RULE 1.01 EFFECTIVE DATE

These rules shall take effect on ~~July 1, 2003~~January 1, 2005.

[Adopted, effective ~~July 1, 2003~~January 1, 2005]

RULE 1.02 CITATION OF RULES

These rules shall be known and cited as the "Local Rules for the ~~Imperial County~~ Superior Court of California, ~~Cournty~~County of Imperial."

[Adopted, effective January 1, 2005~~0~~]

RULE 2.02 COURT EXECUTIVE OFFICER

The administrative functions of the Court shall be directed by the CEO, who shall be selected by and serve at the pleasure of the Judges. The CEO shall perform those duties set forth by CRC ~~207~~ 6.610 and as otherwise directed by the ~~judges~~presiding judge.

[Adopted, effective January 1, 200~~0~~5]

RULE 2.03 COURT DIVISIONS

A. CRIMINAL DIVISION. Six judges, ~~including~~ four in ~~assigned to departments in the~~ El Centro ~~Court house, and the judges assigned to~~ one in Brawley, and one in Calexico, shall annually be assigned to preside over both misdemeanor and felony matters. ~~They, with support staff, comprise the criminal division of the Court.~~ The judges shall annually designate a supervising judge of the criminal division ("SCJ"), who presides over the felony master calendar department. The PJ may, but need not, serve as SCJ. (Refer to Chapter 12.)

B. CIVIL DIVISION. Two~~Three~~ judges ~~assigned~~ sitting at to the Courthouse in El Centro shall be ~~designated~~ assigned as the ~~"~~civil~~ team."~~division. ~~They, along with support staff, comprise the civil division of the court~~. The civil division shall hear civil trials, law and motion, conservatorship and probate.

C. FAMILY AND JUVENILE DIVISION. This division shall be comprised of one Judge and one Superior Court Commissioner designated as the Family and Juvenile team. Said judicial officers preside over Family Law and civil domestic violence matters, including morning OSC calendars, pre-trials and family law trials. ~~are assigned to the civil team member designated as "family law judge~~. ~~The remaining two members of the civil team hear law and motion matters in civil cases. Said judges also preside over civil (jury and non-jury) trials. One civil team member is assigned the conservatorship calendar and one member is assigned the probate calendar. (Refer to Chapters 3-9.)~~

~~C. JUVENILE. The~~ A duly appointed ~~juvenile court referee~~ Superior Court Commissioner convenes on designated days to hear both dependency and delinquency matters at the juvenile department. ~~A~~ The Family Court judge ~~from is~~ ~~designated a juvenile court judge to~~ ~~division~~ shall preside over juvenile matters which cannot be heard by the ~~referee~~commissioner~~. Said judge, the referee~~commissioner and support staff comprise the juvenile~~division.~~

D. TRAFFIC. An ~~duly~~ appointed referee hears traffic matters at designated times at the El Centro, Brawley, Calexico and Winterhaven Courthouses.

E. SMALL CLAIMS. The referee also hears small claims cases at designated times at the El Centro, Brawley, Calexico and Winterhaven Courthouses.

F. APPELLATE. Judges comprising the Appellate Division of the Court are designated by the Chief Justice of the California Supreme Court in accordance with law. The appellate division has jurisdiction over appeals as specified by law and over other matters, as required by these rules. (Refer to Chapter 15.)

[Adopted, effective January 1, 200~~0~~5]

RULE 2.07 INTRA-COUNTY VENUE

A. CIVIL

For purposes of intra-county venue the County is divided into the Brawley, Calexico, El Centro, and Winterhaven "areas". ~~Limited~~ First paper for civil and small claims actions can be ~~are~~ filed in any venue listed above. Any other filing after first paper must be made in correct venue. All civil will be heard in El Centro, small claims will be heard in the appropriate venue. ~~(and small claims cases are tried) in the corresponding court for which venue would be appropriate were the areas regarded as separate counties. Such determination shall be made in accordance with civil venue law.~~ For the purposes of this rule, the Brawley area is defined as that portion of the County of Imperial lying North of Keystone Road; the Calexico area is defined as the portion of the County of Imperial lying South of Heber Road. The El Centro area is the portion of the County of Imperial lying North of Heber Road, and South of Keystone Road. The Winterhaven area is the portion of the County of Imperial lying East of the intersection of Interstate 8 and State Route 98. (Refer to Chapter 3.)

B. CRIMINAL

Where a misdemeanor has been allegedly committed in one of the aforesaid areas, venue for purposes of out-of-custody misdemeanor arraignments (and other misdemeanor proceedings) shall be in the corresponding court. (Refer to Chapter 12.)

[Adopted, effective January 1, 200~~0~~5]

RULE 2.08 COURT OFFICES

A. CEO: In addition to duties referenced in Rule ~~2.02~~6.610, the CEO serves as clerk to the court and jury commissioner.

B. Assistant CEO: Under general direction of CEO, Assistant CEO oversees court operations and judicial support services.

C. CFO: Under general direction of CEO, ACEO oversees financial and technical systems.

D~~B~~. Clerk's Offices:

~~(1)~~A clerk's office is located at the El Centro, Brawley, Calexico, ~~and~~ Winterhaven Courthouses, at the Jail Court, and at the Juvenile Court.

(a) The El Centro Clerk's Office will include: the General Civil Section (including family law, probate and small claims) cases and personnel; the Appeals Section (including cases appealed to the Court of Appeal, cases appealed to the Appellate Division and Small Claims Appeals and personnel assigned thereto; and the Criminal Section (including felony and misdemeanor files and personnel assigned thereto).

(b) The Juvenile Section (including courtroom, files and personnel is located at 324 Applestill Road (Probation Department), El Centro, California.

(c) The Traffic Section (including case files, records and personnel) is located at the El Centro Courthouse.

(d) The Brawley Courthouse will include: Limited civil filings, small claims, criminal misdemeanors and traffic filings and personnel assigned thereto.

(e) The Calexico Courthouse will include: Limited civil flings, small claims filings, criminal misdemeanors and traffic filings and personnel assigned thereto.

(f) The Winterhaven Courthouse will include: Small claims filings and traffic filings. Criminal misdemeanor matters are to be filed and heard at the Calexico Courthouse.

(g) The Jail Court will include: Misdemeanor complaints involving in-custody defendants and all felony complaints are filed at the Jail Court.

~~G.A.~~E. Court Services Supervisor: ~~A list of all active cases and filing information is maintained by the Calendar Coordinator, who is responsible for calendaring all pre-trial matters pertaining to those cases for trial.~~[2] ~~Additionally, the Court Service Supervisor receives and schedules requests for ex parte hearings.~~

The Court Services Supervisor will maintain a list of all Court Interpreters and Court Reporters and is responsible for scheduling all Court Interpreters and Court Reporters.

~~D.Paralegal: In addition to serving as probate examiner and small claims advisor, the Paralegal prepares statements of decision and other orders and correspondence at the request of individual judges. The Paralegal also reviews and processes each at issue memorandum filed in general civil cases and processes cases referred to judicial arbitration.~~

[Adopted, effective January 1, 200~~4~~5]

RULE 2.10 COMPLAINTS AGAINST COMMISSIONERS

Investigations of complaints against Commissioners shall follow procedures consistent with ~~p~~Proposition 221 and ~~S~~state ~~R~~rules of ~~C~~court (California Rules of Court 6.655). (Eff. January 1, 1999.)

[Adopted, effective January 1, 2005]

RULE 8.01 ASSIGNMENT

The ~~Calendar Coordinator~~ clerk may assign and notice a case for a settlement conference before a civil team judge or designated judicial officer who is not the judge otherwise assigned for all purposes.

[Adopted, effective January 1, 200~~0~~5]

RULE 9.01 UNLAWFUL DETAINER PROCEEDINGS

A. Case Management: Within forty-five (45) days of filing the complaint, the plaintiff shall do one of the following:
   1. Request that the case be set for trial;
   2. Re-designate the case as a general civil matter because possession is no longer in issue (Section 1952.3 of the Civil Code) and the case is not entitled to precedence (Section 1179a of the Code of Civil Procedure);
   3. File a conditional settlement.

There will be no case management conference in unlawful detainer cases, unless specifically set by order of the Court.

B. Trial Setting: At-issue memoranda are required in unlawful detainer proceedings pursuant to the CRC 507.

C. Judgment for Money Damages after Judgment for Possession of the Premises: When the plaintiff obtains a default judgment for possession of the premises, the case may be calendared for further hearing. In the alternative, a plaintiff may file the necessary declarations for a default judgment or dismissal without prejudice as to the money damages, including attorney fees and costs. Failure to file a dismissal may result in the court barring the plaintiff from obtaining a money judgment or the court calendaring a hearing for the plaintiff to show cause why the case should not be dismissed.

D. Redesignation of Case Where Possession is No Longer In Issue (Section 1952.3) of the Civil Code): The Plaintiff shall immediately notify the Court when possession is no longer in issue and request the matter be designated as a general civil matter (Section 1952.3) of the Civil Code). The case then shall proceed as pursuant to Chapter 3 of these rules.

E. Court is exempt from the confidential filing requirement of Code of Civil Procedure 1161.2. This exemption pursuant to 1161.2(e) shall be reviewed annually.

[Adopted, effective January 1, 200~~0~~5]

RULE 10.00 FAX FILINGS

~~A.~~ Agency Fax Filings: Pursuant to the CRC 2001 et. Seq., the Court will accept for filing all documents submitted by fax filing agencies, except those specified in the California Rules of Court, Rule 2002.

~~**B. Direct Fax Filings: Any document may be filed directly by fax. Direct fax filing numbers are as follows:**~~

~~**760-344-9231limited civil filings (Brawley)**~~
~~**760-357-6571limited civil filings (Calexico)**~~
~~**760-482-4219all civil filings (El Centro)**~~

~~**Any filing fee relating to a fax filing must be paid at the time of filing by Visa or MasterCard accounts.**~~

~~C. The Court will not provide conformed copies unless a request is submitted with a self-addressed, stamped envelope, and $1.00 for the first page and $.50 for each additional page of the faxed document.~~

[Adopted, effective July 1, 200~~3~~5]

RULE 10.04 DAILY TRANSCRIPTS OF PROCEEDINGS

A party in a civil action may request a daily transcript of the proceedings. The Court may grant the request if such will not disrupt the regular assignment of court reporters. If the request is granted, the requesting party shall deposit with the clerk of the court each day a sum equal to the daily cost of the salary and benefits for court reporters in this county under existing law, to compensation the requisite additional reporter. Current information regarding such cost shall be available in the office of the~~ calendar coordinator of the court~~CEO.

[Adopted, effective January 1, 200~~0~~5]

RULE 11.00 HEARING OFFICER

An ~~duly~~ appointed commissioner, referee or judge pro tem shall hear and adjudicate small claims cases at ~~the El Centro, Brawley, Calexico and Winterhaven Courts~~any designated court location within Imperial County.

[Adopted, effective January 1, 200~~0~~5]

RULE 11.01 FILING LOCATIONS

First paper on any civil action may be filed at any venue. All filings after first paper must be made in appropriate venue. ~~Small claims may be filed in the Clerk's Office in the El Centro Courthouse or in Brawley, Calexico and/or Winterhaven, depending on the same venue rules that have application to the filing of limited civil cases.~~ (Refer to Rule 2.07.)

[Adopted, effective January 1, 200~~0~~5]

RULE 11.02 CALENDARING

The clerk's office of the court in which the case is properly filed will calendar ~~and notice~~ each small claims case for hearing~~ in said court~~. ~~As noted, the Small Claims Commissioner travels from court to court to conduct such hearings.~~These matters will be handled by available Judicial Officers at available court locations.

[Adopted, effective January 1, 200~~0~~5]

RULE 11.03 APPEALS

Appeals from rulings by the Small Claims ~~Commissioner~~Judicial Officer may be filed at the court in which the small claims matter was heard.

[Adopted, effective January 1, 200~~0~~5]

RULE 11.05 SMALL CLAIMS ADVISOR

~~The Paralegal serves as the small claims advisor~~ CEO is required to provide small claims advisor services pursuant to CCP 116.940.

[Adopted, effective January 1, 200~~0~~5]

RULE 12.04 TIME FOR FILING COMPLAINTS

All criminal complaints charging in-custody defendants shall be filed at the earliest time possible, but in no case later than 11:30 a.m. on the date set for arraignment of the defendant on those charges. All criminal complaints charging out of custody defendants shall be filed not later than ~~twenty-four (24) hours~~five (5) court days before the time set for arraignment and providing proof of notice has been filed with the court at least two (2) court days prior to the arraignment. Upon a showing of good cause, a later time for filing may be authorized by the judge assigned to the arraignment.

[Adopted, effective January 1, 200~~0~~5]

RULE 12.11 TRAFFIC RULES

A. Eligibility for Traffic School. The Court will permit attendance at a court approved or California Department of Motor Vehicle certified traffic school. ~~as a means of obtaining a dismissal of the traffic citation.~~ Those eligible for traffic school shall have:

(1) All other non-traffic school eligible charges cleared prior to assignment.

(2) Valid ~~California~~ driver's license from State of residence.

(3) No outstanding failures to appear or failures to pay a fine.

(4) Been charged with an infraction which is a rule of the road violation not related to alcohol, parking, registration or an accident, or a comparable misdemeanor or infraction which is a violation of a municipal ordinance.

(5) Not attended a traffic school more than one (1) other time within eighteen (18) months of the violation date.

[Adopted, effective ~~July 1, 2001~~January 1, 2005]

B. Dismissal. The traffic citation or complaint will be dismissed upon the presentation ~~of any required fees by the date specified for completion.~~of documents by citing officer or judicial officer. Mechanic violations will be dismissed upon sign off by law enforcement officer and payment of required fees to the Court.

C. Continuance by Clerk. A clerk of this court may, upon request of a defendant or his counsel, continue the initial arraignment of a defendant except for defendants released on bail.

D. Trial by Declaration.

(1) The Court adopts the provisions of Vehicle Code Sections 40902 and 40903, except as limited herein.

(2) Any defendant shall be afforded a trial by declaration for such charges as allowed by Vehicle Code Section 40902 upon written request.

(3) Any person requesting a trial by declaration shall be informed of the requirement to post bail in the full amount specified by the bail schedule. Failure to post bail within fifteen (15) days of notice by the clerk shall be deemed to be a withdrawal of the request for trial by declaration. Thereafter, a person shall not be afforded a trial by declaration in that case.

(4) A person having posted bail for a trial by declaration shall adhere to the time limits set by the clerk of the court for submission of any required declarations, exhibits or other evidence in a timely manner shall result in a bail forfeiture without further proceedings.

(5) A person dissatisfied with the decision of the court may request and shall be provided a trial de novo provided the request is made in a timely

manner. A timely manner shall be the same time as provided for filing a notice of appeal.

(6) Pursuant to Vehicle Code Section 40903, this court will permit all relevant evidence in the form of police reports, written declaration of the defendant or any witness, photographs, drawings, diagrams or other probative evidence.

(7) Any person who fails to appear as provided by law may be deemed to have elected to have a trial by written declaration upon any alleged infraction, as charged by the citing officer, involving a violation of this code or any local ordinance adopted pursuant to this code.

(8) Pursuant to Vehicle Code Section 40903, this Court will permit testimony and other relevant evidence to be introduced in the form of a notice to appear issued pursuant to Section 40500,a business record or receipt, a sworn declaration of the arresting officer, or a written statement or letter signed by the defendant.

E. Any court may be contacted regarding payment options in person or over the telephone. Payment may be made at any location for traffic citations. Payment may be made in the form of cash, check, or credit card.

[Adopted, effective ~~July 1, 2001~~January 1, 2005]

~~RULE 15.27 SPECIFIED EXTRAORDINARY WRITS~~

~~A. Where a petition for writ of mandate or prohibition (or some other form of extraordinary writ) challenges a ruling or order issued by a judge (where an appeal does not lie), the matter will be referred to the Presiding Judge of the Appellate Division for assignment to a judge. The Appellate Division is authorized to adopt standing orders which further address procedures to be followed in making such an assignment.~~

~~B. The judge assigned to the matter may 1) summarily grant or deny the petition, 2) request an informal or formal response prior to ruling on the petition, or 3) refer the matter for a full hearing before an Appellate Division Panel.~~

~~C. All petitions and responses thereto shall include one (1) original and three (3) copies.~~

~~[Adopted, effective January 1, 2000]~~

~~RULE 15.28 SANCTIONS RE NON-COMPLIANCE.~~

~~Failure to abide by these rules or by the California Rules of Court regarding appeals may result in sanctions against the non-complying party or counsel or both.~~

RULE 15.27 EXTRAORDINARY WRITS

For all petitions for extraordinary relief in limited civil, misdemeanor, and infraction cases which name Imperial County Superior Court as respondent, wherever the Imperial County Superior Court Rules do not provide specific guidance regarding the proper writ petition procedures, the provisions of the California Rules of Court, Title I, Appellate Rules, shall apply.

RULE 15.28 FILING REQUIREMENTS

A. All such petitions must be filed in the office of the clerk at 939 Main Street, El Centro. No such petitions will be accepted for filing anywhere else. Unless otherwise ordered, any subsequent pleadings and papers in the same matter must be filed in the same office.

B. All such petitions will be assigned civil case numbers.

C. No filing fee will be required when a petition arises from a criminal case.

D. The petitioner or counsel for the petitioner is required to submit one original and five copies of the petition. Each copy of the petition must include all declarations, exhibits and/or other permissible attachments.

E. If the underlying action is civil, petitioner must also include envelopes bearing sufficient postage for service of the court's orders and addressed to petitioner, respondent(s), and real party/parties in interest.

RULE 15.29 REQUEST FOR STAY

If a stay of the trial court proceeding is requested in the writ petition,

the petition shall so state prominently on the title page. The petition shall set forth all time constraints which are relevant to the request for stay.

If petitioner is seeking a stay of the underlying proceeding in a civil action, petitioner shall include envelopes bearing sufficient postage for service of the court's orders. Two envelopes should be addressed to petitioner, respondent(s), and real party/parties in interest.

RULE 15.30 DISPOSITION OF PETITION

Within 15 days of the filing of the writ petition, the court will either summarily deny the petition or issue an alternative order to show cause why the relief requested should not be granted. If the alternative writ or order to show cause is issued, the court shall allow at least 5 days for the court to act or the party to file a responsive pleading, except as herein provided. If the court grants petitioner's request for stay, the court will allow at least 10 days for a response. On the motion of any party for good cause shown, or on the court's own motion, the court may shorten or extend time for doing any act under this rule.

CHAPTER 13

DOMESTIC RELATIONS

Division A. PRELIMINARY MATTERS

RULE 13.1 APPLICABILITY

Except as otherwise ~~herein~~ provided, ~~RULE~~ Chapter 4 of these Local Rules ~~(law and motion rules)~~ shall apply in Family Law Matters.

[Adopted, effective January 1, 2000]

RULE 13.2 NOTICE TO COUNSEL AFTER ENTRY OF JUDGMENT

After a judgment has been entered, the attorney of record for the party remains attorney of record, and is entitled to timely notice unless there is on file a proper withdrawal by stipulation~~,~~ or order, substitution of counsel or notice pursuant to Code of Civil Procedure Section 285.1.

[Adopted, effective January 1, 2000]

RULE 13.3 EX PARTE ORDERS

A. Ex parte matters will be heard at 1:30 p.m. in the Family Law Department. The party filing the ex parte application must notify all parties no later than 10:00 a.m. the court day before the ex parte appearance. All documents in support of an ex parte application must be filed 24 hours prior to the time for hearing.

~~B. The party requesting the orders must inform the judge whether the opposing party is represented by counsel. If the opposing party is represented, the moving party must inform the judge of the name, address and telephone number of opposing counsel, and whether or not reasonable notice has been given so that counsel could appear and oppose the application.~~

~~C. Where the opposing party is not represented by counsel, reasonable notice must be given, including the date, time, and place the request will be made, and the nature of the request so that the party may have an opportunity to oppose the application.~~

~~D~~B. Notice may be excused if, following a good faith attempt specifically described in the application, the giving of notice is not possible.

~~E~~C. Notice may be excused if the giving of notice would frustrate the purpose of the order, or lead the applicant to suffer immediate and irreparable injury. Applicant must specifically describe why these exceptions to the notice requirement should apply.

~~F~~D. An application for ex parte orders, including an order shortening time for service and/or filing or extending the duration of ex parte orders already in effect shall be accompanied by a declaration containing sufficient factual information within the personal knowledge of the declarant to adequately support the relief requested. The application shall fully comply with the requirements of Rule 379 of the California Rules of Court.

~~G~~E. THERE IS AN ABSOLUTE DUTY TO DISCLOSE THE FACT THAT A REQUESTED EX PARTE ORDER WILL RESULT IN A CHANGE OF THE STATUS QUO. THE APPLICANT MUST ALSO DISCLOSE TO THE COURT THE EXISTENCE OF ANY OTHER PENDING CASES, JUDGMENTS OR ORDERS AFFECTING THE PARTIES OR CHILDREN.

~~H~~F. Ex parte orders submitted for a judge's signature shall be accompanied by an executed coversheet substantially in the form set forth in ~~Appendix B1~~FL FORM 1.

[Adopted, effective January 1, 2000]

RULE 13.4 EXCEPTIONS TO RULE 13.3

A. Referral to Mediation pursuant to Family Code Section 3170 et seq. may be ordered by the Court without prior notice to the parties or counsel.

B. A Wage and Earnings Assignment pursuant to Family Code Section 5200 et seq.

[Adopted, effective January 1, 2000]

RULE 13.5 FILING OF PAPERS

A. With regard to procedure for Orders to Show Cause or Notices of Motion, absent an order shortening time or a specific governing statute or Rule to the contrary, moving, responding, and reply papers shall be served and filed in accord with Code of Civil Procedure Section 1005.

B. The Court ~~hereby~~ adopts~~ed~~ the provisions of California Rules of Court, Division II (beginning with Rule 301) to the extent such Rules do not conflict with statute.

C. When support, ~~or~~ attorney's fees and costs are an issue, a current Income and Expense Declaration must be filed by each party prior to the hearing. ~~If it is contended that a previously-filed Income and Expense Declaration is current, specific reference must be made thereto, including the execution and filing date. If the current financial status of a party is temporary, both the current status and the estimated future status shall be shown and properly identified.~~ Wage earners shall attach legible copies of their last ~~two~~ three months of ~~three most recent~~ pay stubs, or a declaration from their employer establishing that no such stubs exist, and setting forth the employee's wages for the last three months ~~three pay periods~~.

D. In addition to an Income and Expense Declaration in the prescribed form, supplemental information may be filed to assist the court. Self-employed persons and business owners must file their most recent verified financial statements and/or tax returns.

[Adopted, effective January 1, 200~~0~~5]

SEE DIVISION D ~~HEREIN~~ FOR ADDITIONAL RULES WITH REFERENCE TO FINANCIAL INFORMATION TO BE PROVIDED TO THE COURT.

RULE 13.6 HEARINGS

A. Failure to Appear

(1) Failure of a moving party or attorney to be present at calendar call may result in the matter being removed from the calendar; and if the responding party has appeared, attorney's fees and costs may be awarded to the appearing party against the offending party without prior notice other than this rule. The level of award of attorney's fees and costs shall be based on actual reasonable fees and costs resulting from the incident, and may be set forth by brief testimony of the party or the party's counsel.

(2) In the event the responding party fails to appear, the court may continue the matter and award attorney's fees and costs in the same manner as set forth in subsection (1), or enter an order on the pleadings and testimony of the moving party.

~~(3)(1)If for any reason an attorney or party in propria persona is unable to be present at calendar call, the court AND the opposing party or counsel to a represented party shall be notified immediately by telephone of the reasons for and the extent of the delay.~~

B. Meet and Confer

If by the date of hearing, the parties, and their respective counsel have not met and conferred in good faith effort to resolve all pending issues, the Court may trail or continue the matter to allow such meeting and conferring, and may order that the parties and their respective counsel meet and confer within specific time parameters.

C. Presentation of Evidence

Parties, or their respective counsel, shall be prepared to present their case based upon pleadings, declarations, and stipulated offers of proof. If testimony is required, the moving or responding party shall fully comply with California Rules of Court, Rule 323. This section does not apply to cases arising under the Domestic Violence Prevention Act, Petitions for Injunctions to Prevent Harassment, or Citations for Contempt. In these actions, testimony is always expected at the disposition hearing.

[Adopted, effective January 1, 200~~4~~5)

Division B. CUSTODY AND VISITATION

RULE 13.7 REFERRAL TO MEDIATION

A. Whenever any petition for dissolution of marriage, legal separation, declaration of nullity~~ of a voidable marriage~~, petition for parental custody and control, petition to establish parentage, or any proceeding to determine or modify child custody or visitation is filed in the Superior Court (except for a petition under the Domestic Violence Protection Act) ~~where the parties are not married),~~ and it appears to the Court at any time during the pendency of the proceedings that the welfare of any minor children of either or both of the parties may be affected by such proceedings, the Court shall refer the parties to

mediation at least once prior to rendering judgment.

B. It is the policy of this Court that parties shall attempt to reach agreement as to matters regarding child custody and visitation between themselves, with the confidential assistance of the Mediator, prior to any litigated judicial proceedings. This mediation shall be conducted in all contested cases involving child custody and/or visitation, and shall be at no initial cost to the parties.

C. At the time of the referral to mediation, the Court will set a date certain for further hearing, in advance of which, mediation shall be concluded.

[Adopted, effective January 1, 200~~2~~5]

RULE 13.8 WITHDRAWAL BY MEDIATOR

The mediator may petition to withdraw from a case by noticed motion.

[Adopted, effective January 1, 2000]

RULE 13.9 WHO PARTICIPATES IN MEDIATION SESSIONS?

The Mediator shall have the authority to exclude counsel from participation in the mediation proceedings, and to involve such other persons in the proceedings as the Mediator deems appropriate. The Mediator shall have the duty of assessing the needs and interests of the children, and may interview the children when the Mediator deems such interview appropriate or necessary. Children shall not be brought to the Mediator's facility, except upon the request of the Mediator.

[Adopted, effective January 1, 2000]

RULE 13.10 CONFIDENTIAL MEDIATION

The mediation proceedings shall be held in private, and shall be confidential. The Court shall not allow mediators to testify concerning any aspect of the mediation proceedings.

[Adopted, effective January 1, 2000]

RULE 13.11 MEDIATION PROCESS

The Mediator shall schedule a first mediation session at the soonest practicable time and date after the referral. Notice of the first mediation session shall be given in writing to each party~~ (or counsel, if the party is represented)~~. The Mediator shall review any items the parties feel would be helpful to the mediation process, including items from the Court's file (especially the moving and responding papers and any pertinent prior orders or judgments), and the Mediator may speak with the parties' attorneys of record. Any items for the review of the Mediator should be submitted to the Mediator by the parties or counsel in advance of the first mediation session~~, if possible~~. An attempt shall be made by the parties, with the assistance of the Mediator, to informally resolve any disputes regarding custody and mediation.

A. Successful Mediation

If mediation is successful, and yields an agreement (even a partial agreement on just some of the issues relating to custody and visitation), the Mediator shall draft the ~~said~~ agreement and circulate it to the parties (or counsel for those parties who are represented) for review. Once all parties and counsel have signed ~~off on~~ the agreement, and after notice to all parties, it ~~may~~ must be submitted to the Court for signature and entry as an order. Such agreement may contain a stipulation to take the pending hearing (set by the Court on referral of the parties to mediation) off calendar. Any ~~agreement~~ order executed by the Court without first being executed by all parties and counsel may be vacated on ex parte application.

B. Unsuccessful Mediation

If mediation yields no agreement on any issues, the Mediator shall report only that mediation was unsuccessful.

[Adopted, effective January 1, 200~~2~~5]

RULE 13.12 INTRODUCTION TO MEDIATION

An "Introduction to Mediation," in the format set forth in ~~Appendix B2~~ FL FORM 2 shall be provided to all parties falling within the ambit of this chapter.

[Adopted, effective January 1, 2005]

RULE 13.13 FOLLOW-UP MEDIATION

The Court Mediator may contract follow-up mediation directly with the parties as deemed necessary, and shall provide statistical information regarding the effectiveness of the mediation process to the Court.

[Adopted, effective January 1, 2000]

RULE 13.14 ADVANCE MEDIATION

Mediation may occur prior to the time of a scheduled court proceeding if the parties agree in writing. The Advance Mediation Form set forth in Appendix B3 or other stipulated court order may be used. These shall be filed with the Clerk's office, which shall notify the Mediator through the normal referral process.

[Adopted, effective January 1, 2000]

RULE 13.15 RESERVED
RULE 13.16 RESERVED

~~RULE 13.17 EX PARTE COMMUNICATIONS~~

~~The court-appointed investigator may not engage in ex parte contact with the Court or any party or counsel (and vice versa) with regard to substantive matters relating directly to custody and visitation.~~

~~[Adopted, effective January 1, 2002]~~

RULE 13.17 COURT EXPERTS AND INVESTIGATION

In an appropriate case, the Court may refer the matters of custody and visitation to the Probation Department, or to another Court expert for an investigation and report pursuant to Family Code Section 3110 ~~and Rule 1257.3 of the California Rules of Court,~~ or Evidence Code Section 730. Other experts the Court might appoint include, but are not limited to: an attorney for a child, a private custody investigator, or a psychological custody evaluator. The cost of ~~said~~ experts shall ~~may~~ be borne by the parties in a proportion to be ordered by the Court. It is the policy of the Court to resolve disputed custody and visitation issues as expeditiously as possible.

[Adopted, effective January 1, 200~~0~~5]

RULE 13.18 RESERVED

~~RULE 13.19 COURT EXPERTS~~

~~In an appropriate case, the Court may refer the matters of custody and visitation to the Probation Department, or to another Court expert for an investigation and report pursuant to Family Code Section 3110 and Rule 1257.3 of the California Rules of Court, or Evidence Code Section 730. Other experts the Court might appoint include, but are not limited to: an attorney for a child, a private custody investigator, or a psychological custody evaluator. The cost of said experts may be borne by the parties in a proportion to be ordered by the Court. It is the policy of the Court to resolve disputed custody and visitation issues as expeditiously as possible.~~

~~[Adopted, effective January 1, 2000]~~

RULE 13.19 EX PARTE COMMUNICATIONS

The court-appointed investigator may not engage in ex parte contact with the Court or any party ~~or counsel (and vice versa)~~ with regard to substantive matters relating directly to custody and visitation.

[Adopted, effective January 1, 200~~2~~5]

RULE 13.20 RULES REGARDING COURT EXPERTS ~~(adopted pursuant to Rule 1257.3 of the California Rules of Court; renumbered as Rule 5.220 eff. 01/01/03.)~~

When a court-appointed investigator makes contact with minor children of families being investigated, the following rules shall apply:

a. The investigator must advise ~~disclose to~~ the child that any disclosures ~~discloses~~ will not be confidential, unless the Court grants a protective order protecting such disclosures, in which case, the investigator shall so advise the child. Where lack of confidentiality seems to impede the investigation, the investigator may recommend that an attorney be appointed for the child, or communicate with each party (or counsel, if represented) and recommend that the matter be calendared for the purpose of discussing an appropriate protective order.

b. In a dispute between parents, a child ~~seen~~ interviewed by the investigator with one parent must be ~~seen~~ interviewed with the other, unless the

Court orders otherwise on good cause shown.

c. ~~If~~ Initial interviews of siblings ~~are~~ must be conducted ~~interviewed,~~ separately ~~interviews must be conducted, unless the Court orders otherwise on good cause shown, although s~~Subsequent joint interviews may be appropriate.

d. In a dispute between parents, an investigation may not be based on an interview with only one parent, unless the Court orders otherwise on good cause shown.

[Adopted, effective January 1, 2005]

RULE 13.21 DISQUALIFICATION OF COURT EXPERT ~~(adopted pursuant to Rule 1257.3(d) of the California Rules of Court; renumbered as Rule 5.220 eff. 01/01/03.)~~

No expert appointed by the Court to perform an independent custody evaluation ~~in substantial accord with~~ under Family Code Section 3110 and Rule 5.220 of the California Rules of Court may be peremptorily challenged.
[Adopted, effective January 1, 2002]

[Adopted, effective January 1, 2005]

RULE 13.22 RULES REGARDING DISTRIBUTION OF INVESTIGATION REPORT ~~(Adopted pursuant to Rule 1257.3 of the California Rules of Court; renumbered as Rule 5.220 eff.01/01/03.)~~

The investigation report of any expert appointed by the Court shall be distributed in writing as follows: A copy will be delivered to the Court in an envelope marked "confidential." Contemporaneously, copies shall be delivered or mailed to all counsel and unrepresented parties. Service on counsel shall be considered sufficient service on the party represented by that counsel.
[Adopted, effective January 1, 200~~0~~5]

RULE 13.23 GRIEVANCE PROCEDURE IN CONNECTION WITH COURT ORDERED INVESTIGATIONS ~~(Adopted pursuant to Rule 1257.3(d) of the California Rules of Court; renumbered as Rule 5.220 eff. 01/01/03.)~~

Any party or attorney representing a party with a grievance regarding mediation or evaluation after a hearing shall file a motion or OSC with the Court for resolution immediately upon determining the grievance exists.
[Adopted, effective January 1, 200~~0~~5]

Division C. CASE MANAGEMENT CONFERENCE, SETTLEMENT CONFERENCE AND TRIAL

~~RULE 13.24 AT ISSUE MEMORANDUM~~

A. ~~An At Issue Memorandum and Arbitration Conference Statement shall be filed before any contested case may be set for trial. A Counter At Issue Memorandum and Arbitration Conference Statement shall be filed within ten (10) days on behalf of any party disagreeing with the At Issue Memorandum.~~

~~B. Any Counter At Issue Memorandum which sets forth an objection to the setting of trial due to a contention that the matter is not ready to be tried, shall set out with specificity the reason the matter is not ready. If the reason~~

~~is non-payment of court-ordered litigation fees or costs, the Counter At Issue shall set out the date of the order(s), the amount(s) ordered, and the amount(s) paid. If the reason is incomplete discovery, the Counter At Issue shall indicate with specificity what discovery is outstanding or proposed, shall include an estimate of time to complete discovery, and shall explain the basis of that time estimate.~~

~~C. After the At-Issue is processed by the Court, a trial setting conference will be scheduled in the Family Law Department. All short cause matters will be scheduled by the Calendaring Department upon filing an At-Issue Memorandum. (CRC Rule 214. Management of Short Cause Cases.)~~
~~[Adopted, effective January 1, 2004]~~

RULE 13.24 CASE MANAGEMENT

A. It is the policy of the Superior Court to actively manage family law cases in order to reduce unnecessary delay and expense, encourage reasonable preparation, and facilitate early settlement.

B. Upon the filing of a petition for dissolution, declaration of nullity, legal separation, petition for parental custody and control, or petition to establish parentage, an initial case management conference will be scheduled by the court. The initial case management conference will be held one hundred twenty (120) days after the filing of the petition. Notice of the case management conference will be delivered by the clerk to the petitioner at the time of filing. Proof of service of the notice must be filed with the court.

C. At the request of any party or upon the court's motion, any other appropriate contested family law matter may be set for a case management conference.

D. At least fifteen (15) days before the initial case management conference, all counsel and/or self-represented parties must prepare, serve and file a completed case management questionnaire, as set forth in FL FORM 3.

E. All counsel and/or self-represented parties must meet and confer on case management issues before the conference. All counsel and/or self-represented parties must appear at the case management conference, and be prepared to report to the court on the status of the case, pending motions, discovery plans, settlement discussions, and any unresolved issues.

F. At the conference, the court may continue the case for further review/case management, or schedule the case for settlement conference and/or trial. If a further review/case management conference is scheduled, the court may require a supplemental case management questionnaire to be completed, served and filed.

[Adopted, effective January 1, 2005]

RULE 13.25 EXCHANGE OF SETTLEMENT PROPOSALS

At least thirty (30) days prior to the date set for Settlement Conference, counsel for each party, and/or the self-represented parties must meet and confer, and exchange written settlement proposals, in a good faith effort to resolve

issues in the case.

RULE 13.26 ~~25~~ SETTLEMENT CONFERENCE

a. A ~~mandatory~~ settlement conference shall be held in all ~~Domestic Relations~~ family law trial-eligible cases unless otherwise ordered for good cause shown. Each party and the attorney for each party shall personally attend the settlement conference unless excused by the Court.

b. Wherever possible, the judge presiding over the settlement conference shall be the trial judge. The Court's role is to assist counsel and/or self-represented parties in concluding settlement negotiations. ~~This presumes preliminary settlement discussions have been held, and that there has been a full and complete exchange of all pertinent information pursuant to these Rules, and pursuant applicable law.~~ The conference is generally held in chambers or a conference room, and may include dialogue between the court and counsel or directly with the parties. The conference is generally not reported for the record; however, a reporter will be available, upon the request of parties, to memorialize final settlement agreements.

~~c. The parties may comply with California Rules of Court, Rule 222 by lodging with the Court the settlement proposal required by. Section 3 of this Division.~~

c. At least ten (10) days before the conference, all counsel and/or self-represented parties must prepare, serve and file a settlement conference statement. The statement must include the information required in the 'Format For Mandatory Settlement Conference Statement' in FL FORM 4.

~~d. In the event that either party fails to comply with California Rules of Court, Rules 222, the settlement conference shall be removed from calendar. In the event that both parties fail to comply with Rule 222, the trial date shall be vacated, and the case removed from the civil active list.~~

d. All counsel and/or self-represented parties must immediately notify the court in writing if the case settles in full, either before or after the settlement conference.

[Adopted, effective January 1, 200~~4~~5]

~~RULE 13.26 EXCHANGE OF SETTLEMENT PROPOSALS~~

~~a. At least forty-five (45) days prior to the date set for Settlement Conference, Counsel for each party shall send a settlement letter to the other containing the following:~~

~~(1). The propounding party's understanding of each issue resolved by agreement as a result of discussions between Counsel and/or the parties.~~

~~(2). The propounding party's understanding of each disputed issue to be tried.~~

~~(3). A copy, draft copy, or summary of the matters to be contained in the Trial Statement to be prepared pursuant to these rules.~~

~~b. The settlement proposal exchanged pursuant to this rule shall be set forth with same specificity as a judgment.~~

~~[Adopted, effective January 1, 2000]~~

RULE 13.27 TRIAL ~~STATEMENT~~ BRIEF

A. Each counsel and/or self-represented party shall prepare, serve and file a Trial ~~Statement~~ Brief at least ten (10) days before trial. ~~lease five (5) Court days prior to the date set for Settlement Conference.~~ Issues not addressed in the Trial ~~Settlement~~ Brief may not be litigated at trial except in the discretion of the Court on good cause shown. The ~~Statement~~ ~~B~~brief ~~shall~~ must include ~~or have as an attachment,~~ the following information and attachments, if applicable to the disputed issues in the case:

(1) A ~~proof of service on opposing counsel~~ confirmation that the preliminary and final declarations of disclosure have been served and filed with the court;

(2) A~~n~~ summary ~~itemization~~ of all issues resolved; if the resolution be by written agreement, a copy of the agreement; if the agreement is ~~by~~ oral, a statement of the details.

(3) A~~n~~ summary ~~itemization~~ of all issues in dispute, and the propounding party's proposed resolution of them. ~~, including, if applicable:~~

~~(a). A proposal for an equal division of the community property which division takes into account:~~

~~i. The assumption/payment of debts and liabilities, as well as litigation fees and costs where appropriate;~~

~~ii. Tax consequences;~~

~~iii. Credits for the payment of community obligations with separate property funds;~~

~~iv. child support;~~

~~v. spousal support;~~

~~vi. custody and visitation;~~

~~vii. Attorney's fees, court costs, and other costs of litigation.~~

(4) ~~A representation that a good faith effort has been made to resolve all disputed issues.~~ A complete and current income and expense declaration;

(5) A complete and current schedule of assets and debts and property declaration;

~~(5). An Income and Expense declaration in the form~~

~~prescribed by Rule 1285.50 of the California Rules of Court, which shall also comply with the Imperial County Superior Court rules, unless litigation costs and support are not in issue.~~

(6) A detailed itemization of all disputed marital assets and debts, and a proposal for an equal division of property. The proposed division shall specify any assumption/payment of debts and liabilities;~~,~~ tax consequences, if any; credits for the payment of community assets and obligations, and reimbursement for payments or contributions made;

(7) Proposed orders for child support, including guideline calculations;

(8) Proposed orders for spousal support, including detailed justification;

(9) Proposed orders for custody and visitation, including proposed access schedules;

(10) Proposed orders for attorney's fees, court costs, and payment of other costs of litigation;

(11) Points and authorities on any disputed issues of law applicable to the case;

(12) ~~(6). A Property Declaration in the form prescribed by Rule 1285.55 of the California Rules of Court or the information required by that form contained in the body of the Statement indicating the claimed values and a proposal for division, unless property division is not in issue.~~ Values of property claimed by either party shall be supported by appraisals or statements, copies of which shall be attached, unless good cause be shown why no appraisal or statement has been obtained. Except for items of unusual value, personal property may be aggregated as, e.g., "jewelry $1000." There shall be a rebuttable presumption that the average Kelly Blue Book value shown for a given vehicle is its fair market value. If it be claimed that an item of property is wholly or partially separate, the Statement should show clearly the item or amount claimed to be separate, and the justification therefor. If any community funds have been used to purchase or maintain separate property, the amounts and the times the payments were made must be shown.

(13) A list of all witnesses to be examined, a brief synopsis of their testimony, and copies of the resumes of any expert witnesses;

(14) ~~(7).~~ Any additional information which the ~~propounding~~ party believes would be helpful to the Court.

B. ~~(8). Where property is not in issue, no Property Declaration or statement need be included. Where support or attorney's fees are not in issue, no Income and Expense Declaration need be filed; however, a statement shall be filed setting forth the fact that the various matters are not in issue.~~ Failure to timely file a proper trial ~~statement~~ brief may result in the ~~settlement conference and~~ trial being vacated, ~~going off calendar, or in appropriate issue sanctions or other sanctions.~~ the imposition of monetary sanctions including payment of costs and fees, or in trial sanctions precluding the litigation of

issues or the exclusion of evidence. ~~The settlement conference judge~~ The court will have the authority to impose ~~said~~ these sanctions on its own motion ~~sua ponte~~. ~~Such~~ The sanctions may also be requested by an adverse party on noticed motion.

[Adopted, effective January 1, 200~~0~~5]

RULE 13.28 READINESS CONFERENCE WITH TRIAL JUDGE

On the date set for trial, and prior to any evidence being presented, the Court may, with the agreement of all counsel and parties, conduct ~~a Settlement Conference~~ settlement discussions. By participating in this ~~C~~conference, all counsel and/or self-represented parties waive ~~any~~ the right to assert the disqualification of ~~said~~ the Judge other than for actual cause. Before presentation of evidence, all proposed exhibits and documentary evidence must be pre-marked at the clerk's direction, and be available for inspection by the adverse party and counsel.

[Adopted, effective January 1, 200~~0~~5]

Division D. CHILD AND SPOUSAL SUPPORT

RULE 13.29 GENERAL

In supplying Income and Expense Declarations for the court's consideration, the party ~~should~~ must include the following (on attachments, if necessary):

a. Commissions *
b. Bonuses *
c. Overtime *
d. Employment benefits ("perks") whether in cash or in kind.
e. Where employment is seasonal, a description of the employment*
f. Unemployment insurance benefits shall also be included, along with an explanation of why the party is currently unemployed, and whether efforts have been made to seek new employment.
g. The identity of all income-producing household members, their relationship to a party, gross and net income, contributions to household expenses, and financial arrangements between the parties, if any.
h. Self-employment and business income, with supporting documentation.
i. A complete description of all other sources of income.

- with history and illustrative amounts

[Adopted, effective January 1, 200~~0~~5]

RULE 13.30 CHILD SUPPORT

a. Where a Judgment is obtained by default, and there is no attached written agreement concerning child support, or the Judgment itself is not in the form of a stipulation, the supporting declaration and any necessary attachments shall state the effective date of the order sought, the amount of support sought for each child, the ~~net~~ gross income of each party, the name and birth date of each minor child, the amount of support set forth for each child; and, whether this amount is below that set forth by the statewide uniform guideline ~~(Family Code~~

~~Section 4055, and other applicable sections)~~

b. A copy of proposed support calculations generated by computer software certified by the Judicial Council must be attached to a proposed judgment or orders submitted by any party.

c. ~~(b)~~ Where a support order is sought, and the party to whom support is to be paid is receiving Public Assistance, that fact shall be set out in the ~~J~~judgment or order, and support shall be ordered payable through the ~~Family Support Division of the Office of the District Attorney of Imperial County~~ Department of Child Support Services ~~or such other entity as appropriate where the supported party does not reside in Imperial County~~.

d. ~~(c)~~ Where there is an agreement, it shall comply with Family code Section 4065, and Section 4056 if the agreement is for less than guideline. Where there is no agreement, and the amount sought is less than guideline, the requesting party shall set forth in a supporting declaration his or her understanding of the matters referred to in Family Code Sections 4056 and 4065.

e. ~~(d)~~ In establishing temporary orders for child support pending a ~~J~~judgment, the Court should apply the statewide uniform guideline, unless there is good cause contemplated in law to do otherwise. The income of the parties should be determined based on the best information available, and the tax status of the parties should be based on the filing status anticipated for the year in which the order is made.

[Adopted, effective January 1, 200~~0~~5]

RULE 13.31 SPOUSAL SUPPORT

a. The issue of spousal support as to each party should be addressed on request properly made. A specific amount may be requested, as well as termination or reservation to award spousal support in the future.

b. If the matter proceeds by default, the supporting declaration shall state the effective date of the order sought, the amount of the support sought, and the actual or estimated ~~net~~ gross income of each party. A short-term marriage is not, in and of itself, a sufficient basis for the termination of support. The supporting declaration should also sufficiently address the factors set forth in Family Code Section 4320, as well as other applicable sections such as to support the request for spousal support.

c. The award of TEMPORARY spousal support pending Judgment may be considered by the Court in order to maintain a status quo, or to address exigent needs which cannot await Judgment. Where the parties have been separated for an extended period of time, and absent an exigency, the Court shall use the status quo as a benchmark, with due consideration to any material changes which may have occurred (e.g. cohabitation, fluctuation in income, uncontrollable changes in expenses, etc.). Where the separation is recent (making the determination of a status quo impractical), and spousal support appears

indicated in a preliminary review of Family Code Section 4320 and other applicable sections as applied to the facts, the Court may be guided by the "Alameda" spousal support guidelines.

[Adopted, effective January 1, 200~~0~~5]

RULE 13.32 FAMILY LAW FACILITATOR

Pursuant to Family Code Section 1000 et seq., the Imperial County Superior Court shall maintain an office of family law facilitator. Services provided by the family law facilitator may include, but are not limited to, the following:

A. Meet with litigants to mediate family law issues, including but not limited to child support, spousal support, child custody and visitation, maintenance of health insurance and payment of uninsured medical expenses, subject to Family Code section 10012. Actions in which one or both of the parties are unrepresented by counsel shall have priority.
B. Draft stipulations to include all issues agreed to by the parties regarding family law matters.
C. Providing educational materials to parents concerning the process of establishing parentage and establishing, modifying and enforcing child and spousal support in the court.
D. Distributing necessary court forms and voluntary declarations of paternity.
E. Providing assistance in completing forms.
F. Preparing support schedules based upon statutory guidelines.
G. Assist the court and the clerk in maintaining records.
H. Prepare formal orders consistent with the court's announced order for self-represented litigants.
I. Serve as special master in proceedings and make findings to the court unless he or she has served as a mediator in the case.
J. Participate in the operation of an assistance clinic for those who are self-represented, including but not limited to training and supervising legal technicians, clerks and volunteers.
K. Assist the court with research and any other responsibilities that will enable the Court to be responsive to the litigants' needs.
L. Develop programs, assist with, work in conjunction with and/or coordinate with the bar, for community outreach through day and evening programs, videotapes, and other innovative means that will assist unrepresented and financially limited litigants in gaining meaningful access to family court. These programs may specifically include, but not be limited to, providing information concerning expedited child support orders, and court-sponsored programs such as Family Court Services, supervised visitation and appointment of attorneys for children.

[Adopted, effective July 1, 2001]

Division E. JUDGMENTS

Rule 13.33 DEFAULT OR UNCONTESTED JUDGMENTS

A. Judgments may be obtained on declarations where no ~~R~~response has been filed or where the parties so stipulate. The provisions of Family Code Section 2336 are applicable.
B. Where visitation is an issue, and there is no written agreement, the declaration in support of the judgment shall set forth the terms of

visitation; or, where the Petitioner is seeking to deny visitation, the reasons why visitation should not be ordered. If joint custody is requested, the declaration may ~~shall~~ also set forth the areas of joint and sole decision making.

C. The declarant shall inform the Court of the date the parties separated, who the physical custodian(s) of each child has/have been during the six (6) months immediately preceding the filing of the declaration, and the extent of contact between the child and each parent during that time.

[Adopted, effective ~~July~~January 1, 200~~3~~5]

RULE 13.34 FORMAT OF JUDGMENTS

A. The division of a community estate and confirmation of separate property, may be set forth either in the body of the judgment or in an attached agreement incorporated into the judgment, or both.

B. All protective orders issued as defined in Family Code Section 6218 shall contain the date of their expiration.

C. A spouse's former name shall be ordered restored pursuant to Family Code Section 2080 only upon written request or request in open court.

[Adopted, effective January 1, 2000]

Division F. ATTORNEY'S FEES; LITIGATION COSTS; SANCTIONS

RULE 13.35 ATTORNEY'S FEES AND COSTS

If a request is made for an order for attorney's fees and costs in excess of $1,500, the request shall include the following:

A. The services performed and costs incurred to date;
B. The time expended;
C. The hourly billing rate if applicable;
D. The best estimate of future services to be performed, costs to be incurred, and reason therefor;
E. Each party's access to community property;
F. The specific amounts requested;
G. The total amount paid by or on behalf of the party requesting fees and costs;
H. A history of prior appearances and awards; and
I. Any other relevant factor.

In addition ~~to the foregoing~~, the items delineated in local Rule 13.42, Code of Civil Procedure Sections ~~128.6~~ 128.5 or ~~128.5~~ 128.7, 177.5 and 2023, ~~and~~ Family Code Sections 2030 and 271, may bear on an award of attorney's fees to either side, as may resistance to a request for an award on the ground that the services were not reasonably necessary to the prosecution of the case.

[Adopted, effective January 1, 200~~0~~5]

RULE 13.36 RESERVED

Division G. CONTEMPT

RULE 13.37 GENERAL

A contempt action arising from the citation of the defendant based on allegations of contumacious actions outside the presence of the court is a separate action that is filed in a family law case in accord with Family Code Section 290 and pursuant to Code of Civil Procedure Section 1209 et seq.
[Adopted, effective January 1, 2000]

RULE 13.38 OTHER PENDING HEARINGS AND DISCOVERY

A. The defendant may file a notice that he/she is exercising his/her right against self-incrimination, (substantially in the form set forth in ~~Appendix B4)~~ FL FORM 5 which shall be filed with the court with copies served on all parties. The effect of ~~said~~ notice is that the defendant is excused from producing any declarations that might be required, either pursuant to rules or law (e.g. an Income and Expense Declaration) or in response to discovery requests. Time for all requests for discovery requiring a personal response from the defendant under oath shall be tolled pending resolution of the contempt citation. The defendant shall not necessarily be excused from producing documents or things pursuant to demand or subpoena, except that no documents or things need be produced pursuant to a demand to which the defendant still has the right to respond under oath, but has yet to do so (Code of Civil Procedure Section 2031(f).

B. In a notice substantially in the form set forth in ~~Appendix B4~~ FL FORM 5, the defendant may also request that certain pending matters go off calendar due to the defendant's inability to participate while exercising his/her rights against self-incrimination. Absent a showing of dire exigency, the ~~said~~ matters will go off calendar. In the event that a dire exigency is shown, matters may go forward, but any orders issuing from such hearings shall be without prejudice and subject to retroactive review and modification.

C. On resolution of the contempt citation, any matter that has gone off calendar may be restored to calendar using a notice substantially in the form of ~~Appendix B5~~ FL FORM 6. Absent an order shortening time, a matter may be restored to calendar no sooner than fifteen (15) days after the notice. If the notice is by the defendant, any necessary supporting declarations shall be filed therewith. Responsive and reply papers shall be due in the normal course in accord with Code of Civil Procedure Section 1005.

[Adopted, effective January 1, 2005]

Division H. DOMESTIC VIOLENCE/CIVIL HARASSMENT

RULE 13.39 RESIDENCE EXCLUSION, PERSONAL CONDUCT, AN STAY-AWAY ORDERS

Ex parte orders excluding a party from the party's residence, restraining a party from contacting, attacking, telephoning, etc. a protected person, or directing that a party stay a specified distance away from specified places, shall be signed by a judicial officer only. Such orders will not be issued unless there is a clear showing, by declaration, that recent physical violence has occurred or there is a threat of imminent physical violence. This showing shall include a full description, in detail, of the most recent instance(s) of physical harm, and/or disposition towards violence, and specify the date of EACH occurrence.

"Recent" violence is generally defined as physical violence within the past thirty (30) days. An order mutually restraining both parties from engaging in this conduct will not be issued without adequate supporting declarations by both parties. (Family Code Section 6305.)

[Adopted, effective January 1, 2000]

RULE 13.40 CUSTODY AND VISITATION ORDERS

Restraining orders regarding custody and visitation shall be signed by a judicial officer only. A stipulated order regarding custody may be signed where a copy of the custody agreement or appropriate declaration is attached to the petition. (Family Code Section 3061.) Pursuant to Family Code Section 3064, any other restraining orders regarding custody and visitation will only be granted upon a showing of immediate harm to the child or immediate risk that the child will be removed from the State of California. A motion requesting a change in a child's summer or holiday vacation, or the school that the child attends, shall be presented sufficiently in advance to allow the court to obtain any necessary information.

[Adopted, effective January 1, 2000]

RULE 13.41. DOMESTIC VIOLENCE AND CHILD CUSTODY ORDERS.

(1) Court Communication Regarding Restraining Orders.

a. Subject to available resources, the Family, Juvenile and Probate Courts shall examine appropriate available databases for existing restraining or protective orders involving the same restrained and protected parties before issuing permanent CLETS Civil Restraining Orders. In the event that this information is not available to the judicial officer, inquiry shall be made of the parties before issuing permanent CLETS Civil Restraining Orders.

b. Any order of the Family, Juvenile, or Probate Court that permits contact between a defendant/restrained person subject to either CLETS Civil Restraining Orders or Criminal Protective Orders and his or her children, shall contain specific language setting forth the time, day, place, and manner of the transfer of the children, including the safe exchange of the children, in accordance with Section 3100 of the Family Code. Such an order shall not contain language that conflicts with a Criminal Protective Order. Safety of all parties shall be the Court's permanent concern. The Court or a Court-related agency may recommend safe and specific contact with the children and direct the defendant/restrained person and/or the victim/protected person to the process for modification of protective orders.

c. Subject to available resources, the Criminal Court shall examine appropriate available databases for existing child custody and visitation orders involving the defendant, victims, or witnesses when

issuing Criminal Protective Orders. In the event this information is not available to the judicial officers, inquiry shall be made of the parties to determine the existence of any such orders.

d. All counsel and/or self-represented parties must disclose to the court all known existing restraining/protective orders or custody/visitation orders that are in effect anywhere involving the parties and/or their children.

(2) Modification of Criminal Protective Orders.

a. Any Court responsible for issuing custody or visitation orders involving minor children of a defendant/restrained person subject to a Criminal Protective Order may modify the Criminal Protective Order if all of the following circumstances are applicable:

i. Both the defendant/restrained person and the victim/protected person are subject to the jurisdiction of the Family, Juvenile, and Probate Court, and both parties are present before the Court.
ii. The defendant/restrained person is on probation (formal or court) for a domestic violence offense in Imperial County.
iii. The Family, Juvenile, or Probate Court identifies a Criminal Protective Order issued against the defendant, which is inconsistent with a proposed Family, Juvenile, or Probate Court order, such that the Family, Juvenile, or Probate Order is/will be more restrictive than the Criminal Protective Order or there is a proposed custody or visitation order which requires recognition in the Criminal Protective Order (Boxes (g) or (h) or both on the Criminal Protective Order form).
iv. The defendant signs an appropriate waiver of rights form or enters a waiver of rights on the record.
v. Both the victim/protected person and the defendant/restrained person agree that the Criminal Protective Order may be modified to a more restrictive order or to add Box (g) or (h) or both to the Criminal Protective Order.

b. The following Criminal Protective Orders may not be modified in Family, Juvenile, or Probate Court:

i. Pre-Trial Orders.
ii. Requests for modifications of Criminal Protective Orders which are less restrictive than the existing Criminal Protective Orders.

c. The Family, Juvenile, or Probate Court may, at the request of an interested party or on its own motion, calendar a hearing before the Criminal Court on the issue of whether a Criminal Protective Order should be modified. The Family, Juvenile, or Probate Court shall provide the Criminal Court with copies of existing or proposed Orders relating to the matter. Notice of the hearing will be provided to all counsel and parties.

[Adopted, effective January 1, 2004~~4~~5]

Division I. COMPLIANCE WITH RULES

RULE 13.42 COMPLIANCE WITH RULES

Failure of any party or attorney at any stage of the proceedings to substantially comply with the requirements of these Local Rules, or the California Rules of Court is governed by ~~Rule 227 of the California Rules of Court as well as~~ Code of Civil Procedure Section 575.2 and Government Code Section 68608(b). The Court may continue the matter, order the case off calendar, hear the matter on a default basis, proceed pursuant to any conditions the Court deems proper, and/or make an award of attorney's fees/costs or impose issue or evidentiary sanctions, or other sanctions on appropriate notice.

[Adopted, effective January 1, 200~~0~~5]

RULE 13.43. USE OF JUDICIAL COUNCIL LEGAL FORMS

As required by Rule 201.1 of the California Rules of Court, parties and attorneys shall use Judicial Council legal forms as appropriate and required. Adopted forms are mandatory and approved forms are strongly encouraged.

[Adopted, effective January 1, 2005]

~~[2] As referenced in Chapter 12, misdemeanor matters are calendared by either the Jail Court Clerk's Office, the Criminal Section of the Clerk's Office in El Centro, or by the Clerk's Offices at the Brawley Courthouse or the Calexico Courthouse.~~