GENERAL ORDER NO. 17-12

Calaveras Superior Court
FOR COURT USE ONLY

FILED
NOV 17 2017
Clerk of the Court
Superior Court of California
County of Calaveras
By _____, Deputy

GENERAL ORDER OF THE

CALAVERAS COUNTY SUPERIOR COURT

ADOPTING A REVISED LOCAL RULES

WHEREAS, it is the mission of the Calaveras County Superior Court to provide equal justice for all, and

WHEREAS, the court's values are to provide equal justice in a timely, consistent and professional manner, and

WHEREAS, the Local Rules for the Calaveras County Superior Court promote the court's mission and values, and

WHEREAS, these revised Local Rules for the Calaveras County Superior Court are adopted pursuant to the authority granted by California Rules of Court, Rule 981.

NOW, THEREFORE, IT IS ORDERED as follows:

The Local Rules for the Calaveras County Superior Court, as amended and listed in Appendix "A", attached hereto, are adopted for use effective January 1, 2018 and on that date shall supersede all local court rules previously adopted by this court.

Dated: 11-17-17

Hon. Timothy S. Healy
Presiding Judge, Calaveras Superior Court

AMENDMENTS TO LOCAL RULES effective January 1, 2018

2.4 Ex Parte or Informal Communication with the Court (Eff. 1/1/02; As amended, eff. 1/1/18.)

(a) The Court will not consider any ex parte communications from counsel or self-represented parties unless made in the manner prescribed by these Local Rules, by the California Rules of Court, or by the laws of this State. Except as permitted by law, lawyers and parties shall avoid ex parte communications on the substance of a pending case with any judicial officer or court research staff. Applications to the Court for an order or other relief should never be made by telephone call, letter, electronic mail, or facsimile. Letters or other communications between counsel or parties should not be sent to judicial officers or court research staff.

(b) Where applicable rules or law permit an ex parte application or communication to the Court and there are no grounds for waiver of notice, the following duties apply: (1) Before making such application or communication, an attorney or self-represented party must make diligent efforts to notify all other parties; (2) The moving party must make reasonable efforts to accommodate the schedule of all other parties to permit all parties to appear either personally or through their legal representative; and (3) The moving party must avoid taking advantage of any other party's known absence or unavailability. Counsel shall be mindful of Rule of Professional Conduct 5-300(b) concerning ex parte contacts with the Court.

2.6 Court Interpreters *(Eff. 7/1/03; As amended, eff. 1/1/18.)*

(a) In all proceedings, (except small claims), counsel or self-represented litigants requiring the assistance of a court interpreter for a non-English speaking party or witness at hearing or trial must make all necessary arrangements prior to the trial or hearing for the presence of an appropriate interpreter. Request for an interpreter should be submitted once the requirement presents itself.

(b)

To request an interpreter for a court proceeding complete the local Request for Court Interpreter Form or inform a Clerk at the counter.

For Mediation, inform the clerk in the Self-Help Center.

(c) Counsel or the party must immediately notify the court upon learning that the services of the interpreter are not required. Failure to timely notify the court of the cancellation of the need for an interpreter may result in an order for reimbursement to the court for any cancellation fee the court is required to pay to the interpreter.

Small claims hearings:

You may ask a friend, relative, or someone else to interpret for you when you go to court. Please do not ask a child (minor, under the age of 18) to interpret for you. Nor can the interpreter be a party to the action.

A Court interpreter needs to be familiar with legal terms and concepts in both English and your first language.

2.7 Official Reporting Services *(Eff. 7/1/98; As amended eff. 1/1/18.)*

(a) Court Reporter Availability – Pursuant to California Rule of Court 2.956 the services of an official court reporter are available as required by law in all felony and juvenile proceedings.

(b) Court Reporter in Other Proceedings - Pursuant to California Rule of Court 2.956(c) since the services of an official court reporter are not available for a hearing or trial in cases other than those referenced above in Local Rule 2.7(a), a party desiring a court reporter in any other matter must make arrangements for the presence of a court reporter and that party is responsible to pay all costs associated with the court reporter.

(c) Electronic Recording as Official Record – Pursuant to California Rules of Court 2.952 and 2.954, the Court's electronic recording system shall be the official reporting service for infractions and misdemeanors, and upon order of the Court in limited civil proceedings. For infraction and misdemeanor appeals where the appellant elects to proceed with a transcript of the oral proceedings instead of either a settled statement or a stipulation pursuant to California Rule of Court 8.868(c) to use the oral recording, the cost for preparation of the transcript shall be borne by the appellant.

2.15 Electronic Filing *(Eff. 1/1/18)*

(a) AUTHORITY: The Superior Court of California, County of Calaveras, permits the electronic filing of documents in accordance with California Code of Civil Procedure 1010.6 and California Rules of Court Rule 2.250 et seq., for specified matters as listed on the Court's website at www.calaveras.courts.ca.gov.

(b) PROVIDERS: Approved Electronic Filing Service Providers (EFSPs) are listed on the Court's website.

(c) FILING DATES AND TIMES: Documents may be electronically transmitted to the Court at any time of the day. Acceptance of documents for filing shall be deemed to

occur on the date the document was submitted to the Court if the submission occurred during normal business hours of the clerk's office. A document that is submitted electronically to the Court after the close of business is deemed to have been received on the next court day. Nothing in this section shall limit the clerk's ability to reject deficient filings.

(d) LIMITATIONS ON FILINGS: Notwithstanding any other provision of law or this rule, the following items may not be electronically filed:

1. Any will, codicil, or testamentary trust;
2. Bond or undertaking;
3. Subpoenaed documents;
4. Financial institution documents, care facility documents or escrow documents as defined under Probate Code Sec. 2620, submitted by conservators, guardians, or trustees of court supervised trusts;
5. California state vital records forms;
6. Any documents with attachments/exhibits that cannot be accurately Transmitted via electronic filing due to size or type;
7. Documents typically submitted during the course of a proceeding (e.g., Trial Exhibits);
8. Documents lodged with the court provisionally under seal;
9. Documents for cases under seal;
10. Labor Commissioner deposit of cash or check.

3.1 Ex Parte Applications

(d) Court Review: The adequacy of the application for ex parte orders will be determined on the papers submitted. The application must contain sufficient evidentiary facts to justify granting the prayer. Conclusions or statements of ultimate facts are not sufficient. A foundation should be set forth establishing the affiant's personal knowledge. Attorney declarations based upon information and belief are insufficient to establish evidentiary facts. Whenever the Court feels the applications contain sufficient facts the requested relief may be granted or denied without conducting a hearing. All ex parte applications for temporary relief, including a proposed order, must be filed no later than 12:00 p.m. at

least one court day before the day for which the ex parte hearing is requested. See local form titled APPLICATION FOR IMMEDIATE COURT HEARING AND ORDER in Appendix "A" to these rules. (As amended, eff. 1/1/18.)

3.3 Law and Motion

(a) Law and Motion hearings in limited and unlimited civil matters are regularly heard on Fridays at 9:00 a.m. in Department 2. These matters are routinely limited to ten (10) minutes and are subject to further time limitations to accommodate the court's calendar. Further, a maximum of ten (10) matters will be placed on any Friday's law and motion calendar. While the parties may select their preferred Friday when filing a law and motion the court will reschedule the hearing date once the maximum allotment has been reached. At the Court's discretion, if a matter justifies a hearing lasting more than ten (10) minutes it may be designated as a "short cause" matter and assigned a hearing date. The Court has adopted a tentative ruling system effective 1/1/18; see Local Rule 3.3.7 for details. (As amended, eff. 1/1/18.)

3.3.7 Tentative Rulings

All parties appearing on the Law and Motion calendar shall utilize the tentative ruling system. Tentative Rulings are available by 2:00 p.m. on the court day preceding the scheduled hearing and can be accessed either through the court's website or by telephoning 209-754-6285. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the Court no later than 4:00 p.m. on the court day preceding the hearing including advising that all other sides have been notified of the intention to appear by calling 209-754-6285.

Where appearance has been requested or invited by the Court, all argument and evidence is limited pursuant to Local Rule 3.3.

All matters noticed for the Law & Motion calendar shall include the following language in the notice:

Pursuant to Local Rule 3.3.7, the Court will make a tentative ruling on the merits of this matter by 2:00 p.m. the court day before the hearing. The complete text of the tentative ruling may be accessed on the Court's website or by calling 209-754-6285 and listening to the recorded tentative ruling. If you do not call all other parties and the Court by 4:00 p.m. the court day preceding the hearing, no hearing will be held and the tentative ruling shall become the ruling of the court.

Failure to include this language in the notice may be a basis for the Court to deny the motion.

(As amended, eff. 1/1/18.)

3.7.1 Unlawful Detainer Trials

Unlawful Detainer trials will be conducted on Tuesdays, at 1:30 p.m. in Department 4 by a commissioner unless a written objection to having the matter heard by a commissioner is filed at least five (5) court days prior to the scheduled trial. In the event such an objection is timely filed, the commissioner will still conduct the trial as a referee. (Eff. 1/1/18.)

5.2 Setting Family Law Motion Hearings (Eff.1/1/03; As amended eff. 1/1/18)

(b) Standard Practice – Regularly Noticed Hearing. The moving party for any regularly noticed request for order, motion, or order to show cause (without temporary orders) shall choose a convenient hearing date and enter the requested date on the moving papers along with the generally appropriate time and department of Tuesdays at 1:30 p.m. in Department 2. In selecting the requested hearing date, the moving party must observe the filing and service time lines of Code of Civil Procedure Section 1005. Additionally, requests for orders, motions, and orders to show cause involving child custody and visitation, where no temporary orders have been issued, will generally be set approximately sixty (60) calendar days from the date of filing so the mandatory mediation can be completed prior to the hearing. Further, a maximum of twelve (12) matters will be placed on any Tuesday's family law motion calendar. If the court rejects the requested date, time, and/or department entered on the moving papers, the court clerk will so advise the moving party who is then responsible for providing the responding party with adequate notice of the new date, time, and/or department for the hearing.

7.3 Probate Petitions and Motion Calendar

Probate petitions and motions are regularly heard on Fridays at 10:00 a.m. in Department 2. These matters are routinely limited to ten (10) minutes and are subject to further time limitations to accommodate the court's calendar. Further, a maximum of eight (8) matters will be placed on any Friday's probate petition and motion calendar. While the parties may select their preferred Friday when filing a probate petition or motion the court will

reschedule the hearing date once the maximum allotment has been reached. Parties may submit a probate petition or motion solely on the filed documents without an appearance if so designated either by a cover letter accompanying the initially filed papers or clear notation on the notice of hearing. Counsel or parties may also appear on the probate petition and motion calendar by CourtCall in compliance with local rule 3.8. At the Court's discretion, if a matter justifies a hearing lasting more than ten (10) minutes it may be designated as a "short cause" matter and assigned a hearing date. The Court has adopted a tentative ruling system effective 1/1/18; see Local Rule 3.3.7 for details. (As amended, eff. 1/1/18.)

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar Number and Address)*	*CLERK DATE STAMPED RECEIVED*
TELEPHONE NO.: EMAIL: ATTORNEY FOR (NAME):	
CALAVERAS COUNTY SUPERIOR COURT **400 GOVERNMENT CENTER DRIVE** **SAN ANDREAS, CA 95249** **(209) 754-9800**	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	HEARING DATE:
INTERPRETER REQUEST FORM	CASE NUMBER:

IMPORTANT: Interpreters will not always be available for all hearings or in all languages. See instructions on the reverse of this form for more information.

1. I (name): _____ am a party in the above named case. I am the (check one item below):

   ☐ Plaintiff/Petitioner ☐ Defendant/Respondent ☐ Other (describe): _____

2. I need an interpreter for (check all that apply) ☐ me ☐ a witness (describe): _____

3. The language(s) in which I need an interpreter are ☐ Spanish ☐ Vietnamese ☐ Mandarin ☐ Cantonese ☐ Hmong ☐ Other (list all): _____

4. The court hearing or proceeding for which I need an interpreter is scheduled for:

   (date): _____ at (time): _____ in Courtroom _____.

   ☐ No date is set yet.

   ☐ I don't know the date of the hearing or proceeding.

5. Type of case, if known (check one):

☐ Criminal	☐ Traffic	☐ Civil Harassment
☐ Juvenile	☐ Unlawful Detainer	☐ Guardianship
☐ Family Law	☐ Termination of Parental Rights	☐ Conservatorship
☐ Other Civil	☐ Domestic Violence	☐ Elder or dependent Abuse (not Involving physical abuse)
☐ Child Support	☐ Don't know/not sure	

To avoid the risk that your hearing will have to be postponed, please submit this form a minimum of two weeks in advance when possible.

Date: _____

_____
Signature

INTERPRETER REQUEST FORM

INSTRUCTIONS

1. Court proceedings are conducted in English. If a party or a witness does not speak English well, he or she may need an interpreter to testify, to speak to the judge, and to understand what others are saying in the proceeding. Certified and registered court interpreters are specifically trained to interpret in court proceedings. If you need language assistance, you should ask the court if it can provide a court interpreter by filling out this form.

2. The Calaveras Court provides interpreting services to all trial court proceedings in criminal, traffic, and juvenile matters.

3. Courts are not always able to provide or pay for an interpreter in every language or in every civil case. The Legislature has set priorities for civil cases which courts with limited funds are to try to provide court interpreters. The first priority is to try to provide interpreters in the following kinds of cases:

   a. Domestic violence cases,
   b. Family law cases in which there is a domestic violence issue,
   c. Elder or dependent adult physical abuse cases, and
   d. Unlawful detainer or eviction cases.

   Even in those cases, interpreters will not always be available for all hearings or in all languages.

4. Courts may be able to provide interpreters in some languages in some other civil cases. The Legislature has set priorities in these cases also, providing that the court should try to provide interpreters for cases in the following order:

   e. Actions to terminate parental rights,
   f. Actions relating to conservatorships or guardianships,
   g. Actions for child custody or visitation,
   h. Elder abuse cases and dependant adult abuse cases that do not involve domestic violence,
   i. Actions relating to family law other than those relating to domestic violence or child custody or visitation, and j. All other civil actions, including small claims cases.

   In these types of cases, preference will be given to parties with financial need who have qualified for a fee waiver, so if you need a court interpreter *and* need financial assistance, you should apply for a fee waiver if you do not already have one. To do so, complete and file a *Request to Waive Court Fees (Civil Actions)* (form FW-001). You should note in item 7 of this form whether you have a fee waiver already, have applied for one, or do not intend to apply for one.

4. If your case falls within one of the categories of cases listed in paragraphs 2 or 3 above, and you would benefit from having an interpreter during your court proceedings, you should use this form to request a court interpreter. Complete the first page and file it with the court. The Request for Interpreter form should be submitted 15 days prior to your court hearing date.

5. If the court is unable to provide an interpreter, you may bring a person who can speak English with you to act as an interpreter at the proceeding. You may ask a friend or relative (it should be an adult) to act as an interpreter. It must be someone who can understand, speak, and read both your language and English. The court will need to make sure that person is qualified to interpret for you or the witness before the proceeding begins and will require the person to take an oath, swearing to interpret as completely and accurately as possible. If you are going to use a noncertified court interpreter, you should give him or her a copy of the form *Foreign Language Interpreter's Duties—Civil and Small Claims* (form INT-200), which is available on the California Courts website at www.courts.ca.gov/documents/int200.pdf.

REQUEST FOR COURT INTERPRETER