

Proposed Changes to the Local Rules for the Superior Court of the of the State of California, County of Napa – January 2023

The Napa Superior Court proposes to adopt the following changes to its Local Rules, to be effective January 1, 2023. We welcome your comments, which must be submitted by December 2, 2022 to:

Lloyd Llewelyn
Napa Superior Court
825 Brown Street
Napa, CA 94559
lloyd.llewelyn@napa.courts.ca.gov

Summary of Proposed Additions/Changes

RULE 2: COURT ORGANIZATION

- **2.8 Remote Appearances** – The title of this rule, and language are amended to reflect the Court’s transition to permitting remote appearance by Zoom while no longer permitting telephonic appearances.
- **2.10 Electronic Filing** – The previous section 2.10 governed the process for facsimile filing. This provision is being replaced in its entirety by one governing the process for electronic filing.
- **2.13 Court Reporter Services** – This section contains updates reflecting the Court’s policy of not providing Court Reporter Services in proceedings in which they are not legally mandated.

RULE 4: CRIMINAL RULES

- **4.2 Documents Necessary for a Hearing** – Adds the following language to the existing rule: “Plea forms may be submitted by email addressed to: pleaforms@napa.courts.ca.gov.”
- **4.4 In Limine Motions, Witness Lists, and Trial Briefs** – Adds witness lists and trial briefs to the list of the documents that must be in writing and filed served at or before a readiness conference.

RULE 6: CIVIL RULES

- **6.5 Trial Procedures**
 - **Subd. A. Exhibits** – Adds language to the former rule to clarify that exhibits that are “anticipated in good-faith to be” used solely for impeachment purposes are exempt from the pre-trial exhibit exchange requirement to exchange exhibits.
 - **Subd. A. Exhibits** – Adds language requiring parties to meet and confer regarding the authenticity and admissibility of trial exhibits and requires the submission of a Joint Exhibits List identifying documents, if any, as to which the parties stipulate to authenticity and admissibility.
 - **Subd. B Witness Lists** – New subdivision requires parties to exchange witness lists no later than 5 court days prior to the Trial Management Conference.
 - **Subd. C Trial Brief** – New subdivision requires the submission of trial briefs for all jury trials and for all bench trials with an estimated duration of five or more days. Limits trial briefs to eight pages and identifies required content.

RULE 7: FAMILY LAW PROCEEDINGS

- **7.10 Child Custody and Visitation**
 - **Subd. B. Complaints Regarding Appointed Counsel for the Child** - Adopts new procedures for filing and pursuing complaints regarding appointed minor's counsel. These procedures are identical with current procedures required for filing and pursuing complaints regarding court-appointed mediators.
- **7.14 Child Support: Default Procedure for NCDCCS Standard Enforcement Orders** – Provides that the court will grant the Napa County Department of Child Support Services' ("NCDCCS") motion for "standard health insurance and additional page orders" ("Standard Enforcement Order") in all Title IV-D cases NCDCCS administers/enforces unless a timely opposition to the motion is filed with the court. Provides procedures relating to a motion for a Standard Enforcement Order.

Text of Proposed Additions/Changes to the Local Rules

Current Local Rule	Proposed Local Rule
<p>2.8 Telephonic Appearances</p> <p>A. Program Overview. The Napa Superior Court permits telephonic appearances as set forth in California Rules of Court, rules 3.670 and 5.324.</p> <ol style="list-style-type: none"> 1. Preference may be given to cases with telephonic appearances. 2. Hearings are conducted in open court or in private as the court may designate. All attorneys or parties making telephonic appearances call a designated toll-free teleconference number a few minutes before the calendar is scheduled to check in with the clerk. Attorneys or parties remain on the court’s speakerphone telephone line and hear the same business as those present in court. Attorneys or parties not participating telephonically appear in person. The court calls cases for hearing. All attorneys or parties on a case participate in the hearing. All present in the courtroom hear the discourse of those making telephonic appearances, unless the case is heard in private. <p>B. Appearance Procedure.</p> <ol style="list-style-type: none"> 1. An attorney or party making a telephonic appearance must call the court’s designated toll-free teleconference line approximately five (5) minutes prior to the scheduled hearing time and check in with the clerk. An attorney or party calling after the check-in period shall be considered late for the hearing and shall be treated by the court in the same manner as if the attorney or party had personally appeared late for the hearing. 2. An attorney or party appearing telephonically shall participate in the appearance with the same degree of courtesy and courtroom etiquette as is required for a personal appearance. A person appearing by telephone must not use the “hold” button, as it is not within the policy of the court to wait for an attorney or party to rejoin the line. 	<p>2.8 Remote Appearances</p> <p>A. Program Overview. The Napa Superior Court permits remote appearances, telephonic or video, as set forth in Code of Civil Procedure, section 367.75, and California Rules of Court, rules 3.670, 3.672, and 5.324.</p> <ol style="list-style-type: none"> 1. Preference may be given to cases with remote appearances. 2. Hearings are conducted in open court or in private as the court may designate. All remote appearances are made via the Zoom web-based application. Attorneys or parties remain on the in-court audio-visual system and hear the same business as those present in court. Attorneys or parties not participating remotely appear in person. The court calls cases for hearing. All attorneys or parties on a case participate in the hearing. All present in the courtroom hear and, if remote appearance is by video, see the discourse of those making remote appearances, unless the case is heard in private. <p>B. Appearance Procedure.</p> <ol style="list-style-type: none"> 1. An attorney or party making a remote appearance must join through the Zoom web-based application approximately five (5) minutes prior to the scheduled hearing time by following the instructions on the Court’s website: https://www.napa.courts.ca.gov/general-information/remote-appearance/courtroom-remote-appearances. The party will be placed in a virtual “waiting room” until permitted entrance to the hearing by the Court Clerk. An attorney or party calling after the check-in period shall be considered late for the hearing and shall be treated by the court in the same manner as if the attorney or party had personally appeared late for the hearing. 2. An attorney or party appearing remotely shall participate in the appearance with the same degree of courtesy and courtroom etiquette as is required for a personal appearance. A person appearing remotely is encouraged to mute their microphone and disable their video feed until their matter is called. However, all persons appearing remotely must be able to hear the proceedings at all times as the court’s policy does not anticipate the court and other parties waiting for an attorney or party to rejoin.

Current Local Rule

2.10 Facsimile Filing

The Napa Superior Court will accept agency fax filing of all documents except those specified in California Rules of Court, rule 2.300.

Direct filing of documents by fax to the Napa Superior Court is allowed on a case-by-case basis if deemed necessary and appropriate to expedite a matter and then only upon prior approval or by direction of a judicial officer. The telephone number for fax filings is (707) 253-4229 for civil filings, and (707) 253-4673 for criminal filings. The court does not allow direct fax filings of documents that require a fee, a signature of a judge, documents with multiple exhibits, or any document not permitted by law to be faxed. The submitting party is to retain the original of any faxed document, and shall provide it to the court only upon court order or request of opposing party.

A fax filing cover sheet is required and must contain the following information:

1. The judicial officer to whom the fax filing is directed.
2. The judicial officer who permitted a direct fax filing, if applicable, and the date and time of such authorization.

Fax filings must comply with all filing requirements otherwise listed in the State or Local Rules. Compliance with all rules and proper transmission of the documents are the responsibility of the sending party and/or the fax filing service.

The court accepts electronic filings in Civil, Family, Probate, Criminal, Traffic, Juvenile Delinquency and Juvenile Dependency cases. Parties wishing to e-file are required to visit the Court's website to select an electronic filing service provider (EFSP) from the options provided:
<https://www.napa.courts.ca.gov/online-services/efile>.

It is the sole responsibility of the filer to ensure that all documents containing social security numbers, driver's license numbers, and other sensitive information, are properly redacted prior to electronically filing to the court. The Court cannot redact documents that are electronically file.

Proposed Local Rule

2.10 Electronic Filing

The court accepts electronic filings in Civil, Family, Probate, Criminal, Traffic, Juvenile Delinquency and Juvenile Dependency cases. Parties wishing to e-file are required to visit the Court's website to select an electronic filing service provider (EFSP) from the options provided:
<https://www.napa.courts.ca.gov/online-services/efile>.

It is the sole responsibility of the filer to ensure that all documents containing social security numbers, driver's license numbers, and other sensitive information, are properly redacted prior to electronically filing to the court. The Court cannot redact documents that are electronically file.

<p align="center">Current Local Rule</p>	<p align="center">Proposed Local Rule</p>
<p>2.13 Court Reporter Fees</p> <p>Court reporter fees are due and payable at the beginning of the hearing or trial. “Beginning” is defined as the moment the matter is assigned to the trial court and the judicial official calls the action for hearing or trial.</p> <p>Unless the court orders otherwise for good cause, a half-day fee shall be charged for any matter which lasts more than one (1) hour but not more than four (4) hours. A full day fee shall be charged for any matter lasting more than four (4) hours.</p> <p>Court reporter fees are collectible in all matters other than criminal and juvenile matters.</p> <p>Court Reporter fees for the estimated length of the hearing or trial must be deposited prior to hearing or trial in either the civil division, Historic Courthouse, 1st Floor, or in the criminal division, Criminal Courthouse, 1st Floor. For mailing, send to the Napa Superior Court, 825 Brown Street, or 1111 Third Street, Napa, CA 94559.</p> <p>For any hearing estimated to last more than one (1) hour but not more than four (4) hours, each party shall deposit their pro-rata share of \$225.00, or for any hearing estimated to last more than four (4) hours, each party shall deposit their pro-rata of share \$450.00.</p> <p>If, for whatever reason (fee waiver/governmental agency), one side is not required to post fees, the other side(s) shall still be responsible for its pro-rata share. Any delay in payment or deviation from above procedures shall immediately be referred to the trial judge for resolution.</p> <p>.</p>	<p>2.13 Court Reporter Services</p> <p>Official court reporters are not provided by the Court in proceedings for which such services are not legally mandated. These proceedings include civil law and motion and family law matters. If a party wishes to have a proceeding for which court reporter services are not legally mandated reported, they must arrange for a private court reporter of their choosing to be present.</p>
<p>4.2 Documents Necessary for a Hearing</p> <p>Counsel must prepare in advance all documents necessary for any hearing, including, but not limited to, plea forms and probation orders.</p>	<p>4.2 Documents Necessary for a Hearing</p> <p>Counsel must prepare in advance all documents necessary for any hearing, including, but not limited to, plea forms and probation orders.</p> <p>Plea forms may be submitted by email addressed to: pleaforms@napa.courts.ca.gov</p>

4.4 *In Limine Motions*

All *in limine* motions must be in writing. They must be filed and served at or before the Readiness Conference.

4.4 *In Limine Motions, Witness Lists, and Trial Briefs*

All *in limine* motions, witness lists, and trial briefs must be in writing. They must be filed and served at or before the Readiness Conference.

6.5 Trial Procedures

A. Exhibits. All exhibits, except for those used solely for impeachment purposes, must be exchanged between counsel no later than five (5) court days prior to the Trial Management Conference.

Unless otherwise ordered by the court, all exhibits the parties intend to introduce at trial, except those to be solely used for impeachment purposes, must be marked by counsel as exhibits and lodged with the court on the date of the Trial Management Conference. Marking consists of placing the exhibit tag on the exhibit with the case number written on the bottom center of the tag.

Plaintiffs/petitioners must use tags designated “Plaintiff” or “Petitioner”. Defendants/respondents must use tags designated “Defendant” or “Respondent”. The parties may mark joint exhibits, which shall be designated “Joint”.

The parties shall meet and confer and agree on the manner of marking their exhibits. Options include, but are not limited to the following: plaintiffs/petitioners mark their exhibits numerically and defendants/respondents mark their exhibits alphabetically (more than one letter per exhibit is not permitted); the use of numerals in which each party is allocated a block of numbers to be used sequentially, *e.g.*, plaintiff may be allocated numbers 1 to 200, the first defendant numbers 201 to 400, and the second defendant numbers 401 to 600; the use of deposition exhibit numbers. Documentary exhibits consisting of more than one page must be internally paginated in sequential numerical order to facilitate reference to the document during interrogation of witnesses. If there are questions concerning the manner of marking exhibits, please contact the appropriate judicial officer’s judicial assistant.

At the Trial Management Conference, parties shall also submit to the court an index of exhibits with their corresponding numbers or letters. If the trial date is continued, the parties shall retain possession of their own exhibits until the next scheduled Trial Management Conference.

6.5 Trial Procedures

A. Exhibits. All exhibits, except for those anticipated in good-faith to be used solely for impeachment purposes, must be exchanged between counsel no later than five (5) court days prior to the Trial Management Conference.

Unless otherwise ordered by the court, all exhibits the parties intend to introduce at trial, except those to be solely used for impeachment purposes, must be marked by counsel as exhibits and lodged with the court on the date of the Trial Management Conference. Marking consists of placing the exhibit tag on the exhibit with the case number written on the bottom center of the tag.

Plaintiffs/petitioners must use tags designated “Plaintiff” or “Petitioner”. Defendants/respondents must use tags designated “Defendant” or “Respondent”. The parties may mark joint exhibits, which shall be designated “Joint”.

The parties shall meet and confer and agree on the manner of marking their exhibits. Options include, but are not limited to the following: plaintiffs/petitioners mark their exhibits numerically and defendants/respondents mark their exhibits alphabetically (more than one letter per exhibit is not permitted); the use of numerals in which each party is allocated a block of numbers to be used sequentially, *e.g.*, plaintiff may be allocated numbers 1 to 200, the first defendant numbers 201 to 400, and the second defendant numbers 401 to 600; the use of deposition exhibit numbers. Documentary exhibits consisting of more than one page must be internally paginated in sequential numerical order to facilitate reference to the document during interrogation of witnesses. If there are questions concerning the manner of marking exhibits, please contact the appropriate judicial officer’s judicial assistant.

The parties shall meet and confer regarding the authenticity and admissibility of exchanged exhibits. All exhibits that the parties agree are authentic and admissible shall be identified on a “Joint Exhibits List.” The Joint Exhibits List shall bear the following statement:

“The parties hereby stipulate and agree that the exhibits identified on this Joint Exhibits List are authentic and admissible at trial in the action.”

The Joint Exhibits List must be signed by counsel for all parties and shall be filed with the Court no later than two (2) court days prior to the date of the Trial Management Conference.

At the Trial Management Conference, parties shall also submit to the court an index of exhibits with their corresponding numbers or letters. If the trial date is continued, the parties shall retain possession of their own exhibits until the next scheduled Trial Management Conference.

<p>7.10 Child Custody and Visitation</p> <p>...</p> <p>B. Complaints Regarding Appointed Counsel for the Child.</p> <p>Complaints regarding the conduct of or procedures employed by counsel for minor children appointed by the court must be made in writing to the Supervising Family Law Judge and/or Court Executive Officer. A copy of the complaint must be provided to all parties. The court must determine what action to take, if any, including whether the complaint should be referred to the appropriate professional licensing board. The court must provide a written response to all parties and minor’s counsel.</p>	<p>7.10 Child Custody and Visitation</p> <p>...</p> <p>B. Complaints Regarding Appointed Counsel for the Child.</p> <p>Complaints regarding the conduct of or procedures employed by counsel for minor children appointed by the court are handled as follows:</p> <p>Complainant shall complete a form provided by Family Court Services and mail or deliver it to the Court Executive Officer. A copy of the complaint must be provided to all parties.</p> <p>The Court Executive Officer or that officer’s designee (“investigator”) will conduct an investigation of the matter including consultation with the mediator(s) assigned to the case. Within 15 days, the investigator will determine whether to replace the challenged minor’s counsel or take no action. The date and action will be recorded by the investigator and minor’s counsel, the complainant, and all (other) parties will be informed promptly in writing. The investigator’s decision is final.</p>
---	--

7.10 Child Support: Default Procedure for NCDCCS Standard Enforcement Orders.

The court will grant the Napa County Department of Child Support Services' ("NCDCCS") motion for "standard health insurance and additional page orders" ("Standard Enforcement Order") in all Title IV-D cases NCDCCS administers/enforces unless a timely opposition to the motion is filed with the court. "Timely" is defined as 9 court days prior to the hearing date under Code of Civil Procedure section 1005, subdivision (b). If a timely objection to the motion is filed, the matter will proceed to a hearing.

If no timely objection to the motion is filed, NCDCCS may submit the proposed order to the court no earlier than 8 court days prior to the scheduled hearing. The court will enter the order on a default basis and vacate the hearing date. Minor changes will not cause a proposed order to fall outside the ambit of this rule.

If relief other than the Standard Enforcement Order is sought in the motion, and no opposition is filed timely, only the Standard Enforcement Order will be granted pursuant to this rule.

If NCDCCS seeks to invoke the default procedure in this rule, a motion for Standard Enforcement Order must include a written warning that the failure to file a timely opposition will result in the court granting the motion by default. The motion must include the following language: "If opposition to the requested standard health insurance and additional page orders is not filed at least 9 court days prior to the scheduled hearing, the court will grant the motion by operation of rule 7.14 of the Local Rules for the Superior Court of the State of California, County of Napa."

The language contained in the Standard Enforcement Order is reflected on NCDCCS' website. NCDCCS shall advise the court of any changes to the language contained in the Standard Enforcement Order. NCDCCS shall not request relief under this rule using updated language until the court has approved any changes.

NCDCCS shall not seek relief under this rule if it has actual knowledge of a service defect relating to the motion.