumbered as Rule 7.29 effective 1/1/22]*

### **7.30 PROTOCOL FOR DISQUALIFICATIONS**

If a facilitator deems himself or herself disqualified or biased, or if the customer declares a concern about bias on the part of a facilitator, then the facilitator or Managing Attorney shall make arrangements for the customer to receive assistance from another qualified individual. Initially, a referral to the staff attorney of the Legal Self Help Center will be made. If a staff attorney is unable, for any reason, to render assistance, the Managing Attorney will refer the customer to a facilitator from another nearby court. All referrals shall be in writing and forwarded to the Court Executive Officer immediately. In addition, a log of such referrals shall be kept by the Managing Attorney and shall be made available for inspection upon request. [CRC 5.430(f)]

*[Rule 6.30 adopted effective 1/1/20; renumbered as Rule 7.30 effective 1/1/22]*

### **7.31 GRIEVANCE PROCEDURE**

The procedure for processing a complaint concerning the Family Law Facilitator's Office or Legal Self-Help Center shall be as follows:

1. The complainant must submit the complaint in writing to the Managing Attorney, who will make a record of the complaint.
2. The Managing Attorney will conduct an investigation. Within fifteen (15) court days, the Managing Attorney will inform the complainant in writing of his/her findings and whether any action was taken.

*[Rule 6.31 adopted effective 1/1/17; renumbered as Rule 7.31 effective 1/1/22]*

## **MISCELLANEOUS FAMILY LAW RULES**

### **7.32 DOCUMENTS NOT FILED OR ADMITTED AT HEARING OR TRIAL**

Documents not filed or admitted at a hearing or trial and left at the courthouse will be discarded immediately following the hearing or trial without notice to the parties. This includes binders and boxes containing the documents.

*[Rule 6.32 adopted effective 7/1/15; renumbered as Rule 7.32 effective 1/1/22]*

### **7.33 COURT REPORTERS**

Court reporting services may also be provided at the request of the Court or the parties for certain types of family law proceedings. These services, however, will be subject to the availability of a court reporter and the cost of court reporting services will typically be borne by the parties. Use of electronic recording in lieu of using a court reporter is not permitted by law in any family law proceeding. For information on how to request the services of a court reporter, please see Local Rule 1.18.

*[Rule 6.33 adopted effective 7/1/15; amended 7/1/18; renumbered as Rule 7.33 effective 1/1/22]*

### **7.34 SERVICE OF SUMMONS BY PUBLICATION OR POSTING**

If the respondent cannot be found to be served a summons, the petitioner may request an order for service of the summons by publication or posting. Posting may be ordered only if the court finds that the petitioner is eligible for a waiver of court fees and costs. To request service of summons by publication or posting, the petitioner must complete and submit to the court an original and one copy of an *Application for Order for Publication or Posting* (Judicial

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Council Form FL-980) and *Order for Publication or Posting* (Judicial Council Form FL-982) with a self-addressed stamped envelope. If Petitioner seeks an order for Posting, the petitioner must also submit a blank *Proof of Service by Posting* (Judicial Council Form FL-985) which will be completed by the Court Clerk who posts the documents.

*[Rule 6.34 adopted effective 1/1/16; renumbered as Rule 7.34 effective 1/1/22]*

### **7.35 REMOTE APPEARANCES IN DOMESTIC VIOLENCE RESTRAINING ORDER HEARINGS**

Pursuant to California Family Code section 6308, a party may appear remotely at a hearing on a petition for a domestic violence restraining order. Instructions and procedures for remote appearances in such cases can be found on the Court's website at: [www.marincourt.org/](http://www.marincourt.org/)

*[Rule 7.35 adopted effective 7/1/22]*

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