

CHAPTER 8 FAMILY LAW RULES

RULE 8.1 CHILD CUSTODY AND/OR VISITATION

Section A Applicability/General Procedure

(1) This rule applies to all Family Law cases involving a dispute regarding child custody and/or visitation, including any action for Dissolution of Marriage, Legal Separation, Paternity (excluding District Attorney actions) or Domestic Violence.

(2) This rule and the name and telephone number of the Family Court Services Coordinator shall be provided by the clerk of the court to a petitioner upon any filing of a petition or moving papers. The petitioner shall serve the same, along with the petition or moving papers, on the responding party.

(3) The clerk of the court will not schedule a court date until the requirements set forth in Section B of this rule have been met.

Section B Family Court Services Mediation Completion Requirements

(1) The parties shall contact the Family Court Services Coordinator to set up an appointment to attend a mediation orientation session (a pre-mediation video) explaining the mediation process. The parties may attend the orientation session separately. Both parties must attend the orientation session unless the court has specifically ordered otherwise. Generally, the court will not exempt parties from attending the orientation session unless it would cause undue hardship (i.e., you reside out of state and the court has authorized telephonic mediation).

(2) After attending the orientation session the parties will be given a form verifying the parties attendance and a list of approved "court mediators". (Court mediators have agreed to the court's compensation schedule, and have demonstrated they meet the qualifications for a mediator set forth in the California Family Code and California Rules of Court). The parties must give the verification form to their attorneys for filing with the court, or if the parties don't have attorneys, they should bring the form with them to the next court appearance at which time deliver it to the court clerk.

(3) The parties are directed to agree on a mediator. You may select any mediator you wish, however, the court can only pay for mediation provided by a mediator who is on the court's list of approved "court mediators". If you elect to use a mediator who is not on the court's list you will be responsible for paying the mediator's fees. If the parties cannot agree on a mediator, the FCSC will select a mediator from the list of "court mediators" at random. The parties shall each have one peremptory challenge of a mediator if the FCSC random selection is required.

(4) The mediation session shall be held in private and all communications from the parties to the mediator shall be deemed official information within the meaning of Evidence Code Section 1040. Only the parents or the parties involved in the action shall be present in the mediation session.

(5) It is the parties' responsibility to schedule the mediation with the mediator selected, and to attend the mediation session as scheduled, prior to the date of any child custody and/or visitation hearing. The FCSC will verify attendance with the mediator; and, if mediation has been completed, the FCSC will notify the clerk of the court to schedule a hearing date.

(6) Pursuant to §575.2 of the Code of Civil Procedure, appropriate sanctions may be imposed by the court upon any party for failure to attend the orientation session or mediation.

(7) If after mediation all issues regarding custody and/or visitation have been resolved the parties shall file a stipulation to that effect.

Section C Custody and/or Visitation Issues Filed Under the Domestic Violence Act

(a) Separate Mediation Sessions. In any proceeding for which mediation is required and there is a history of domestic violence between the parties, or where a protective order as defined in Family Code §6218 is in effect, then at the request of the party who alleges domestic violence (in a written declaration under penalty of perjury) or who is protected by the order, the appointed Mediator shall meet with the parties individually, and at separate times.

(b) Conducting the Mediation. If the parties agree to meet jointly rather than individually with the Mediator, then during the mediation a support person may accompany any party who is protected by a restraining order. However, the mediator may exclude a support person from a session if that person disrupts the process of mediation.

Section D Custody and/or Visitation Evaluations

(1) The court may order an investigation or evaluation pursuant to California Rule of Court 1257 of a family and the other pertinent parties, and a report thereon, to assist it in assessing the health, safety, welfare and best interests of a minor child or children, when there are disputed custody and/or visitation issues.

(2) Where the parties stipulate to such an investigation or evaluation, such stipulation will be approved only where the court deems it to be warranted.

(3) The parties may stipulate to an investigator or evaluator. However, absent such stipulation, the court will appoint an investigator or evaluator of its selection, or may for good cause appoint someone other than as stipulated. In any event, any investigator or evaluator appointed by the court shall meet the requirements set forth in Rule 1257.3 of the California Rules of Court. Investigators/evaluators appointed by the court are not subject to preemptory challenge.

(4) At the time an evaluation order is executed, whether pursuant to stipulation or otherwise, the costs associated with evaluations must be determined. The court will order payment according to the Court's assessment of ability to pay. Generally, fees are not waived for these evaluations. The court will require an initial deposit of the estimated costs thereof, but not less than \$1,500 to be made by the parties prior to commencement of the evaluation.

(5) A copy of the evaluator's report shall be provided to the court and to any attorneys of record not less than ten (10) days before any related hearings. A copy of the report may be made available for review in the courtroom to self-represented parties only upon order of the court. The report may not be used for any purpose other than as evidence at a custody or visitation hearing, unless otherwise ordered by the court. The court's copy of the report shall be placed in a confidential envelope, to be kept in the court file, not to be opened, except by a judicial officer or as may otherwise be ordered by the court after prior notice to all parties.

(6) Grievances in connection with court-ordered evaluations shall be presented, in writing to the Presiding Judge within ten (10) days of receipt of the report and such grievances shall be addressed at the scheduled custody hearing.

(Rule 7.1 renumbered rule 8.1 effective July 1, 2005; adopted effective July 1, 2001; amended effective January 1, 2003..)

RULE 8.2 FINANCIAL DECLARATIONS

In all proceedings brought under the Family Law Act, prior to every default hearing and every contested hearing, there shall be filed by each party an income and expense declaration and a property declaration, in the forms prescribed respectively by rules 1285.50 and 1285.55 California Rules of Court, unless the matter to be considered at the hearing does not involve the consideration of any financial issue. Such statements shall show conditions as they existed no earlier than three (3) weeks prior to the hearing, shall be completely filled out so that every blank calling for information available to the declarant is filled out (with the word "none", if that be

an appropriate response), and shall be filed no later than the Court day prior to the hearing, unless an earlier filing is required by rule or statute.

(Rule 7.2 renumbered rule 8.2 effective July 1, 2005; adopted effective July 1, 2001.)

RULE 8.3 PRE-HEARING CONFERENCE

No matter (including a motion, order to show cause, or trial) in a proceeding brought under the Family Law Act will be heard until counsel, with their respective clients are either physically present or immediately physically available, or parties in pro per, have met and conferred in a good faith effort to resolve all issues. Such Conference shall include an exchange of all documents which may be relevant to contested issues or which may be offered in evidence. At the onset of the hearing on the matter, counsel, or parties in pro per, will be expected to represent to the Court that there has been compliance with this rule. Non-compliance with the rule may result in the matter being dropped from the calendar or continued, or the rejection of documents not exchanged, or other appropriate sanctions.

(Rule 7.3 renumbered rule 8.3 effective July 1, 2005; adopted effective July 1, 2001.)