Superior Court

State of California
County of Lake
Courthouse
Lakeport, California 95453
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COURT EXECUTIVE/CLERK
JURY COMMISSIONER

September 23, 2010

INVITATION TO COMMENT
NOTICE TO ATTORNEYS AND ALL INTERESTED PARTIES

Below is a list proposed amendments to Local Rules. Please submit your comments to mary.smith@lake.courts.ca.gov by close of business October 26, 2010.

Chapter 3	General	
	Rule 3.6	Court Connected Mediation Program (amended)
Chapter 4	Criminal	
	Rule 4.8	Electronic Recordings (new)
Chapter 10	Mandatory Settlement Conference	
	Rule 10.2	Time and Purpose of Conference (amended)
	Rule 10.3	Presence or Accessibility of Attorneys (amended)
	Rule 10.4	Vacating Conference (amended)
	Rule 10.5	Duties of Counsel and Parties (amended)
Chapter 18	Court Appointed Special Advocate (new)	

DEADLINE FOR COMMENTS - OCTOBER 26, 2010

CHAPTER 3 GENERAL

3.6 Court-Connected Mediation Program (new 1/1/2009, amd. 1/1/2011)

The judges and judicial officers of the Lake Superior Court strongly encourage parties in any civil case filed with the court to consider alternatives to litigation, including, but not limited to, mediation of the dispute. The court has opted into the California Civil Action Mediation Program pursuant to C.C.P. § 1775, et seq. and has adopted the Civil Action Mediation Program Rules as described in the California Rules of Court § 3.870, et seq.

A. These rules do not apply to mediation available from family court services (governed by the California Family Code, related rules of court, and case law) or mediation services provided at court calendars in small claims, civil harassment, and unlawful detainer cases.

B. Mediators conducting court-connected mediations are subject to the "Rules of Conduct" outlined in California Rules of Court § 3.850, et seq

C. The court shall maintain a list of court program mediators. Mediators on the list may be appointed by the ADR program coordinator or a judicial officer.

D. Parties using a court-connected mediator are entitled to two hours of actual mediation at no cost to the parties. The mediator may not consider preparation time as part of the two no fee hours, nor may the mediator later charge for preparation time.

Prior to the mediation, the mediator must present and have the parties sign an agreement to pay a fee, not to exceed $200 per hour at the end of the no fee hours. If the mediator fails to do so, the parties will not be responsible for any fee charged by the mediator. The fee will be shared equally by all parties, unless there is agreement by all parties to some other arrangement.

E. Deleted January 2011

F. Complaints or concerns about the conduct of any court-connected mediator should be brought to the attention of the ADR Program Coordinator.

G. The court may also recommend use of the court-connected mediator panel for other Civil or Probate matters as it deems appropriate.

H. Within fifteen (15) calendar days after selection or appointment of the mediator, the parties shall agree on a date for mediation acceptable to the mediator. Should parties fail to do so, the mediator shall select a date for mediation in

accordance with California Rule of Court 3.876(c) and notify the parties and the ADR coordinator of the selected date, subject to the mediator's ability to change the selected date for good cause.

CHAPTER 4 CRIMINAL

4.8 Electronic Recordings (new 1/1/2011)

Transcripts required by California Rules of Court, Rule 2.1040, shall be lodged in the courts file and provided to opposing counsel no later than the trial assignment hearing.

CHAPTER 10 MANDATORY SETTLEMENT CONFERENCE

10.2 Time and Purpose of Conference (eff. 6/30/91 amd. 1/1/2010, 1/1/2011)

A. Every civil proceeding in which the trial is estimated to be one day or more shall be set for a mandatory settlement conference at a time to be fixed by order of the court. The purpose of the conference is to produce a settlement of the case or to narrow the issues and evidence to be presented at trial.

B. Any application to the court to excuse attendance of any person whose attendance is required by CRC § 3.1380(b) shall be made to the regularly assigned judicial officer not less than five (5) days before the date set for the settlement conference with copies of the request delivered concurrently to all other parties or their counsel.

C. Any person whose presence at a settlement conference is required by CRC § 3.1380(b) may be excused by order of the court for good cause shown but, if so excused, shall be and remain immediately available for telephone communication with counsel and the court at the time set for and throughout the settlement conference.

10.3 Presence or Accessibility of Attorneys, Parties and Others (eff. 6/30/91 amd. 1/1/2009, 1/1/2011)

At the mandatory settlement conference, each party appearing in an action must be personally present unless excused by the judicial officer. Corporate parties must be represented by a responsible officer - other than counsel for such parties - authorized to make all decisions regarding the case subject only to approval of any governing board having the ultimate power to make such decisions. By way of illustrating the character of the representative of a governmental party, it is expected that the responsible officer, in the case of a city, would be the city manager or mayor and, in the case of a county, would be the county administrator or the chairperson of the board of supervisors. For every party appearing in the action,

counsel who will actually try the case must attend the conference. In any tort case wherein a party who might be liable for damages has insurance coverage, the insurance company shall have present, throughout the entire duration of the conference, a representative who shall be authorized to make all decisions regarding the case unless excused by a judicial officer.

10.4 Vacating Conference deleted see 10.2 above

10.5 Duties of Counsel and Parties Prior to Conference (eff. 6/30/91 amd. 1/1/2009, 1/1/2011)

A. At least ten days before the conference, each party shall lodge with the clerk and serve upon all parties or their counsel, a detailed settlement conference statement composed in accordance with CRC § 3.1380(c). The statement will not form a part of the clerk's file but will be retained by the settlement conference judge following the conference.

The settlement conference statement shall be in writing and shall describe the case and all relevant legal issues, factual issues, and conditions. The statement and supporting material must be sufficiently detailed to enable the settlement conference judge or pro tem judge to conduct a meaningful settlement conference.

B. The attorney(s) for each party or each party representing themselves claiming damages shall include in the settlement conference statement a list of all special damages claimed, and shall supply corroborating evidence, to be available for examination by the settlement conference judge. In a personal injury action, the special damages for each plaintiff should be up-to-date listed separately, totaled, and categorized as health care (including medical, hospital, ambulance, and drugs) and loss of earnings, if any. In family law cases, all financial documents and information shall be informally exchanged at least 21 days prior to the conference.

Opposing parties shall bring with them copies of all reports and records of all examining doctors or other experts employed by them or their insurance carriers(s), if any, who examined plaintiff's claims, to be available for consideration by the settlement conference judge.

C. All parties and their counsel shall organize in advance and bring to the conference such medical reports and records and any deposition (with relevant pages premarked), photographs, books, records, diagrams, maps, bills, contracts, memoranda, and all other documents pertinent to settlement of the case for examination by the settlement conference judge.

CHAPTER 18 COURT APPOINTED SPECIAL ADVOCATE (new 1/1/2011)

18.1 Guidelines for Court Appointed Special Advocate Programs

The Superior Court hereby adopts the guidelines for a the Court Appointed Special Advocate Program, as more particularly set forth under the caption, "Program Guidelines for Court Appointed Special Advocate Programs" established by section 100 of the Welfare and Institutions Code of the State of California, as a Rule of Court applicable to the Court Appointed Special Advocate Program for Mendocino/Lake County. The guidelines are incorporated herein
by reference.

18.2 Court Appointed Special Advocate Program.

The Superior Court may appoint child advocates to represent and report to the court on the interests of dependent and/or delinquent children. In order to qualify for appointment the special advocate must be trained by and function under the auspices of a Court Appointed Special Advocate Program, formed and operating under the guidelines of the National Court Appointed Special Advocate Association. (W&I 356.5) The advocate program shall report regularly to the Presiding Judge and Judges of the Juvenile Dependency and Juvenile Delinquency Courts with evidence that it is operating under the guidelines established by the National Court Appointed Special Advocates Association and
the California State Guidelines for child advocates.

18.3 Special Advocates.

Special advocates serve at the pleasure of the court having jurisdiction over the proceeding in which the advocate has been appointed.

18.4 Functions

In general, an advocate's functions are as follows:

1. To support the child throughout the court proceedings;
2. To establish a relationship with the child to better understand his or her particular needs and desires;
3. To communicate the child's needs and desires to the court in written reports and recommendations;
4. To identify and explore potential resources which will facilitate early family reunification or alternative permanency planning;
5. To provide continuous attention to the child's situation to ensure that the court's plan for the child are being implemented;
6. To the fullest extent possible, to communicate and coordinate efforts with the case manager (social worker or probation officer);

7. To the fullest extent possible, to communicate and coordinate efforts with the child's attorney;
8. To represent the interest of the child in other judicial or administrative proceedings; and
9. To be present in court for all hearings when the case is before the court.

18.5 Sworn Officer of the Court

A special advocate is an officer of the court and is bound by these rules. Each advocate shall be sworn in by a Judge or Court Commissioner before beginning his or her duties, and shall subscribe to a written oath.

18.6 Specific Duties

In its initial order of appointment, and thereafter in subsequent orders as appropriate, the court may specifically delineate the advocate's duties in each case, including interviewing and observing the child and other appropriate individuals, reviewing appropriate records and reports, consideration of visitation rights for the child's grandparents and other relatives, and reporting back directly to the court as indicated. If no specific duties are outlined by the court order, the advocate shall discharge his or her obligation to the child and the court in accordance with the functions set forth in Local Rule.

18.7 Appointment Process

To accomplish the appointment of a special advocate, the Judge or Commissioner making the appointment shall sign an order granting the advocate the authority to review specific relevant documents and interview parties involved in the case, as well as other persons having significant information relating to the child, to the same extent as any other officer appointed to investigate proceedings on behalf of the court.

18.8 Access to Records

A special advocate shall have the same legal right to records relating to the child he or she is appointed to represent as any case manager (social worker or probation officer) with regard to records pertaining to the child held by any agency, school, organization, division or department of the State, physician, surgeon, nurse, other health care provider, psychologist, psychiatrist, mental health provider or law enforcement agency. The advocate shall present his or her order and identification as a Court Appointed Special Advocate to any such record holder in support of his or her request for access to specific records. No consent from the parent or guardian is necessary for the advocate to have access to any records relating to the child. (W & I 107)

18.9 Report of Child Abuse

A special advocate is a mandated child abuse reporter with respect to the case to which he or she is appointed.

18.10 Communication

There shall be ongoing, regular communication concerning the child's best interests, current status, and significant case developments, maintained among the special advocate, case manager, child's attorney, attorneys for parents, relatives, foster parent, and any therapist for the child.

18.11 Right to Timely Notice

The moving party shall provide the special advocate timely notice of any motions concerning a child for whom a special advocate has been appointed. (W & I 106)

18.12 Calendar Priority

In light of the fact that special advocates are rendering a volunteer service to children and the court, matters on which they appear should be granted priority on the court's calendar, whenever possible.

18.13 Distribution of CASA Reports

CASA reports shall be submitted to the court and served on parties entitled to receive a copy of the report at least (3) three court days prior to the hearing.