

CHAPTER 10
FAMILY LAW DEPARTMENT

Table of Contents

10.1	LAW AND MOTION	2
10.2	SETTLEMENT CONFERENCES.....	5
10.3	CHILD AND SPOUSAL SUPPORT	7
10.4	OFFICE OF FAMILY LAW FACILITATOR / SELF HELP CENTER.....	8
10.5	PARENT ORIENTATION.....	8
10.6	MEDIATION OF CHILD CUSTODY AND VISITATION DISPUTES	9
10.7	COURT-ORDERED FACT – BASED INQUIRY.....	17
10.8	COURT ORDERED PSYCHOLOGICAL EVALUATION, AND CUSTODY EVALUATION	17
10.9	PROFESSIONAL AND NON – PROFESSIONAL VISIT SUPERVISION	21
10.10	DEPARTMENT OF CHILD SUPPORT SERVICES	22
10.11	FAMILY CENTERED CASE RESOLUTION	23
10.12	EMANCIPATION OF MINORS	23
10.13	MISCELLANEOUS RULES	24

CHAPTER 10

FAMILY LAW DEPARTMENT

10.1 LAW AND MOTION

- A. Law and Motion Attorney and Self-Represented Calendars. There shall be a Law and Motion attorney-represented and self-represented calendar which shall be heard at the time and place set by the Court.
1. The court electronic bulletin board identifies the Judicial Officer assigned to hear the family law cases scheduled on Family Law and Motion calendars in Departments 16 and 17. Unless otherwise assigned, all such cases are hereby assigned to be heard on odd number, even number assignment (last digit of case number). The odd numbered cases are assigned to the Family Law Judge in Department 16 and the even numbered cases are assigned to the Family Law Judge in Department 17.
 2. Family Law Trials and Special Hearings: All cases set by a Family Law Judge for special hearing or trial are hereby assigned to that judge for said special hearing or trial. If, in the discretion of the Presiding Judge, Supervising Civil Judge, or a judicial delegate, exigent circumstances in the case require a hearing or trial when a Family Law Judge is unavailable (e.g., because of pressing custody issues) the hearing or trial may be otherwise scheduled. In such event, a judge shall be assigned to hear such special hearing or trial and the parties shall be promptly notified of the assignment.
 3. Nothing herein shall be construed to prevent the assignment of a family law case to a judge for all purposes whenever in the discretion of the Presiding judge, the Supervising Civil Judge, or a judicial delegate, one judge should hear the case for all purposes, such as in a particularly complex case.
 4. Meet and Confer: The moving party and the responding party, or his/her attorney if represented, shall each contact the other and attempt to resolve the issues raised in the moving papers prior to the date set for hearing, unless to do so would violate a restraining order then in effect.
 5. Continuances: The parties may, with good cause, stipulate once to a continuance for a reasonable amount of time. Any subsequent requests for continuances are subject to approval by the assigned Family Court Judge. All requests must be submitted at least a full 48 hours prior to the date of hearing. The request must indicate good cause for the continuance and state the position of the opposing party regarding the continuance as well as the requested date.
 6. Matters filed in the Family Law Division are routinely assigned to judges and court commissioners. Except as provided in Code of Civil Procedure section 259(e) and Family Code section 4251(b), matters assigned to a court commissioner require that the parties stipulate to the commissioner hearing the matter. If a party refuses to stipulate to having a case heard by a commissioner, the commissioner may hear any temporary matter pursuant to Code of Civil Procedure section 259(e). A judge of the Superior Court will thereafter approve, reject, or modify the findings and conclusions of the commissioner. In the absence of the assigned judge or court commissioner, matters may be assigned to a judge *pro tempore* acting as a temporary judge. Failure to stipulate to a judge *pro tempore* will result in the matter being continued to the next available calendar date.

CHAPTER 10

FAMILY LAW DEPARTMENT

B. TIMELY FILING OF PAPERS

1. The timely filing of papers must conform to the Rules of Court and the Code of Civil Procedure. (California Rules of Court, rule 3.1300; Code of Civ. Pro., §§ 1005 & 1013; Fam. Code, § 242).
2. Orders Shortening Time. Orders shortening time should not be requested unless there is a hardship or emergency requiring prompt action. All requests must be accompanied by a written declaration establishing GOOD CAUSE. Notice of the request must be given to opposing counsel, if any, within twenty-four (24) hours, except for good cause. A declaration must be submitted stating the fact of notice or good cause for its absence.
3. Responsive and Reply Documents. Responsive and reply documents must be filed and served as follows:
 - a. Request for Orders without temporary orders attached - at least nine (9) court days prior to the hearing for responsive declarations and five (5) court days prior to the hearing for reply documents.
 - b. Request for Orders with temporary orders attached – five (5) court days prior to the hearing for responsive declarations and two (2) court days prior to hearing for reply declarations.
 - c. Orders shortening time - The responsive and reply declarations must be filed and served as set forth in the order.

At the time of the hearing, the court may refuse to consider responsive or reply documents which are not filed and served within the time frames specified in this rule.

C. EX-PARTE APPLICATIONS

The timely filing of papers must conform to the California Rules of Court and Code of Civil Procedure as referenced in the authority stated herein. (California Rules of Court, rules 5.151, 5.165, 5.167, 5.169; Code of Civil Procedure section 575.2)

D. SPECIAL SETTINGS

All matters requiring more than ten (10) minutes must be specially set. Calendaring of special sets shall be done by a family law bench officer. A request for a special set hearing must be calendared by a Request for Order or, if a matter is already set on the law and motion calendar, the request should be made at the time already scheduled for hearing. Advance notice should be given to the court that a special set will be requested by written declaration if possible. Requests for special sets should not be made unless the matter is ready to be heard and should include a time estimate regarding the length of hearing requested. Continuances of special settings will not be granted except upon exceptional good cause.

CHAPTER 10

FAMILY LAW DEPARTMENT

E. USE OF DECLARATIONS

1. In all law and motion matters, declarations shall be submitted with pleadings. Testimony shall also be received at hearing or trial unless the court makes a finding that there is good cause to refuse to receive live testimony under Family Code section 217, as set forth in the California Rules of Court, rule 5.113.
2. Evidence or Argument. Evidence or argument will be heard only on issues clearly raised in timely filed pleadings.
3. Review Hearing Declarations/Supplemental Declarations.
 - a. If a matter is set for a review hearing, a declaration describing the current status of the matter shall be submitted by each party as set forth in the next paragraph. If no declaration is filed, the matter may be dropped at the discretion of the court.
 - b. Declarations for review hearings must be filed and served no less than five (5) court days prior to the date set for review hearing.
 - c. The court may decline to consider declarations or reply declarations which are not filed and received within the time frame specified in this rule.

F. ATTORNEY FEES AND EXPERT WITNESS FEES

Orders for attorney fees, costs or expert witness fees by one party from the other will not be deferred until the time of trial except upon agreement or a showing of GOOD CAUSE. It is the policy of the court to support each party's right to be adequately represented pending trial. No temporary award of attorney fees or costs shall be made without a showing of need and ability to pay, and until sufficient proof of each party's income has been filed with the court. (Family Code section 2030 *et seq.*; California Rules of Court, rule 5.427.)

G. TELEPHONE APPEARANCE IN FAMILY LAW ACTION

This rule applies to all family law cases, including domestic violence restraining order cases, except Title IV-D child support proceedings.

Telephone appearances by a party or an attorney for a party may be authorized for appearances at family law status conferences, family centered case resolution conferences, and other hearings, at the discretion of the court. The court may deny or grant a request to appear by telephone if the court determines that it is appropriate to do so in an individual case. A personal appearance is required for domestic violence restraining order hearings, evidentiary hearings, special set hearings, and contempt proceedings when witnesses are expected to be called and cross-examined.

Notice by Party: A party or attorney who wishes to appear by telephone at a family law proceeding must file and serve a Request to Appear by Telephone and Order Thereon (Local form CI-139) at least 12 court days before the date set for the hearing or proceeding. Service on the opposing party must be made in time to give notice to the other party at least 12 court days in advance of the court date.

CHAPTER 10

FAMILY LAW DEPARTMENT

Objections: A party or attorney objecting to the Request for Telephone Appearance may file a pleading objecting to the telephone appearance, which must be filed and served at least 7 court days before the date set for the proceeding.

If approved to make a telephone appearance, teleconferencing is provided through CourtCall Service, as set forth in Chapter 6, Local rule 6.14, unless another method is authorized by the judicial officer.

If telephone appearance is granted, the court may change the date and/or time of the scheduled proceeding, in its discretion.

If at any time during a hearing or proceeding while any person is appearing by telephone, the court determines that a personal appearance is necessary, the court may continue the matter and require a personal appearance.

H. ELECTRONICALLY STORED EVIDENCE IN FAMILY LAW PROCEEDINGS (INCLUDING DOMESTIC VIOLENCE PROCEEDINGS)

A party wishing to offer documents as evidence must provide copies of the documents as exhibits to a properly filed pleading or as exhibits to be marked and introduced at a duly noticed evidentiary hearing. Except as may be ordered on a showing of good cause, the clerk will not accept for filing in any family law or domestic violence case any electronic storage device such as a CD or thumb drive and the court will not consider documents offered on an electronic mass storage device.

Any party wishing to offer into evidence an electronic sound or sound-and-video recording must comply with California Rules of Court, rule 2.1040. The party wishing to offer a recording must provide the equipment necessary to listen to and/or view the proposed evidence. Except as provided in Rule 2.1040, the party offering the recording into evidence must provide the opposing party with a copy of the recording and any required transcript prior to the hearing.

(Adopted January 1, 2006; Amended January 1, 2007; Amended July 1, 2012; Amended July 1, 2017; Amended July 1, 2020; Elisors – Repealed and Incorporated into Local Rule 1.6, Renumbered January 1, 2023)

10.2 SETTLEMENT CONFERENCES

A. MANDATORY AND NON-MANDATORY

All long cause (more than one (1) day in length) family law trials will be set for mandatory settlement conference by the court. Upon request of both parties and court order, short cause trials (one (1) day or less in length) shall be set for settlement conference. With agreement of counsel and advance permission of the court, litigants and/or their attorneys may attend settlement conferences telephonically. Arrangements shall be made at least five (5) court days in advance.

B. MEET AND CONFER

Counsel shall confer with opposing counsel, or opposing party if that party is unrepresented by

CHAPTER 10

FAMILY LAW DEPARTMENT

counsel, no less than five (5) court days prior to the first date set for settlement conference. Counsel shall inform the court of all issues that can be determined by stipulation and those remaining for determination by the court in the settlement conference statement filed with the court. The settlement conference statement shall also state that the parties have complied with this rule. Non-compliance may result in the matter being dropped from calendar.

C. SETTLEMENT CONFERENCE STATEMENT

1. **Service.** Settlement conference statements shall be served and filed with the clerk of the court no later than five (5) court days preceding the settlement conference hearing. Failure to comply with this rule may result in an award of attorney fees or sanctions pursuant to California Rules of Court, rule 2.30, and Code of Civil Procedure section 575.2.
2. **Contents.** The statement must set forth the following information as to the party filing, as well as to the opposing party, to the extent known or contended:
 - a. **Separate Property.** List each item of separate property. If characterization of property is uncontested, list only its current market value. If characterization of property as separate is contested, list the date it was acquired, the basis upon which it is claimed that it is separate rather than community property, the current market value, the nature, extent and terms of payment of any encumbrance against the property and the manner in which title thereto is presently vested.
 - b. **Community Property.** List each item of community property. If characterization of property is uncontested, list only its current market value and the nature, extent, and terms of payment of any encumbrance against the property. If characterization of property as community is contested, list the date it was acquired, the basis upon which it is claimed as community rather than separate property, the current market value, the nature, extent, and terms of payment of any encumbrance against the property and the manner in which title thereto is presently vested.
 - c. **Funds Held by Others.** To the extent that either separate property or community property consists of funds held by others, such as insurance policies, pensions, profit sharing, or other trust funds, the statement shall fully identify the policy or fund, its present cash value, and any terms or conditions imposed upon withdrawal of such values.
 - d. **Tracing.** If a segregation of community property and separate property interests in a single asset is to be an issue in the case, the statement shall set forth in detail, including dates, values, and dollar amounts, the transactions which form the basis upon which the tracing is to be proven.
 - e. **Current Obligations.** Separately list all debts and obligations of the parties which constitute liabilities of the community and debts and obligations which are the separate liabilities of the respective parties. Specify the identity of the creditor, the date upon which the debt was incurred, the balance currently due thereon, the terms of payment and the security, if any, held by the creditor.
 - f. **Proposal for Settlement.** Set forth a proposal for settlement, including proposals

CHAPTER 10

FAMILY LAW DEPARTMENT

regarding custody, visitation, division of the community property and liabilities, reimbursements, credits, payment of costs, and payment of attorney's fees. In addition, specify each party's contentions as to the amount and duration of child and spousal support. The purpose of this rule is to promote amicable settlement and thorough preparation of domestic relations matters. Full disclosure of all contested issues will aid the court in suggesting a fair settlement, ease tension between the parties and help to provide a more meaningful resolution. Counsel should confer prior to the time set for settlement conference or trial in order that, to the fullest extent possible, issues can be determined by stipulation and those remaining for determination by the court can be clearly delineated.

3. Declaration of Disclosure. A declaration regarding service of a preliminary declaration of disclosure shall be filed by each party verifying that there has been an exchange of information regarding assets, liabilities and income as required in Family Code sections 2100 – 2110.
4. Current Income and Expense Declaration. A CURRENT income and expense declaration shall be filed concurrently with the settlement conference statement. The parties' last three (3) month's earnings and deduction statements shall be attached. (California Rules of Court, rules 5.260(a)(3),5.427(d)(1).)
5. Setting at the court's discretion. At the court's discretion, settlement conferences, case management conferences, and trial setting conferences may be set by the court.

(Adopted October 1, 1998; Amended July 1, 1999; Amended July 1, 2000; Amended July 1, 2001; Amended January 1, 2007; Amended July 1, 2012; Amended July 1, 2017)

10.3 CHILD AND SPOUSAL SUPPORT

A. CHILD SUPPORT

The amount of child support awarded will be determined according to the guidelines set forth in Family Code section 4050 *et seq.* The percentage of time each party spends with the child(ren) shall be calculated by counting the number of hours that the children spend with each party divided by the total hours for the time period in question.

1. Credit for Time Spent with Others. The parent who bears primary responsibility for the child, even during periods when the child is with others, will be attributed with the hourly credit for that time.

B. SPOUSAL SUPPORT

Temporary spousal support will ordinarily be determined in accordance with Santa Clara County's Temporary Spousal Support Guidelines; the court may order non-guideline temporary spousal support upon a showing of good cause. The court may order a party to pay for the permanent support of the other party in an amount, and for a period of time that the court determines just and reasonable, based upon the standard of living established during the marriage, taking into consideration the factors specified in Family Code section 4320.

CHAPTER 10

FAMILY LAW DEPARTMENT

C. FINANCIAL DECLARATIONS

Income and expense declarations must be filled out completely by both parties. The last three (3) months' earnings and deduction statements shall be attached. A current income and expense declaration must be on file any time there is a request for a monetary award from the other party. (California Rules of Court, rules 5.92, 5.260, 5.427.)

D. DEPARTMENT OF CHILD SUPPORT SERVICES

All cases in which the Department of Child Support Services is involved in establishing or enforcing child support shall be set on the Department of Child Support Services Calendar when appropriate.

(Adopted October 1, 1998; Amended July 1, 1999; Amended July 1, 2000; Amended July 1, 2003; Amended January 1, 2008; Retitled subd. C July 1, 2012; Amended July 1, 2013; Amended July 1, 2017)

10.4 OFFICE OF FAMILY LAW FACILITATOR / SELF HELP CENTER

The family law facilitator / Self Help Center manager shall perform the duties listed in Family Code section 10004, and may perform any and all of the duties listed in Family Code section 10005 as directed by the court.

(Adopted October 1, 1998; Amended July 1, 2000; Amended July 1, 2017)

10.5 PARENT ORIENTATION

- A. The Court shall provide access to an orientation or parent education, pursuant to California Rules of Court, rule 5.210(d)(1)(B) that facilitates the parties' informed and self-determined decision making about:
1. The types of disputed issues generally discussed in mediation and the range of possible outcomes from the mediation process;
 2. The mediation process, including the mediator's role; the circumstances that may lead the mediator to make a particular recommendation to the court; limitations on the confidentiality of the process; and access to information communicated by the parties or included in the mediation file;
 3. How to make best use of information drawn from current research and professional experience to facilitate the mediation process, parties' communication, and co-parenting relationship; and
 4. How to address each child's current and future developmental needs.
- B. Parties shall complete the orientation program prior to their first Family Court Services Mediation or Child Custody Recommending Counseling session, and repeat the program at the Court's discretion, pursuant to California Rule of Court 5.210(e)(2).

CHAPTER 10

FAMILY LAW DEPARTMENT

(Adopted July 1, 1999; Co-parenting workshop - Repealed July 1, 2012, Amended January 1, 2022)

10.6 MEDIATION OF CHILD CUSTODY AND VISITATION DISPUTES

A. PREAMBLE

Mediation of child custody and visitation is a program administered by the Office of Family Court Services.

Mediation is provided several different proceedings involving the custody and visitation of a minor. These proceedings include: 1) Dissolution and Legal Separation (Family Code section 3170), 2) Stepparent Visitation (Family Code sections 3171, 3172, 3185); 3) Grandparent Visitation (Family Code sections 3171, 3176, 3185); 4) Domestic Violence (Family Code sections 3170, 3181, 3182); 5) Paternity (Family Code sections 3172, 7600 *et seq.*); 6) Child Support Enforcement (Family Code section 17404); 7) Termination of Parental Rights (Family Code section 7660); and 8) Guardianships (Probate Code section 1500 *et seq.*).

B. TYPES OF MEDIATION

The court offers “Mediation” (confidential mediation) and “Child Custody Recommending Counseling” (recommending mediation). The following sections set forth the general and special rules applicable to Mediation and Child Custody Recommending Counseling. Mediation and Child Custody Recommending Counseling shall follow California Rule of Court 5.210 for court-connected child custody mediation.

C. MANDATORY MEDIATION

Family Code sections 3170 and 3175 require that when it appears on the face of a petition or application or other pleading for an order or modification of an order that custody, temporary custody, or visitation rights are contested, the matter must be set for mediation of the contested issues prior to or concurrent with the setting of the matter for hearing. The purpose of mediation is the reduction of acrimony which may exist between the parties, the development of an agreement assuring the child's close and continuing contact with both parents, and to effect a settlement of the issue of visitation rights of all parties that is in the best interests of the minor (Family Code section 3161).

D. COST OF MEDIATION

There is no direct cost to either party for the use of the Family Court Services’ Mediation Program. The program is paid for by a portion of the filing fee for dissolution actions and a portion of the cost of a marriage license. The parties are free to retain a mediator of their own choice who is not employed or contracted by the court and encouraged to attempt to resolve the dispute without court intervention. Mediation services provided by the court are limited and should be used only when there is an actual dispute that cannot be resolved by the parties themselves or with the assistance of their lawyers. The court will not pay for the services of an independent mediator or family counselor unless such services are provided through the court. Failure to reschedule or cancel timely as stated in Local rule 10.06(E)(2) may result in the imposition of a monetary sanction.

CHAPTER 10

FAMILY LAW DEPARTMENT

E. GENERAL RULES

1. **Availability of Mediation or Child Custody Recommending Counseling:** Mediation services are only available where there is a case filed with the court. If there is no pending action (dissolution, paternity, visitation, guardianship, etc.), no mediation will be scheduled.

In any case in which custody, temporary custody, or visitation is contested, the matter must be referred for mediation. There will be no final judicial determination of any contested custody or visitation issue until mediation has been completed.

2. **How to Schedule a Mediation or Child Custody Recommending Counseling Appointment:** Appointments can be made by contacting the Family Court Services Office either by phone, e-mail, or in person, at the following location:

Family Court Services Office
1200 Aguajito Rd., Room 303
Monterey, CA 93940
(831) 647-5891
fcs@monterey.courts.ca.gov

To schedule mediation, the following information must be provided:

- a. The case number and case name and the case number of any related cases (such as child support or domestic violence actions);
 - b. Information concerning a current domestic violence restraining order, criminal protective order or any allegations of domestic violence between the parties;
 - c. The parties' names, their current mailing address, e-mail address and daytime telephone numbers;
 - d. The name of a party's attorney if there is one; and
 - e. Any information that would affect scheduling, such as parties coming from out of town, or the need for an interpreter.
3. **Rescheduling:** Rescheduling of a mediation appointment is discouraged. However, if there is a compelling reason, an appointment may be rescheduled if the parties contact the Family Court Services Office at least five (5) calendar days before the appointment date and rescheduling will not result in a hearing date being continued.
 4. **Cancellation:** If the parties wish to cancel a mediation appointment because the dispute has been settled or if both sides agree to cancel the mediation for good reason, at least five (5) calendar days' notice must be given to the mediation service to avoid the possibility of sanctions.
 5. **Intake Forms:** The parties shall complete and submit intake forms to the Family Court

CHAPTER 10

FAMILY LAW DEPARTMENT

Services office prior to their first Family Court Services session and prior to any subsequent session in which their information has substantially changed.

6. **Review of Records:** The mediators shall review the court's file in the case and the parties' Intake Forms, as available, prior to mediation to familiarize themselves with existing or temporary orders regarding custody and visitation. If there are other written agreements relating to custody or visitation which are not in the court file and which would assist the mediator, for example orders from another jurisdiction, copies should be delivered to the Family Court Services Office prior to the first session.
7. **Mediation Where a Request for Order is pending:** If mediation has not been completed nor an agreement reached prior to the date set for hearing or trial of the issue, the court will refer the case for mediation at the hearing. The court may make temporary custody or visitation orders, or continue existing orders pending completion of mediation. All temporary orders pending mediation are without prejudice and should not be cited as a basis for permanent orders. Before arranging mediation, the parties or their attorneys should have discussed custody and visitation issues, or made reasonable attempts to do so, and concluded that the issues cannot be resolved by the parties themselves.
8. **In-Court Intervention:** The court may ask the mediator to see the parties at the time of hearing (or within 48 hours if orders are requested ex parte) to negotiate temporary orders until mediation can be scheduled to resolve any dispute related to permanent custody and visitation orders. This intervention is not confidential, and the Mediator will report verbally and/or in writing the outcome of the session to the Judicial Officer immediately following In-Court Intervention. Attorneys and parties are urged to arrange for mediation sufficiently in advance of the hearing to allow it to be completed prior to the date of the hearing.
9. **Remote Appearance:** Family Court Services will attempt to accommodate parties who are coming from out of the area if given sufficient advanced notice. If a case requires mediation and one of the parties resides more than a 40-minute commute from the Monterey Courthouse, mediation by phone or remote technology may be requested. In exceptional circumstances remote technology or telephone mediation may be scheduled at the discretion of the mediator or staff of Family Court Services, or upon court order. Remote appearance may be required for cases involving domestic violence.
10. **Ex Parte Communication:** In child custody proceedings, Family Code section 216 recognizes specific circumstances in which ex parte communication is permitted between court-connected or court-appointed child custody mediators or evaluators and the attorney for any party, the court-appointed counsel for a child, or the court. Before and after a Mediation or Child Custody Recommending Counseling appointment, the Mediator or Recommending Counselor may not discuss the case with the parties, nor hold the session when only one party is present, unless, at their discretion, the parties must be separated or if the session was ordered to be separate.
 - a. "Communication" includes any verbal statement made in person, by telephone, by voicemail, or by videoconferencing; any written statement, illustration, photograph, or

CHAPTER 10

FAMILY LAW DEPARTMENT

other tangible item, contained in a letter, document, email, or fax; or other equivalent means, either directly or through third parties.

- b. “Ex parte communication” is a direct or indirect communication on the substance of a pending case without the knowledge, presence, or consent of all parties involved in the matter.
- c. A “court-connected mediator or evaluator” is a superior court employee or a person under contract with a superior court who conducts child custody evaluations or mediations.

In any child custody proceeding under the Family Code, ex parte communication is prohibited between court-connected or court-appointed mediators or evaluators and the attorney for any party, a court-appointed counsel for a child, or the court, except as provided by California Rule of Court 5.235.

- 11. **Setting a Voluntary Appointment:** It is not necessary that hearing for custody or visitation be set in order to schedule a case for mediation. If no hearing is set, there must be an actual dispute, the parties must have attempted to resolve the dispute themselves, and there must be an express agreement of both parties to enter into mediation. Even though no hearing is pending, there must be a petition or complaint filed with the court. (This section does not apply to Child Custody Recommending Counseling, which is only available by court order.) Parents may voluntarily attend mediation once every twelve (12) months from their previous Family Court Services appointment without a court order or hearing set.
- 12. **Resolution of Other Issues Pending Mediation of Child Custody and Visitation Disputes:** The court may make orders on issues such as spousal support and child support pending the completion of mediation. Orders for temporary child support will generally be based upon the custody and visitation arrangement at the time of the hearing. Such orders will be made without prejudice to the rights of either party with respect to the issues of custody and visitation.
- 13. **Availability of Mediation in Child Support Actions:** Child custody and visitation mediation services will be provided in child support actions when both parents are parties to the action.
- 14. **Language Services:** In the event one or both of the parties needs services in a language other than English, Family Court Services will attempt to provide a mediator or interpreter to conduct the mediation in the spoken language of both participants. Family Court Services will schedule the interpreter. Sufficient advance notice (seven (7) days) must be provided to allow time to locate an interpreter.
- 15. **Request for Change of Mediator or Child Custody Recommending Counselor:** In the event there is a request by a participant in mediation for a change of mediator or a concern regarding a problem relating to the mediation process, the participant shall notify the Family Court Services clerk of the request to change of mediator or recommending counselor. The request may or may not be granted after examination of the circumstances.
- 16. **Status Report:** Following the conclusion of each scheduled Mediation or Child Custody

CHAPTER 10

FAMILY LAW DEPARTMENT

Recommending Counseling session, the Mediator/Recommending Counselor shall prepare a Status Report indicating the result of the session. If the dispute between the parties is not resolved in mediation, the mediator will report to the court that no agreement has been reached. The mediator may recommend to the court that an investigation be ordered or psychological evaluation be obtained, that the parties be referred to Child Custody Recommending Counseling, that the child provide input to the court, that the children and/or parents attend counseling or classes, or that the parties receive services on the day of their court hearing. The mediator may note that a report to County Child Protective Services has been made. Further, the mediator may recommend that restraining orders be issued to protect the well-being of the child(ren). If a partial agreement is reached in mediation the mediator will indicate the issues that are unresolved without providing details of the reasons. The mediator will not advise the court of the reasons why mediation was not successful unless the reason is that one or both of the parties: a) would not cooperate in the process; b) did not come to the appointments; or c) there is an allegation of abuse which was reported. Family Court Services shall provide the parties and their attorneys of record with a copy of the Status Report by hand delivery, mail, or email following the conclusion of the session. Status Reports shall be deemed official information within the meaning of Evidence Code section 1040.

17. **Recommendation for Appointment of Counsel for Child:** The mediator or child custody recommending counselor may recommend that counsel be appointed to represent any minor child(ren) when it appears that the best interests of the minor child requires independent counsel (Family Code section 3184). The reason for the recommendation of the mediator or the child custody recommending counselor shall be stated in general terms and shall not be binding on the court. It shall only be considered insofar as it alerts the court to the need to consider the appointment of counsel. Neither the mediator nor the child custody recommending counselor shall be called as a witness regarding the specific factual basis for the recommendation.
18. **Extended or Ongoing Family Counseling:** In certain cases, the mediator may recommend to the parties extended or ongoing family counseling. If the parties agree, provision for such counseling may be incorporated into the mediation agreement when the child is in need of such counseling, or the parties need extended or ongoing counseling in order to resolve the conflicts in their relationship which give rise to their disputes concerning child custody and visitation. Such extended counseling services will not be provided by Family Court Services or at court expense. The mediator may recommend one or more persons or agencies which the parties might contact to obtain counseling.
19. **Child or Dependent/Elder Adult Abuse or threats of Harm:** Penal Code section 11166 requires that the mediator immediately report all instances of suspected child abuse and/or neglect to a child protective agency or suspected Dependent/Elder Adult abuse to an adult protective agency. If the mediator suspects that a party is a serious threat of harm to themselves or another person, the mediator is required to report the information to law enforcement for the protection of the party in danger. The details of the suspected abuse or threat of harm shall remain confidential within the mediation session but may be included in the Recommending Counselor's Child Custody Recommending Counseling Report. The parties will be advised at the beginning of the first mediation session of the reporting responsibility.

CHAPTER 10

FAMILY LAW DEPARTMENT

F. SPECIAL RULES

1. MEDIATION (CONFIDENTIAL)

a. MEDIATION PROCEDURE

The mediator's role is as a neutral party whose primary concern is the satisfactory resolution of the dispute between the parties concerning custody and visitation in a manner which is in the best interests of the child(ren). The mediator is a problem solver and an advocate for the best interests of the child, not an adversary or trier of fact. In Mediation, all communications between the parties and the mediator are confidential except: 1) information (which legally must be reported) that someone in the dispute is a danger to self or others; or 2) that a minor child, dependent, or elder adult may have been abused or neglected. Confidentiality of mediation proceedings facilitates communications between the parties and the mediator without fear that such communications will be used in subsequent judicial proceedings. Mediator's files are considered confidential and not available to the parties or their attorneys by subpoena or otherwise. The mediator may not be called as a witness in a subsequent hearing, nor may the mediation service records be subpoenaed.

b. CONFIDENTIALITY OF MEDIATION

- i. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation is admissible or subject to discovery, and disclosure of the evidence shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.
- ii. No writing, as defined in Section 250, that is prepared for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation, is admissible or subject to discovery, and disclosure of the writing shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.
- iii. All communications, negotiations, or settlement discussions by and between participants in the course of a mediation or a mediation consultation shall remain.

c. THE MEDIATION AGREEMENT

i. GENERAL

If the parties reach a parenting agreement as a result of mediation, their agreement will be written by the mediator immediately. The parties will be asked to review and sign the written version of the parenting agreement. Each party will receive a copy of the signed written parenting agreement before leaving the courthouse or via e-mail when appearing remotely, with a copy forwarded to his or her counsel of record.

If an agreement is reached, a ten (10) day rescission period is given to permit

CHAPTER 10

FAMILY LAW DEPARTMENT

parties an opportunity to consider the parenting plan and consult with an attorney regarding the agreement. If, during the ten (10) calendar days following the mediation agreement date, either party wishes to rescind (cancel) the agreement, they must contact Family Court Services. Written notice of rescission must be given to Family Court Services as well as to opposing counsel.

The party must submit a written request to rescind (cancel) the entire Parenting Agreement by: Sending the Family Court Services office and the other party a signed, written request to rescind the Parenting Agreement **on or before 4:00pm** on the date that is ten (10) calendar days after the date of the mediation. Sending the request to Family Court Services must be done in one of the following ways:

- Personally take it to the Family Court Services office;
- Fax it to 831-647-5899; or
- Email it to fcs@monterey.courts.ca.gov

IMPORTANT: For the Request to Rescind to be correctly submitted, the party must include the case number and the names of the Petitioner and Respondent on their signed, written request. For the party's convenience, they may complete the Request to Rescind form provided by Family Court Services. Any agreement which has been rescinded may not be presented to the court at any subsequent hearing.

If a notice of rescission is not received within ten (10) calendar days of the date of the agreement, the agreement will be submitted to a judge for signature, at which point the agreement becomes a court order. Signed and file stamped copies of the agreement will then be mailed to the parties at their address of record.

The agreement can be filed and made a court order before the expiration of the ten (10) day period either: a) by written stipulation of all parties; or b) by oral stipulation in open court on the record. The parties may use the Family Court Services courtesy form, "Stipulation to Waive Ten-day Rescission Period" for this purpose.

The agreement will not create, modify or extinguish any obligation of support. If either party believes that the custody/visitation agreement necessitates a modification of support, a separate order must be sought.

The agreement will not modify, rescind, or preclude existing or future protective orders. Any such orders must be separately modified as necessary before this agreement may be implemented.

ii. PARTIAL AGREEMENTS

In the event some of the disputed issues are resolved and some are left unresolved, the mediator will prepare an agreement covering the resolved issues. A status form appraising the court of the unresolved custody or visitation issues will also be filed. The ten (10) day rescission process described above applies to partial agreements.

CHAPTER 10

FAMILY LAW DEPARTMENT

iii. CONFIDENTIALITY OF AGREEMENT:

Agreements reached in mediation shall be deemed official information within the meaning of Evidence Code section 1040 until the expiration of the ten (10) day rescission period when the document shall be submitted for signature and become a court order. No part of the document may be submitted into evidence or shared with a person who is not party to the action (or attorney) until the agreement is made an order of the court.

iv. NO AGREEMENT

If the parties do not reach agreement, the mediation is reported to the court as one in which no agreement has been reached and the parties are free to pursue whatever legal remedies are available to them.

2. CHILD CUSTODY RECOMMENDING COUNSELING

Child Custody Recommending Counseling may be scheduled only upon court order. Upon a finding of good cause, the court may direct the Child Custody Recommending Counselor to render a custody or visitation recommendation consistent with Family Code section 3183. Copies of the Child Custody Recommending Counselor's report to the court will be provided to the parties and counsel of record ten (10) days prior to the date of hearing on the review of the report.

If an agreement has been reached between the parties regarding the issues of custody and visitation, the Child Custody Recommending Counselor will prepare and forward to the court and the parties and/or their counsel a written summary of such agreement.

If there is no agreement or only partial agreement between the parties regarding issues of custody and/or visitation, the Child Custody Recommending Counselor will submit a recommendation to the court regarding custody and/or visitation with the minor child(ren) pursuant to Family Code section 3183. The Child Custody Recommending counselor's recommendation shall state the factual basis for the recommendation, which may include matters communicated to the Child Custody Recommending Counselor by the parties or the minor child(ren). The court may consider the written recommendation of the Child Custody Recommending Counselor and the basis for that recommendation in determining the issues before the court at the time of hearing.

All Child Custody Recommending Counseling sessions will be held in private. All communications from a party, a party's attorney, the minor child, the child's attorney and/or any collateral contacts or experts designated by any of the above individuals to the Child Custody Recommending Counselor shall be deemed official information within the meaning of Evidence Code section 1040.

3. DOMESTIC VIOLENCE SPECIAL RULES AND SEPARATE SESSIONS

In any case in which a domestic violence order (CLETS) has been issued or a criminal protective order is in place against one of the parties, the mediation shall be set and

CHAPTER 10

FAMILY LAW DEPARTMENT

conducted as Child Custody Recommending Counseling. It shall be set and conducted as separate mediation if so ordered by the court or requested by the protected party.

In cases where there has been a history of domestic violence, but no order has been issued, the mediation shall be conducted as separate mediation when requested by the party who has alleged under penalty of perjury that the violence has occurred.

The time and date of separate sessions are confidential and are not disclosed to the other party. The parties are cautioned not to inform the other party of the time and date set. The parties may be instructed to participate in the session via Remote Appearance.

The Child Custody Recommending counselor shall render a written recommendation to the court regarding visitation and custody issues taking into consideration the parameters set by any restraining orders and the provisions of Family Code Section 3044.

The parties may be accompanied by a support person during any session conducted under domestic violence protocols (Family Code Section 6303). The mediator may exclude any support person from a mediation session who disrupts or attempts to participate in the process (Family Code Section 3182(b)).

Until the court adopts the Child Custody Recommending Counseling recommendation, the parties must follow any interim order regarding custody and visitation, unless modified or terminated by court order.

(Adopted October 1, 1998; Amended July 1, 1999; Amended July 1, 2000; Amended July 1, 2003; Amended January 1, 2005; Amended July 1, 2005; Amended January 1, 2006; Amended July 1, 2007; Amended July 1, 2008; Rule 10.06.E.2 (a) – (f) re-lettered, amended January 1, 2009; Amended subd. C, D, E1 E2(f), E3, E4-5, E8, E10, F, F2, and F3 July 1, 2012; Amended July 1, 2016; Amended July 1, 2017, Amended January 1, 2022)

10.7 COURT-ORDERED FACT-BASED INQUIRY

A court-ordered Fact-Based Inquiry refers to a neutral information gathering process designed to enable litigants to efficiently present information to the court on relevant issues. It is limited to information gathering only and does not provide the litigants or the court with an analysis, opinion or recommendation as to a child's health, safety or welfare, or the best interests of a child.

Multiple examinations of the child by different examiners shall be avoided to the greatest degree possible.

A. APPOINTMENT OF LIAISON FOR FACT BASED INQUIRY

In any case in which custody or visitation is in dispute, the court may appoint a family court liaison and order that information gathering be conducted if, in the opinion of the court, or upon the recommendation of a mediator, there is a need for such service and the parties stipulate to the Fact-Based Inquiry.

When a Fact-Based Inquiry through Family Court Services is ordered, each party shall complete a written questionnaire within seven (7) days or as otherwise directed by the judicial officer. The fee must be paid in full or a payment plan ordered by the court. Each party shall inform the liaison

CHAPTER 10

FAMILY LAW DEPARTMENT

officer within 72 hours of any change of address or telephone number occurring during the pendency of a Fact-Based Inquiry.

The court may appoint a person the court has determined possesses the necessary qualifications.

B. COURT REPORT

The court order appointing the Family Court Liaison for a Fact-Based Inquiry shall state the purpose and scope of the Fact-Based Inquiry and the date the report shall be filed with the court. The report shall be in writing and shall be distributed to the court, all counsel, and to the parties prior to hearing. All written reports shall be distributed to the parties by Family Court Services.

C. ACCESS TO THE REPORT

Any written report from the Fact-Based Inquiry shall be confidential and unavailable to any person except the court, the parties, their attorneys and any person to whom the court expressly grants access by written order made with prior notice to all parties. No person who has access to a report shall make copies of the report or disclose the contents of the report, especially to any child. All communications from a party, a party's attorney, the minor child, the child's attorney and/or any collateral contacts or experts designated by any of the above individuals to the Family Court Liaison shall be deemed official information within the meaning of Evidence Code section 1040.

(Adopted October 1, 1998; Amended July 1, 1999; Amended July 1, 2000; Amended January 1, 2001; Amended January 1, 2005; Amended July 1, 2005; Amended January 1, 2006; Amended January 1, 2007; Amended July 1, 2017; Amended 10.07, subd. A and repealed subd. (I)–(J) July 1, 2012, Amended July 1, 2015; Amended July 1, 2017, Amended and Renumbered – subd. (B) - (E), and (H) repealed and renumbered as Rule 10.8 January 2022)

10.8 COURT ORDERED PSYCHOLOGICAL EVALUATION, AND CUSTODY EVALUATION

A psychological evaluation refers to an evaluation prepared by a psychologist or psychiatrist, under Family Code sections 3110-3118 and California Rules of Court, rules 5.220-5.230. A custody evaluation refers to an evaluation prepared by a Child and Family Counselor or similar licensed therapist or counselor, under Family Code sections 3110-3118 and California Rules of Court, rules 5.220-5.230.

A. APPOINTMENT OF PSYCHOLOGICAL EVALUATOR OR CUSTODY EVALUATOR

In any case in which custody or visitation is in dispute, the court may appoint a psychological evaluator or custody evaluator and order that an evaluation be conducted if, in the opinion of the court, or upon the recommendation of a mediator, there is a need for such service.

An "Order Appointing Child Custody Evaluator" (Judicial Council form FL-327) must be used for orders appointing a custody evaluator, and the court or parties may also attach Monterey County Local Court form CI-151 "Supplement to Order Appointing Child Custody Evaluator."

When an evaluation is ordered, and an evaluator appointed each party shall contact the evaluator within seven (7) days or as otherwise directed by the judge. The court may appoint a person the court has determined possesses the necessary qualifications.

CHAPTER 10

FAMILY LAW DEPARTMENT

When an evaluation is ordered, and before appointment as a court-appointed evaluator, the proposed evaluator shall, upon request, provide to the attorneys for the parties, or to the parties if they are unrepresented, the following information:

- a curriculum vitae;
- the names of at least three attorneys who have worked with the individual in connection with previous evaluations, or three mental health professionals who are familiar with the individual's work; and
- provide proof of meeting the requirements of Family Code sections 3110-3118 and California Rules of Court sections 5.220-230 when applicable;
- payment for the evaluation shall be arranged directly with the evaluator.

B. QUALIFICATIONS OF CHILD CUSTODY EVALUATOR

All persons on the court's list of qualified custody evaluators are required to meet the standards outlined in California Rules of Court 5.220-5.230. To ensure that these standards are met, supervisors are required to file a declaration regarding their qualifications as follows.

1. On the first year in which a child custody evaluator is placed on the referral list, the person must submit to Family Court Services their a curriculum vitae; the names of at least three attorneys who have worked with the individual in connection with previous evaluations, or three mental health professionals who are familiar with the individual's work; proof of meeting the requirements of Family Code sections 3110-3118 and California Rules of Court sections 5.225-5.230; and proof of three evaluations in which they materially assisted a currently qualified evaluator.
2. Professional child custody evaluators are required to file Declaration of Private Child Custody Evaluator Regarding Qualifications (form FL-326) prior to being placed on the referral list and annually to remain on the referral list, to Family Court Services by December 20th each year for the upcoming year.
3. Professional child custody evaluators are required to file form FL-326 Declaration of Private Child Custody Evaluator Regarding Qualifications, in each case, upon appointment and prior to beginning the custody evaluation process.
4. Professional child custody evaluators are required to file form FL-328 with the custody evaluation upon completion.
5. Filed forms FL-326, and FL-328, as well as all correlating qualifying documents submitted by professional child custody evaluators shall be confidential and unavailable to any person except the court, the parties, their attorneys and any person to whom the court expressly grants access by written order made with prior notice to all parties.

C. CHALLENGES TO COURT-APPOINTED EVALUATOR

No peremptory challenge of a court-appointed evaluator shall be allowed.

D. WITHDRAWAL BY COURT-APPOINTED EVALUATOR

CHAPTER 10

FAMILY LAW DEPARTMENT

A court-appointed evaluator may seek to withdraw from a case. Such request shall be made as soon as possible after the evaluator is aware of a conflict or other reason that should cause the evaluator to seek to withdraw.

E. EX PARTE CONTACT PROHIBITED

No party or attorney for a party shall initiate contact with a court-appointed evaluator, orally or in writing, to discuss the merits of the case without giving the other party notice and an opportunity to be present or to receive a copy of a written communication. Nothing in this rule shall prohibit the court-appointed evaluator from contacting either party or attorney. (California Rules of Court, rule 5.235.)

F. CONTACT BETWEEN COURT-APPOINTED EVALUATOR AND MINOR CHILDREN

Multiple examinations of the child by different examiners shall be avoided to the greatest degree possible. The Court relies on the judgment of the evaluator and other persons appointed, as a part of the evaluation, in making decisions as to whether children will be interviewed, under what circumstances children will be interviewed, and in justifying such decisions in a particular case. Except in extraordinary circumstances, including the potential for danger to the child, children will be informed that the information provided by the child will not be confidential. During the initial meeting, if any, the evaluator shall provide the child with an age-appropriate explanation of the evaluation process. A child seen by the evaluator with one parent will also be seen with the other parent. At the discretion of the evaluator, interviews with siblings may be separate. Unless ordered by the court, an evaluation shall not be based on an interview with only one parent.

G. COURT REPORT

The court order appointing the evaluator shall state the purpose and scope of the evaluation and the date the report shall be filed with the court. The report shall be in writing and shall be distributed to the court, all counsel, and to the parties if they are unrepresented ten (10) calendar days prior to hearing. All written reports and recommendations of the court-appointed evaluator shall be conducted in accordance with and served upon the parties or attorneys consistent with the provisions of Family Code section 3111 and California Rules of Court, rule 5.220.

H. ACCESS TO THE REPORT

Any written report or recommendation from the court-appointed evaluator or the person appointed by the court to render a report as a part of the evaluation shall be confidential and unavailable to any person except the court, the parties, their attorneys and any person to whom the court expressly grants access by written order made with prior notice to all parties. No person who has access to a report shall make copies of the report or disclose the contents of the report, especially to any child.

I. GRIEVANCES:

CHAPTER 10

FAMILY LAW DEPARTMENT

1. The Child Custody Evaluator may be disqualified on any of the grounds applicable to the removal of a judge, commissioner, referee or arbitrator.
2. Neither party may initiate court proceedings for the removal of the Child Custody Evaluator or to bring to the court's attention any grievances regarding the performance or actions of the Visit Supervisor without meeting and conferring with the Visit Supervisor in an effort to resolve the grievance. Participation in an alternative dispute resolution process such as arbitration to resolve grievances may be offered.
3. Neither parent shall complain to the Evaluator's professional licensing board without first meeting and conferring with the Child Custody Evaluator in an effort to resolve the grievance. In the event no resolution is reached, the parents and Child Custody Evaluator shall attend at least one session of mediation or other alternate dispute resolution process prior to any action being undertaken.
4. The court shall reserve jurisdiction to determine if either or both parents and/or the Child Custody Evaluator shall ultimately be responsible for any portion of all of said Child Custody Evaluator's time and costs spent in responding to any grievance and the Child Custody Evaluator's attorney's fees, if any.
5. If either party or the Child Custody Evaluator believes that there exists a grievance between them that cannot be resolved, either party or the Child Custody Evaluator can move the court for relief from this stipulation, after complying with the requirements above.

(Adopted January 1, 2022, Amended January 1, 2023)

10.9 PROFESSIONAL AND NON-PROFESSIONAL VISIT SUPERVISION

- A. All persons supervising visitation are required to meet the standards outlined in California Rule of Court, rule 5.20, including appropriate background checks. To ensure that these standards are met, supervisors are required to file a declaration regarding their qualifications as follows.
 1. Non-professional visitation supervisors are required to file the Declaration of Supervised Visitation Provider (Nonprofessional) (form FL-324(NP)) in the court file corresponding to the case for which the person is supervising visitation prior to serving as a visitation supervisor.
 2. Professional visitation supervisors are required to file Declaration of Supervised Visitation Provider (Professional) (form FL-324(P)), annually to Family Court Services along with their proof of registration with trust line and their qualifying required training hours to remain on the referral list, by December 20th each year for the upcoming year.
 3. Professional visitation supervisors are required to file Declaration of Supervised Visitation Provider (Professional) (form FL-324(P)), in each case prior to serving as a visitation supervisor for those parties. This form must also be refiled with any reports filed under California Rule of Court, rule 5.20(j)(3).

CHAPTER 10

FAMILY LAW DEPARTMENT

4. Filed forms FL-324(P) and FL-324(NP), as well as all correlating qualifying documents submitted by professional visitation supervisors shall be confidential and unavailable to any person except the court, the parties, their attorneys and any person to whom the court expressly grants access by written order made with prior notice to all parties.
- B. Visitation supervisors are encouraged to review the materials available at <https://www.courts.ca.gov/cfcc-accesstovisitation.htm> regarding the role and duties of a supervisor.
- C. GRIEVANCES:
1. The Professional Visit Supervisor may be disqualified on any of the grounds applicable to the removal of a judge, commissioner, referee or arbitrator.
 2. Neither party may initiate court proceedings for the removal of the Professional Visit Supervisor or to bring to the court's attention any grievances regarding the performance or actions of the Visit Supervisor without meeting and conferring with the Visit Supervisor in an effort to resolve the grievance. Participation in an alternative dispute resolution process such as arbitration to resolve grievances may be offered.
 3. Neither parent shall bring court proceedings without first meeting and conferring with the Professional Visit Supervisor in an effort to resolve the grievance. In the event no resolution is reached, the parents and Professional Visit Supervisor shall attend at least one session of mediation or other alternate dispute resolution process prior to any action being undertaken.
 4. The court shall reserve jurisdiction to determine if either or both parents and/or the Professional Visit Supervisor shall ultimately be responsible for any portion of all of said Professional Visit Supervisor's time and costs spent in responding to any grievance and the Professional Visit Supervisor's attorney's fees, if any.
 5. If either party or the Professional Visit Supervisor believes that there exists a grievance between them that cannot be resolved, either party or the Professional Visit Supervisor can move the court for relief from this stipulation, after complying with the requirements above.

(Adopted January 1, 2022, Amended January 1, 2023)

10.10 DEPARTMENT OF CHILD SUPPORT SERVICES

A. APPEARANCES BY TELEPHONE

1. General Provisions

Requests for appearance by telephone and opposition to such requests shall be made in compliance with California Rules of Court, rule 5.324. Judicial Council form FL-679 must be used for requests. Judicial Council form MC-030 may be used for the declaration in opposition.

CHAPTER 10

FAMILY LAW DEPARTMENT

B. CHILD SUPPORT ORDER ATTACHMENTS

All orders for child support must have as attachments:

1. Notice of Rights and Responsibilities Health Care Costs and Reimbursement Procedures (Judicial Council form FL-192);
2. Information Sheet on Changing a Child Support Order (Judicial Council form FL-192, side 2);
3. A computer-generated support calculation (required in all cases where there is a child support order whether or not there is an agreement regarding support). If the parties do not agree upon a single calculation, each party may attach a computer-generated calculation.
4. Notice of Right and Responsibilities, Child Care Costs and Reimbursement Procedures if the order provides for payment of a percentage or ratio of child care costs (Monterey County form to parallel the Medical Reimbursement form).

(Adopted January 1, 2005; Amended January 1, 2007; Section 10.08(D) repealed January 1, 2010; Section 10.08(A-1), (A-3), (A-4) repealed, (A-2) renumbered July 1, 2010; Renumbered from 10.08C to 10.09 July 1, 2012, Renumbered January 1, 2022)

10.11 FAMILY CENTERED CASE RESOLUTION

Parties seeking dissolution, nullity, legal separation, termination of domestic partnership, and establishment of paternity under the Uniform Parentage Act are subject to compliance with procedural milestones set forth in California Rules of Court, rule 5.83. Upon the initial filing, the clerk shall provide the Petitioner with a document packet containing Judicial Council form FL-107-INFO, Legal Steps for a Divorce or Legal Separation OR Local form CI-137, Legal Steps for Filing a Parentage Case and Local form CI-138, List of Local Resources. Subsequent to the filing of any of the actions listed above, court staff shall conduct a case status review twice, without hearing, approximately 6 months apart.

If a judgment has not been entered in the matter at the time of the first status review, a second review will occur approximately 6 months after the first review. Court staff will provide litigants with written notice detailing required actions and/or documents to be filed to bring the matter to final judgment/disposition. If the matter has not reached disposition at the time of the second review, the matter shall be set for a Case Resolution Conference hearing, before a judicial officer, approximately 6 months after the second review.

(Adopted July 1, 2013, Amended July 1, 2015; Amended and Renumbered January 1, 2022)

10.12 EMANCIPATION OF MINORS

A. PETITIONS

A petition to emancipate a minor other than a dependent or ward of the juvenile court must be filed and heard in the Family Law Department. (California Rules of Court, rule 5.605(c).)

CHAPTER 10

FAMILY LAW DEPARTMENT

B. SCREENING, EVALUATION AND INVESTIGATION OF PETITIONS AND NOTICE TO PARENTS OR GUARDIANS

1. In evaluating a petition for emancipation, in determining whether the minor is managing their own financial affairs, the court shall consider the following (Family Code § 7120, subd. (a)(3)):
 - a. Any relevant documentation, including proposed or past recent budgets submitted by the minor and proof of income and expenses.
 - b. Any statement by the minor or other interested party regarding the minor's capability to manage their own financial affairs.
 - c. Any investigation report prepared upon order of the court, for the purpose of gathering more information regarding the petition.
2. In evaluating whether notice must be given to parents, guardians, or other persons entitled to the custody of the minor, the court shall consider the best interests of the minor, including whether the minor has shown the parents to be adverse or harmful to the minor via neglect, abuse, or other improper actions. (Family Code § 7121, subd. (a).)
3. The court may order investigation of any matter relevant and reasonably related to the petition. Such investigation will be conducted by Family Court Services staff, or as otherwise ordered by the court. (California Rules of Court, rule 5.605(e), Evidence Code § 730.)

(Adopted January 1, 2023)

10.13 MISCELLANEOUS RULES

C. DUPLICATE FILING

Copies of previously filed pleadings or declarations should not be attached as exhibits to subsequent documents. Reference to the previous documents is sufficient.

D. CONFIDENTIAL RECORDS

Whether filed electronically or otherwise, it is the responsibility of the filing party to identify any documents that are considered confidential and to secure such documents when filed with the court. Such documents may include, but are not limited to, medical reports, HIV laboratory test results, psychological records, custody evaluation reports, and police reports. This rule pertains to any documents that are attached to a pleading and filed with the court. If such attachments are not submitted in a secured envelope pursuant to Local rule 10.10(F) or as a confidential document through the electronic service provider, the clerk of the court will not act to secure the documents and the documents will be considered as open and public.

E. PLEADING FOR ADVERSE PARTY

CHAPTER 10

FAMILY LAW DEPARTMENT

The practice in domestic relations proceedings whereby the petitioner's attorney prepares a pleading for the respondent is not favored. Unless good cause is shown (e.g., military service, party out of state, etc.), no uncontested civil matter shall be heard on answer or response, unless such instruments are prepared by the answering party or his counsel.

F. SANCTIONS

Failure to comply with these Local Rules may result in an award of attorney fees, costs, or other sanctions pursuant to Code of Civil Procedure section 575.2.

G. DISMISSAL OF FAMILY LAW CASE ON COURT'S OWN MOTION

Absent good cause, a family law case may be dismissed, without prejudice, on the court's own noticed motion when:

1. The case is dropped from the trial calendar because the parties have reconciled; and
2. No further action is taken in the case within one-hundred-eighty (180) calendar days from the date the case is dropped from the trial calendar.

H. INSTRUCTIONS IN SECURING CONFIDENTIAL DOCUMENTS

If not electronically filed, any confidential documents shall be submitted for filing in a clasped envelope not smaller than seven (7) inches by ten (10) inches or larger than eight-and-a-half (8 ½) inches by eleven (11) inches in size. The envelope shall be attached to the accompanying document with the clasp facing up and at the bottom of the document to allow access for the court through the clasped end. A label shall be affixed to the envelope showing the case name, number and identity of the documents enclosed

I. COURT COMMUNICATION PROTOCOL FOR DOMESTIC VIOLENCE AND CHILD CUSTODY ORDERS

Court records shall be accessed as set forth in the following paragraph in order to determine if a Criminal Protective Order (CPO) exists involving the parties and affecting the custody or visitation of the children. Any Custody or Visitation Order (CVO) subsequently issued shall take into consideration the terms of any existing CPO and shall be drafted in a manner not inconsistent with the CPO.

The court records shall be accessed as follows:

1. Family Law, Probate and Juvenile: When there are allegations of domestic violence in the documents submitted to the court.
2. Civil Restraining Orders - Domestic Violence, Harassment, Elder Abuse and Workplace Violence: Prior to the issuance of a temporary restraining order and prior to the hearing on such order.
3. Mediation: Prior to every Separate Mediation and any time there are allegations of domestic violence in the file.

CHAPTER 10

FAMILY LAW DEPARTMENT

The Domestic Violence court shall make reasonable efforts to determine if a custody or visitation order exists involving the defendant. The court issuing the CPO may permit visitation pursuant to any Family Law, Probate or Juvenile Court order so long as such visitation is determined by the court to be consistent with the safety of the victim[s].

When a CPO exists, any CVO that permits contact between the defendant and the children shall provide for the safe exchange of the children. The CVO shall also specify the time, day, place and manner of transfer of the child pursuant to Family Code section 3100 so as to limit the child's exposure to potential domestic conflict or violence and to ensure the safety of all family members. The safety of the parties and their children shall be the court's paramount concern.

This rule does not prevent a CVO from containing more restrictive terms than the CPO.

J. COMPLAINTS CONCERNING FAMILY COURT SERVICES PROFESSIONALS

Complaints regarding a Family Court Services Mediator, Recommending Counselor, Investigator, Evaluator, Liaison or Staff must be made in writing and addressed to the Court Executive Officer, Superior Court of California, County of Monterey, 240 Church Street, Salinas, CA 93901. The complainant may use the courtesy form entitled "Client Complaint Form," available by contacting Family Court Services, for this purpose. The Court Executive Officer or designee, will conduct an investigation and will respond to the written complaint within thirty (30) to ninety (90) days. The complainant may appeal the response to the Presiding Judge. The Presiding Judge will rule on the appeal within thirty (30) to ninety (90) days.

K. LIMITED LEGAL REPRESENTATION

If representation by an attorney is limited in scope, the Notice of Limited Scope Representation form (Judicial Council form FL-950) specifying the scope of the representation shall be filed with the court. All communications and notices relating to the limited purposes shall be made or sent to all attorneys of record, self-represented parties, and the Department of Child Support Services. When the task specified in the Notice of Limited Scope Representation has been completed, the attorney shall file a Substitution of Attorney-Civil (Judicial Council form MC-050) or proceed pursuant to California Rules of Court, rule 5.425.

L. NON-CLETS ORDERS

The court will not issue or approve a stipulation by the parties for a non-CLETS restraining order.

(Adopted October 1, 1998; Amended July 1, 1999; Amended July 1, 2000; Amended July 1, 2001; Amended January 1, 2002; Amended January 1, 2004; Amended January 1, 2005; Amended January 1, 2007; Amended January 1, 2009; Amended January 1, 2010; Amended July 1, 2012; Amended July 1, 2013; Amended July 1, 2014; Amended July 1, 2015; Amended July 1, 2016, Renumbered January 1, 2023)