

**RULES**  
of the  
**SUPERIOR COURT**  
of the  
**County of Del Norte**  
**State of California**

**Honorable Robert W. Weir,**  
**Judge**

**(Effective October 15, 1990)**

**RULES  
SUPERIOR COURT**

**STATE OF CALIFORNIA  
COUNTY OF DEL NORTE**

**-000-**

**HON. ROBERT W. WEIR, JUDGE**

**Del Norte County Courthouse  
Crescent City, CA 95531**

**(707) 464-7217**

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF DEL NORTE

IN THE MATTER OF ESTABLISHING  
RULES OF COURT

**ORDER ADOPTING RULES**

IT IS HEREBY ORDERED by the Judge of the above-entitled Court that the following rules supplemental to existing Rules of the Judicial Council for Superior Courts are hereby adopted as rules for said Court, and that any rules heretofore adopted by this Court are hereby repealed.

**IT IS FURTHER ORDERED** that copies of these rules shall be forthwith filed with the Judicial Council and shall become effective upon the expiration of thirty (30) days after such filing, in accordance with Section 68071 of the Government Code of the State of California.

DATED: October 15, 1990

Judge Robert W. Weir's signature did not come out in full.

A handwritten signature in cursive script that reads "Robert".

**ROBERT W. WEIR**  
Judge of the Superior Court of the  
State of California, *in* and for the  
County of Del Norte

**RULE I -DISTRIBUTION OF BUSINESS**

The business of the Superior Court shall be distributed by the Judge in accordance with the rules for the Superior Courts established by the Judicial Council.

**RULE II -COURT CALENDAR**

The Clerk of the Court shall post in a place for public examination the calendar for each court day prior to 4:45 p.m., of the day preceding the day for which the calendar pertains.

**RULE III -LAW AND MOTION**

**SECTION 1- Hearings**

Matters shall be heard in the following order each Friday unless otherwise ordered by the Court:

- (a) Criminal matters - 8:30 a.m.
- (b) Uncontested civil matters - 9:15 a.m.
- (c) Contested civil matters -at the convenience of the Court on said day, but to be called and noticed for 9:30 a.m.
- (d) Harassment matters - 9:35 a.m.
- (e) Probate matters - 10:00 a.m.
- (f) Juvenile matters -W&I 601 & 602- 10:30 a.m.
- (g) Juvenile matters - W&I 300 - 11: 00 a.m.

**SECTION 2- Continuances**

All matters, which require more than 10 minutes for hearing, may be continued to a day and time certain.

**SECTION 3- General Rule**

Counsel may notice such matters for any Friday, except that the Clerk shall, when ordered by the Court, fix a later date for any hearing and give notice thereof to the parties.

**SECTION 4- Demurrers.**

If no points and authorities other than Code of Civil Procedure, Section 430, have been cited, the Court may presume the demurrer is not meritorious.

**SECTION 5- Defaults.**

Requests for entry of default and affidavits as to military service or stipulations for hearing (in both domestic and nondomestic cases) must be on file not later than 4:00 p.m. on the day prior to that requested for hearing.

**RULE IV- CRIMINAL MATTERS**

**SECTION 1-** Pretrial Motions.

(a) All first appearances in Superior Court shall be held at 8:30 a.m., Friday, unless designated otherwise by the Court.

(b) Motions to set aside the indictment or information, to suppress evidence, to strike prior convictions, or for discovery, shall be at the time of arraignment; in all cases written points and authorities must be filed in support thereof unless the Court shall order otherwise. Points and Authorities must clearly state the legal theory upon which relief is sought.

(c) Matters expected to take longer than 10 minutes shall be set at a time certain. The motions not known or unable to be made at time of arraignment shall be made at or before the pretrial- or confirmation conference, except that good cause appearing, oral motions, may be made and heard by the Court in its discretion at any time prior to trial.

**SECTION 2-** Pleas under Penal Code Section 859a.

Pleas entered pursuant to Section 859a of the Penal Code in the Justice Court will not be accepted unless supported by a copy of the Court Reporter's transcript showing that the plea was taken in accordance with Boykin-Tahl requirements.

**SECTION 3-** Pretrial and Trial Confirmation Conference.

(a) The Court shall set all criminal jury trials for a pretrial and trial confirmation conference at least 10 days before trial.

(b) The District Attorney shall be personally present or shall designate a deputy to be present who shall be generally familiar with the case and who shall have the authority to enter into stipulations concerning the production and/or presentation of evidence, and full authority to dispose of the case under the provisions of Section 1192.5 of the Penal Code.

(c) The defendant, unless waived, and his attorney shall be personally present. The attorney for the defense shall be familiar with the case, shall have counseled with the defendant and shall have the authority, with the express consent of the defendant when needed, to enter into stipulations concerning the production and/or presentation of evidence, to make offers under the provisions of Section 1192.5 of the Penal Code, or otherwise enter into agreements to dispose of the case.

(d) The Probation Officer, or a designated deputy, shall be present with any available information concerning the defendant.

(e) The Court Reporter shall be present and make a record of the proceedings.

(f) Counsel for each party shall provide a list, in writing, of all witnesses to be called at trial.

(g) Counsel for each party shall provide a list, in writing, of all questions requested to be asked of each prospective juror during voir dire.

(h) Attorneys are required to discuss the case with each other prior to the conference, and if it appears to the Court that the attorneys have not, the conference may be continued to enable them to do so.

(i) If the case is not resolved at the pretrial conference, counsel shall be prepared to state they are ready to proceed on the trial date set.

(j) The pretrial conference shall be the last time for negotiations of an 1192.5 plea. Thereafter the defendant may plead only to the principal charge against him, unless special or unusual circumstances are shown and good cause appears for the convenience of Court or in the interests of justice.

**SECTION 4 -Continuance of Criminal Matters.**

Continuance of a criminal trial is governed by the provisions of Penal Code Section 1050.

**SECTION 5 -Fees and Costs of Appointed Counsel.**

Appointed counsel shall be paid on the basis of **\$65.00** per hour or **\$300.00** per trial day for services necessary in connection with the matter to which they have been appointed. The Court, in its discretion, may allow a higher fee when the nature of the case and the experience of the attorney demand it.

**SECTION 6- Investigator's Fees.**

Application for investigator fees and expenses in criminal cases shall be in writing and supported by documentation of the need and estimated cost.

No order for said fee and expenses should be allowed without prior written approval of the Court, which shall include a maximum expenditure for said costs.

A copy of said order shall be delivered to the investigator hired by the attorney and receipt thereof acknowledged in writing.

**SECTION 7- Transportation of State Prisoners as Witnesses.**

When an order pursuant to Penal Code Section 2621 is requested to transport an inmate of a State Prison to testify as a material witness, the request must be supported by an affidavit of the District Attorney, the Defendant, or his counsel showing that the testimony is material and necessary.

When transportation of an inmate witness is requested by the defendant or his counsel pursuant to this section, for testimony at a preliminary hearing, the request must be supported by an affidavit or other proof showing that the magistrate has ruled pursuant to Penal Code Section 866(a) that the witness may testify.

**RULE V -FAMILY LAW MATTERS****SECTION 1- Property Issues.**

Not less than ten (10) days prior to the date upon which any contested Petition for Annulment. Dissolution of Marriage or Legal Separation is first set for trial, each party to such action shall prepare and file with the Clerk an original and one (1) copy of a statement setting forth the below listed information as to the parties filing, as well as to the opposing party, to the extent known or contended.

The Court shall hold under seal\* statements filed with it pursuant to Rule V until it has received the statement of both parties to the action or the time for filing statements has expired. The Court then shall contemporaneously transmit copies of statements to the adverse parties and retain the originals under seal to be used at the Court's discretion. The Court shall not transmit a statement to a party who has not filed a statement of his own.

(a) Separate Property. List each item of separate property, the date it was acquired, the basis upon which it is claimed that it is separate rather than community property, the current market value, the nature, extent and terms of payment of any encumbrance against the property, and the manner in which title thereto is presently vested.

(b) Community Property. List each item of community property, the date upon which it was acquired, the basis upon which it is claimed as community rather than separate property, the current market value, the nature, extent and terms of payment of any encumbrance against the property, and the manner in which title thereto is presently vested.

(c) Funds Held by Others. To the extent that either separate property or community property consists of funds held by others, such as insurance policies, pensions, profit sharing, or other trust funds, the statement shall fully identify the policy or fund including serial or account numbers, indicating present cash value and terms or conditions imposed upon withdrawal of such values.

(d) Tracing. If a segregation of community property and separate property interests in a single asset is to be an issue in the case, the statement shall set forth in detail, with dates, values and dollar amounts, the transactions upon the basis of which the tracing is to be proven.

(e) Current Obligations. Separately list all debts and obligations of the spouses, which constitute liabilities of the community, and debts, and obligations, which are the separate liabilities of the respective spouses. Specify the identity of the creditor, the purpose for which the debt was incurred, the date upon which the debt was incurred, the balance currently due thereof, the term IS of payment and the security, if any, held by the creditor.

(f) Current Income and Expenses. Specify in the same manner and to the same extent required in proceedings for temporary support the current income and expenses of the parties.



(g) Proposal for Support and Property Division. Set forth a proposal for an equal division of the community property of the parties giving due consideration to the payment of liabilities, costs, and attorneys' fees. In addition, specify each party's contentions as to the amount and duration of child and spousal support.

The purpose of this rule is to insure that these domestic relations matters are thoroughly prepared and expeditiously tried, ~t and to avoid using the trial itself as a vehicle for what should ll be pretrial deposition and discovery proceedings. Counsel, vested with full authority from their clients to dispose of such matters, shall meet to review the statements prior to the time set for trial in order that, to the fullest extent possible, issues can be determined by stipulation and those remaining for determination by the Court can be clearly delineated.

\*Under "seal" requires that the statements be held in confidence and not made available for inspection or copying.

## **SECTION 2 - Custody/Visitation Workshop.**

Except when ordered by the Court, in any contested matter where custody or visitation of children is at issue, the parties, in addition to Mediation, shall complete an educational workshop concerning the effect of custody/visitation disputes on children, prior to the hearing. The fee for the workshop shall be \$20.00 per person unless fees have been waived.

## **RULE VI -PROBATE RULES**

### **SECTION 1- Probate Calendar.**

In noticing petitions for probate of wills and other matters where publication is required, counsel shall allow sufficient time to file the affidavit of publication prior to the hearing.

### **SECTION 2- Appearance of Counsel.**

All verified petitions in probate matters shall be deemed 5ubIritted without the necessity of appearance by counselor the petitioner, except: petitions for confirmation of sale of real property or personal property (when in excess of \$100.00), applications for letters of guardianship or conservatorship where no certificate has been filed under Probate Code 1461, petitions for probate of will unsupported by affidavits of witnesses, and other matters necessitating an appearance or testimony. Before denying any petition where there is no appearance under these rules, the Court shall continue the matters one week to give counsel an opportunity to appear.

**SECTION 3-** Deposit of Order with Clerk.

A proposed form of order shall be deposited ~~with the Clerk at the time any verified petition in probate is filed, except in the case of sales of real property or personal property (when *in*, excess of \$100.00). Proposed orders which have not been so deposited shall be handed to the Judge at or after the time for consideration by the Court.

**SECTION 4-** Extraordinary Fees.

Petitions for extraordinary fees shall not be considered unless both the caption and prayer thereof contain a reference to such extraordinary fees. No appearance shall be required in support of applications for extraordinary fees either' by the attorney or personal representative if the petition contains a complete detailed statement of the facts and the work done upon which such applications is based, but hearings on such matters may be had if requested by counselor any interested person. In allowing such fees the Court shall consider the difficulty of the tasks performed, the reasonable value of time expended and the amount of the estate accounted for.

**SECTION 5** -Probate Account Calendar.

A probate account calendar shall be called on the second Friday of June and December of each year. All probate matters wherein accountings are required by law and said accounting or status report has not been filed within one year shall be set at that time.

**RULE VII -EX PARTE APPLICATIONS -NOTICE**

A party must give at least four hours notice when complying with Rule 379(1) of the California Rules of Court before seeking an ex parte order. Except for good cause shown, the Court shall not consider less than four hours notice to be notice "within a reasonable time" as specified in Rule 379 (1) .

**RULE VIII -TRIAL SETTINGS AND CONFERENCES**

**PRETRIAL, SETTLEMENT, TRIAL SETTING  
CONFERENCES AND CIVIL TRIAL CALENDAR**

**SECTION 1-** Matters Preliminary to Pretrial and Settlement Conferences.

If either pretrial or settlement conference is to be held, all defendants not served shall be dismissed and proposed amendments to pleadings shall be accomplished prior to the date set for such conference.

**SECTION 2-** Trial Setting Conference Dispensed With.

Trial setting conferences are hereby dispensed with and shall not be required in connections with setting civil cases for trial unless ordered by the Court.

**SECTION 3-** Certificates of Readiness Required.

The filing of a certificate of readiness to comply with Rule 221 of California Rules of Court shall be required.

**SECTION 4-** Pretrial Conference Statements.

In any case in which a pretrial conference is to be held pursuant to the request of any party or order of the Court, the following shall be complied with where applicable:

(a) All joint statements proposing a pretrial order shall be filed with the Clerk upon forms provided by the Clerk not less than 20 days prior to the date of such conference.

(b) Pretrial statements shall be filed with the Clerk not less than 5 days prior to the date set for the pretrial conference. The pretrial conference statement shall set forth briefly and concisely not less than the following information:

(i) Nature of case (personal injury, dissolution of marriage, etc.)

(ii) Agreed matters (facts admitted in pleadings and by discovery proceedings, and stipulations in effect);

(iii) Factual and legal contentions to be made as to the issues remaining in dispute;

(iv) Procedural matters (dismissal of defendants not served, requirement of reporter and like matters) .

**SECTION 5-** Pretrial Conference - Time.

Pretrial conferences shall be set for hearing each Friday at 1:30 p.m., or immediately thereafter, and shall be held in the Chambers of the Judge.

Settlement conferences shall be held at such time as shall in each case be designated by the Judge. The date and time of such settlement conference shall be so far as practicable set for the pretrial conference, where such conference is to be held.

**SECTION 6-** Interrogatories.

When answering interrogatories pursuant to CCP 2030, the person answering shall repeat the interrogatory and thereafter state the answer.

**SECTION 7-** Trial Calendar.

The Court shall set civil cases for trial pursuant to Rule 220 of the California Rules of Court provided, however, in all cases where a pretrial conference is to be held, the Clerk at the time of setting the pretrial conference shall set the date of trial subject to any subsequent order of the Court made therein.

**RULE IX -JURY INSTRUCTIONS**

In jury trials, the instruction forms contained in the latest editions of California Jury Instructions-Civil (BAJI), and California Jury Instructions-Criminal (CALJIC) shall be used when applicable. Counsel shall fill in all blanks and make any necessary changes on such forms.

The County Clerk (BAJI) and District Attorney's Secretary (CALJIC) shall maintain printed copies of such pattern jury instructions and distribute to practitioners said requested instructions.

Before requesting such instructions counsel shall determine whether the Clerk or District Attorney's Secretary maintains printed copies of such instruction. If an instruction is so maintained, counsel shall request such instruction by title and number as in BAJI or CALJIC, and shall compensate the Clerk or District Attorney's Secretary for same. All other instructions shall be prepared and submitted by counsel as provided in Rule 229 of the California Rules of Court.

Proposed pattern jury instructions which have been modified by a party shall specify in parenthesis or other appropriate manner the respect in which the instructions have been modified.

**RULE X -COPIES OF ORDERS**

Original with two copies of all judgments and decrees of this Court shall be prepared by counsel for filing with the Clerk.

**RULE XI -USE OF FORMS**

In all instances where forms are provided for particular pleadings or orders by the County Clerk's Office, such forms are adopted as the official forms of this Court. Such forms shall be used by counsel in all matters to which they pertain, except where the particular situation makes modification and/or adaptation of such forms impossible or burdensome.

**RULE XII -ATTORNEY FEES -DEFAULT ACTIONS**

In entering a default judgment in an action upon a note or contract providing for an attorney fee, the Clerk shall include in the judgment an attorney fee (not to exceed the amount prayed for) in accordance with the following schedule:

25% of first \$ 1,000. with minimum fee of \$150.  
20% of next \$ 4,000.  
15% of next \$ 5,000.  
10% of next \$10,000.  
05% of next \$30,000.  
02% of the  
amount over \$50,000.

**RULE XIII -FACSIMILE FILING**

Filing documents by FAX is permissible and must be done in the following manner.

Facsimile transmitted documents must comply with California Rule of Court 201.

All faxed documents must be accompanied by a Facsimile Transmission Cover Sheet showing the name of the sender, specific contact person, senders phone and fax number, and sufficient instructions as to what the sender wishes to have done.

A charge of \$15.00 in addition to any required filing fees will be charged for filing faxed documents.

The faxed documents must be an EXACT DUPLICATE of the original document, and said original document MUST arrive at the office of the County Clerk for filing within three (3) Court working days with the \$15.00 faxing fee and any additional required filing fees.

The filed faxed copy will then be removed from the Court file, and the original substituted with the same filing date.

The following number may be used for Del Norte County fax filing: 707-465-4005.

**RULE XIV -DEPOSITIONS**

Deposition Transcripts and Interrogatories are not to be routinely filed with the Clerk. If a deposition is to be used at the time of trial, the original deposition shall be marked as a Court Exhibit if reference to it becomes necessary.

**RULE XV -DEPOSIT AND REFUND OF JURY FEES**

**SECTION 1** - Jury fees in the amount of \$675.00 are payable at least twenty-five (25) days before trial, and must be received by the County Clerk's Office before any jury is drawn.

**SECTION 2** - Jury fees are returnable only when notice of cancellation of the jury is received by the Court and Clerk thereof before the jury venire has been filed. After that date, administrative fees of \$100.00, plus actual costs incurred, will be charged and the remainder of the jury deposit shall then be returned.

**SECTION 3** - Jury fees for each day following the first day must be paid daily prior to the commencement of trial at the County Clerk's Office.

**SECTION 4** - Mileage for jurors selected is at a rate of fifteen (15) cents per mile one way to the place of trial, and per diem fee is at the rate of five (5) dollars.

**SECTION 5**- Upon waiver of trial by jury, by announcement or by operation of law, demand for trial by jury by opposing counsel shall be accompanied by one (1) day's jury fees.

**RULE XVI -JURY SERVICE**

A prospective juror who has served on a trial jury in Del Norte Superior Court during the immediately preceding twelve (12) months shall be excused from service on request.

**RULE XVI I -REPORTERS**

The Court shall require a reporter at a proceeding of the Court in the following cases:

- (a) All criminal proceedings.
- (b) All jury trials.
- (c) All contempt proceedings.
- (d) All juvenile court proceedings.
- (e) All reciprocal enforcement of support proceedings.
- (f) When a reporter is requested by counsel at least five (5) days prior to the time set for the commencement of such proceedings.
- (g) When the Court orders that a reporter be present at the proceedings.

The reporter's fee will be \$25.00 in all uncontested dissolution and nullity actions. The reporter will be present in all contested matters, i.e., orders to show cause, contested probate and guardianship matters, unless waived by both parties. Reporter's fees shall be paid by the parties in equal proportions unless otherwise ordered by the Court. Said fees will be \$25.00 for matters taking less than one hour, and \$67.50 for matters taking more than one hour and less than three hours. Matters taking over three hours will be charged as a full day, or at the full day fee of \$125.00.

**RULE XVIII -PHOTOGRAPHS**

The taking of photographs or motion pictures in a Courtroom during, or immediately preceding sessions of a Court, or broadcasting or recording for broadcasting all or any part of a trial or proceedings before the Court, by radio, television or otherwise, shall not be permitted at any time, except by order of the Court.

ROBERT W. WEIR  
Judge of the Superior Court