

**Sierra County**  
**SUPERIOR COURT RULES**

EFFECTIVE JANUARY 1, 2009

**TABLE OF CONTENTS**

**Rule 1      General Rules**

1.1      Name and Effective Date.....1

1.2      Sanctions for Violation of Local Rules .....1

1.3      General Policy Re: Courtroom Decorum .....2

1.4      Courtroom Attire .....2

**Rule 2      Law and Motion Matters**

2.1      Applicability .....3

2.2      Form of Pleadings Presented for Filing .....3

2.3      Proposed Orders.....3

2.4      Calendar Matters.....3

2.5      Continuances (Civil Law and Motion Only) .....3

2.6      Application for Order Shortening Time and Ex Parte Orders .....3

2.7      Discovery .....4

2.8      Attorney Fees in Civil Actions or Proceedings .....4

**Rule 3      Case Management**

3.1      Case Management Conference .....6

3.2      Exemption from Trial Delay Reduction .....6

3.3      Periods of Case Progression .....6

3.4      Case Management Statement.....7

3.5      Participation in Conference .....7

3.6      Sanctions.....7

**Alternative Dispute Resolution (ADR)** .....7

3.7      Mediation/Arbitration .....7

3.8      Settlement Conferences .....8

**Rule 4      Civil Trials**

4.1      Trial Settings.....9

**Rule 5      Criminal Rules**

5.1      Pretrial Motions .....10

5.2      Criminal Discovery.....10

5.3      Continuance of Cases Set for Trial.....10

**Rule 6      Family Law**

6.1      General Information..... 11

6.2      Mediation..... 11

6.3      Contested Cases ..... 11

6.4      Custody Evaluation..... 12

6.5      Child and Spousal Support / Income and Expense Declaration ..... 12

6.6      Tax Return ..... 13

6.7	Support Modifications .....	13
6.8	Family Law Facilitator / Duties of Facilitator .....	13
6.9	Law and Motion.....	13
6.10	Order Shortening Time .....	13
6.11	Family Law Commissioner.....	14
6.12	Responsive Pleadings .....	14
6.13	Hearings.....	14
6.14	Ex Parte Orders.....	14
6.15	Orders After Hearing .....	15
6.16	Default or Uncontested Judgments.....	15
6.17	Submission of Agreements.....	16
6.18	Trial.....	16
6.19	Conduct of Trial.....	17
<b>Rule 7</b>	<b>Juvenile Law</b>	
	<b><u>Dependency Proceedings</u></b>	
7.1	Adoption of Competency Standard .....	18
7.2	General Competency Requirement.....	18
7.3	Minimum Standards of Education and Training; Workloads.....	18
7.4	Appointments.....	19
7.5	Standards of Representation .....	19
7.6	Procedures for Reviewing and Resolving Complaints .....	20
7.7	Procedures for Informing the Court of the Interests of a Dependent Child .....	20
7.8	Discovery .....	21
7.9	Presentation Of Evidence .....	21
7.10	Settlement Conferences .....	22
7.11	Timelines .....	22
	<b><u>Infraction Proceedings</u></b>	
7.12	Offenses Included .....	24
7.13	Appearance .....	24
<b>Rule 8</b>	<b><u>Reserved</u></b> .....	25
<b>Rule 9</b>	<b><u>Reserved</u></b> .....	26
<b>Rule 10</b>	<b>Miscellaneous</b>	
10.1	Court Communication .....	27
10.2	Guardianship Investigations .....	27
10.3	Appellate Division.....	27
<b><u>Topic Index</u></b>	.....	28
<b><u>Certificate of Competency</u></b>	.....	31

**RULE 1. GENERAL RULES**

**1.1 NAME, CITATION AND EFFECTIVE DATE**

**(a) Rules Citation.** These rules shall be known as the Sierra County Superior Court Rules and may be cited as SCR. These rules become effective on January 1, 2009 and supersede all other local rules previously adopted by the Sierra County Superior Court.

**(b) Construction And Application Of Rules.** These rules shall be construed and applied in such a manner as to not conflict with the California Rules of Court and shall be liberally construed to serve the proper and efficient administration of justice in the Superior Courts of Sierra County.

The Court may *sua sponte* or on motion change, dispense with, or waive any of these rules in the interest of justice.

**(c) Severability Of Rules.** If any of these rules are found to be in conflict with any statute, rule or decision, the rule(s) shall be deemed to conform to said statute, rule or decision, and the remaining rules shall remain in force and effect.

**(d) Telephonic Appearance.** All counsel are required to be present at any contested hearing. Counsel may appear telephonically at all uncontested hearings, such as a Case Management Conference.

If counsel wish to appear telephonically for a contested hearing, permission must first be granted by the Court. Counsel may apply *ex parte* to the Judicial Secretary for such permission.

Sierra County Courts use CourtCall for telephonic hearings. Counsel are required to contact CourtCall to make arrangements to appear telephonically. The telephone number of CourtCall is 1-888-88COURT. (*Eff. 01/01/09*)

**1.2 SANCTIONS FOR VIOLATION OF LOCAL RULES**

If a party or an attorney fails, refuses, or neglects to comply with these rules, the California Rules of Court, or any other rules or statutory requirements, the Court may, after notice and an opportunity to be heard, impose any and all sanctions authorized by law. (*Eff. 01/01/09*)

### **1.3 GENERAL POLICY RE: COURTROOM DECORUM**

**(a)** Courtroom Decorum rules have been adopted to foster orderly proceedings and respect for the Constitution of the United States, the Constitution of the State of California, the laws of this State, and the Superior Court.

**(b)** The rules of Courtroom Decorum set forth herein shall apply in all Superior Court proceedings unless a judicial officer orders otherwise in a particular circumstance. A judicial officer, upon appropriate application in a particular case, may waive the application of any particular rule or may impose additional rules applicable to such case.

**(c)** Each attorney who appears in court should:

(1) Pursuant to Business and Professions Code §6068(b) “maintain the respect due to the courts of justice and judicial officers.”

(2) Be polite and considerate toward opposing counsel, opposing parties, witnesses, and members of the court’s staff.

(3) Be familiar with the rules and guidelines set forth in this section as well as other applicable statutes and rules of conduct, ethics, and professionalism.

(4) Make reasonable efforts to advise clients, witnesses, and others accompanying them of these rules, and make a reasonable attempt to see that such persons abide by these rules. *(Eff. 01/01/09)*

### **1.4 COURTROOM ATTIRE**

**(a)** All attorneys, litigants, witnesses and spectators shall be required to dress and conduct themselves in a manner consistent with the traditional dignity of the Superior Court.

**(b)** All persons in the courtroom should dress in a manner that is not offensive or distracting to others of usual sensibilities. Counsel shall so instruct parties they represent, witnesses they call and persons accompanying them. No persons shall appear in court without a shirt, barefoot or with a bare midriff. The following shall not be worn in court: shorts, tank tops, or any clothing that displays inappropriate words or pictures.

**(c)** Bailiffs will remove any person from court who violates this rule. This rule does not limit the power of any judicial officer to further prescribe appropriate attire in the courtroom. *(Eff. 01/01/09)*

**RULE 2. LAW AND MOTION MATTERS**

**2.1 APPLICABILITY**

This Rule applies to all civil Law and Motion proceedings. *(Eff. 01/01/09)*

**2.2 FORM OF PLEADINGS PRESENTED FOR FILING**

All documents presented for filing must comply with California Rules of Court, in particular California Rules of Court §§ 311 through 315. *(Eff. 01/01/09)*

**2.3 PROPOSED ORDERS**

At the time a Motion is filed in a civil case, it shall be accompanied by a Proposed Order. If there is opposition to the Motion, a Proposed Order on behalf of the opposing party shall accompany the Opposition Memorandum. *(Eff. 01/01/09)*

**2.4 CALENDAR MATTERS**

**Law And Motion.** Civil Law and Motion matters are heard in Department I generally on the second and fourth Fridays of the month at 9 a.m. and should be calendared accordingly. If counsel believe that the matter to be heard will take more than 10 minutes, counsel should contact the Court to schedule a longer hearing (530- 289-3698). Such hearings are generally set on Wednesday afternoons. *(Eff. 01/01/09)*

**2.5 CONTINUANCES (CIVIL LAW AND MOTION ONLY)**

**Requests to Continue.** Requests to continue should be noticed for the case management conference calendar. If there is insufficient time to notice the request on a regular civil law and motion day, counsel should contact the Court at (530) 289-3698 to specifically set the request. Counsel may appear in person or telephonically for this request. A stipulation by the parties to continue the hearing/trial date is not sufficient. *(Eff. 01/01/09)*

**2.6 APPLICATION FOR ORDER SHORTENING TIME AND EX PARTE ORDERS**

**(a) Good Cause.** All applications for *ex parte* orders, including orders shortening time, shall be supported by an affidavit or declaration showing good cause for the order, and, where applicable, shall comply with California Rules of Court § 379.

**(b) Application For *Ex Parte* Orders.** An application for an order shall not be made *ex parte* unless it appears by affidavit or declaration:

**(1)** That, within a reasonable time before the application, the party or counsel informed the opposing party or opposing party's counsel when and where the application

would be made; or,

(2) That the party in good faith attempted to inform the opposing party or the opposing party's counsel but was unable to do so, specifying the efforts made to inform them; or,

(3) That, for reasons specified, the party should not be required to inform the opposing party or the opposing party's counsel. (*Eff. 01/01/09*)

## 2.7 DISCOVERY

**General Policy.** The policy of the law is one of liberality in allowing discovery. Doubt will be resolved in favor of permitting discovery. It is also the policy of this Court that discovery be conducted in the most expeditious and least expensive manner. To that end, the Court will entertain motions for protective orders seeking relief from oppressive discovery and may grant monetary and other sanctions against evasive, uncooperative and dilatory counsel who make or oppose motions without substantial justification. Similarly, the Court will expect counsel to attempt to resolve any differences prior to filing any motions and, if a motion is filed, prior to the hearing. (*Eff. 01/01/09*)

## 2.8 ATTORNEY FEES IN CIVIL ACTIONS OR PROCEEDINGS

**(a) Promissory Notes And Contracts Providing For Fees.** In actions on promissory notes and contracts providing for payment of attorney fees, whenever a prevailing party is entitled to recovery of reasonable fees, then the following schedule will be considered by the Court in awarding such fees:

(1) **Default Action:** Exclusive of costs and interest.

- Twenty-five percent (25%) of the first two thousand dollars (\$2,000) awarded as damages with a minimum fee of three hundred dollars (\$300);
- Twenty percent (20%) of the next four thousand dollars (\$4,000);
- Fifteen percent (15%) of the next four thousand dollars (\$4,000);
- Ten percent (10%) of the next ten thousand dollars (\$10,000);
- Five percent (5%) of the next thirty thousand dollars (\$30,000); and
- Two percent (2%) of amounts in excess of the first fifty thousand dollars (\$50,000), on the next one hundred thousand dollars (\$100,000); and
- The Court, in its discretion, will fix fees for recoveries in excess of one hundred fifty thousand dollars (\$150,000).

(2) **Contested Action:** The same amount as computed under subpart 2.8a(1) above, increased by reasonable compensation (computed on an hourly or per-day basis) for any additional research, general preparation, trial, or other services, as may be allowed by the Court.

**(b) Attorney Fees When Defendant Is The Prevailing Party.** When the defendant is the prevailing party, the fees will be reasonable compensation (computed on an hourly or per-day basis) for research, general preparation, trial, or other services rendered, as may be allowed by the Court.

**(c) Clerk's Calculation Of Reasonable Attorney Fees.** When a prevailing party is entitled to the recovery of reasonable attorney fees in an otherwise appropriate clerk's judgment, the clerk will include attorney fees computed pursuant to the fee schedule included in this Rule.

**(d) Determination Of Attorney Fees In Excess Of Schedule.** When a party claims attorney fees in excess of those allowed by this Rule, then an application for attorney fees must be made to the Court; the application must be supported by declarations setting forth the factual basis for the claimed fees. The fees will be fixed thereupon by the Court. *(Eff. 01/01/09)*

### **RULE 3. CASE MANAGEMENT**

#### **3.1 CASE MANAGEMENT CONFERENCE**

Pursuant to the California Trial Court Delay Reduction Act (Government Code § 68600, *et seq.*), the Court adopts the following rules.

The goal of the Court is to dispose of the cases subject to the Trial Court Delay Reduction Act within the standards for disposition adopted by the Judicial Council.

In order to achieve timely resolution of general civil actions, the Court will actively manage and supervise the pace of litigation from the date of the filing of the action to its final disposition.

Upon the initial filing of a civil action or proceeding, other than juvenile, probate, family law domestic violence, or civil harassment, the Clerk shall set the matter for a first case management conference on the case management calendar closest to, but not less than 135 days from the date of filing. The clerk shall issue a notice of case management conference with the summons. The plaintiff shall serve a copy of the notice of case management conference along with the summons and complaint. (*Eff. 01/01/09*)

#### **3.2 EXEMPTION FROM TRIAL DELAY REDUCTION**

A request to exempt a case from the Delay Reduction Rules shall be by written motion, supported by declaration showing good cause. A stipulation does not establish good cause. (*Eff. 01/01/09*)

#### **3.3 PERIODS OF CASE PROGRESSION**

In order to dispose of cases within the legislative standards, the Court adopts the following time periods for progression of al cases:

- (a) Service of the complaint within 60 days of filing.
- (b) Service of responsive pleading within 30 days after service of the complaint.
- (c) Discovery to commence at the earliest practicable date.
- (d) First case management conference to be held approximately 135 days after filing of a complaint.
- (e) All discovery, other than depositions of expert witnesses, to be completed by 240 days after filing of the complaint.
- (f) Stipulated extensions of time as provided in Government Code 68616 shall be in writing and filed with the Clerk. Any other extensions shall only be after a written

motion, supported by a declaration of good cause. *(Eff. 01/01/09)*

**3.4 CASE MANAGEMENT STATEMENT**

All parties taking part in a case management conference must submit a completed Case Management Statement before the case management conference pursuant to California Rules of Court 212(g). Judicial Council form CM-110. *(Eff. 01/01/09)*

**3.5 PARTICIPATION IN CONFERENCE**

Case Management Conferences are heard on the second and fourth Fridays of the month at 8:30 a.m. Counsel for each party, and each party not represented by counsel, shall attend the Case Management Conference. Appearance at the Case Management Conference may be made in person or telephonically via Court Call (1-800-88COURT) *(Eff. 01/01/09)*

**3.6 SANCTIONS**

The Court may impose any and all sanctions allowed by law upon any party or counsel who fails to participate in the Case Management Conference or who otherwise impedes the Trial Delay Reduction Rules. *(Eff. 01/01/09)*

**ALTERNATIVE DISPUTE RESOLUTION (ADR)**

**3.7 MEDIATION/ARBITRATION**

**(a)** The Court enthusiastically supports ADR, and this Court will make every effort to see that any case has the opportunity to go to mediation, arbitration or a settlement conference.

**(b)** Counsel for the parties will be given the opportunity to select a private mediator of their choice.

**(c)** The Clerk's office maintains an ADR resource file with the names, curriculum vitae and charges of local mediators and arbitrators as well as other ADR material.

**(d)** The Court recognizes that not all litigants or their counsel reside in Sierra County, and it may be more expeditious and economical to retain a private mediator or arbitrator from another area more convenient to the parties or their counsel.

**(e)** Subsequent to the date scheduled for the mediation/arbitration, there will be a follow-up Case Management Conference to confirm that the mediation/arbitration went forward.

**(f)** If the mediation/arbitration results in the resolution of the dispute, counsel will not be required to appear at the follow-up Case Management Conference but are to notify the Court of the resolution of the dispute. *(Eff. 01/01/09)*

### **3.8 SETTLEMENT CONFERENCES**

- (a)** The Court will schedule a mandatory settlement conference for all cases.
- (b)** All parties, as well as their agents with authority to settle, will attend the mandatory settlement conference.
- (c)** Failure of a party to attend, or failure of an agent with authority to attend a settlement conference, may result in sanctions imposed by the Court.
- (d)** No telephone appearance will be allowed without prior approval by the Court, and will only be allowed under extraordinary circumstances.
- (e)** The parties shall submit a settlement brief not to exceed 5 pages no later than 5 p.m. on Friday the week before the settlement conference. A copy of the settlement brief shall be served upon the opposing counsel. *(Eff. 01/01/09)*

**RULE 4. CIVIL TRIALS**

**4.1 TRIAL SETTINGS**

The trial date shall be determined by the Court, with due consideration for the convenience of the parties. *(Eff. 01/01/09)*

## **RULE 5. CRIMINAL RULES**

### **5.1 PRETRIAL MOTIONS**

(a) All statutory and Rules of Court procedure control, and the Court hereby incorporates by reference the requirements of California Rules of Court, Rule 4.111, pertaining to the making and timing of pretrial motions and opposition thereto, in Superior Court.

(b) In the event that the moving papers are not timely filed for the assigned hearing date without good cause demonstrated, the motion may be deemed waived by the moving party.

(c) If any authority other than California cases, statutes, constitutional provisions or State or local rules is cited in any motion or memorandum of points and authorities, a copy shall be attached to the papers in which the authorities are cited and tabbed as exhibits. If a California case is cited before the time it is published in the Advance Sheets of the Official Reports, a copy of that case shall also be attached and tabbed. *(Eff. 01/01/09)*

### **5.2 CRIMINAL DISCOVERY**

Discovery in criminal actions is reciprocal in nature and is governed by Penal Code §§ 1054 *et seq.* There shall be a standing order in each criminal action requiring all parties and their attorneys to comply with Penal Code §§ 1054 *et seq.* The order is deemed to have been made and communicated to all counsel at the time of arraignment.

Before a party may seek Court enforcement of any of the disclosures required by law, the party shall make an informal request of opposing counsel for the desired materials and information in the manner required by Penal Code § 1054.5(b). Failure to make such request shall be grounds for denial of a discovery motion. Informal requests should be presented to opposing counsel in writing.

Motions for discovery shall be focused upon specific items which remain in dispute after presentation of informal requests. “Boilerplate” discovery motions are disfavored. Counsel shall meet and confer in a good faith effort to resolve or narrow the disputed issues before the hearing of any discovery motion. *(Eff. 01/01/09)*

### **5.3 CONTINUANCE OF CASES SET FOR TRIAL**

Motions to continue the trial of a criminal case are disfavored and shall be denied unless the moving party, pursuant to Penal Code § 1050, establishes that the interests of justice require a continuance. *(Eff. 01/01/09)*

