







In Your Court...


- ❖ What are your Court's guidelines for persons wishing to appear telephonically?
- ❖ How do your Courts handle telephonic appearance requests?
- ❖ How are these cases handled in your Courtroom?
- ❖ How does this process compare with the code sections?



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Request for Telephonic Appearance Form FL-679

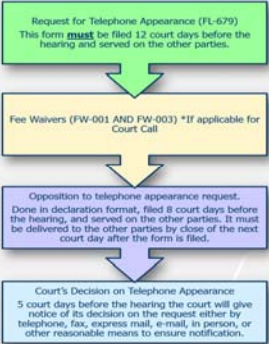

- ❖ Adopted Mandatory Use
 - ❖ Note: Courts may choose to use their own forms and/or practices
- ❖ Some Court Call Vendors may charge/waive fee.
- ❖ Issues with Fee Waiver Collections
 - ❖ How does your court deal with fee waivers? For convenience, does your court send copy to vendor?
 - ❖ Does your vendor accept an e-mail from the Court as proof?
- ❖ All relevant participants may request to appear telephonically
 - ❖ Note: Commissioner advisement is stated on the form
- ❖ Page 2, item 11: If financial issues to be decided, party acknowledges filing all "necessary pleadings"
- ❖ Response, I&E, etc.



Not Allowed:

- ❖ Contested Trials
- ❖ Contempts
- ❖ OEXs
- ❖ Under Subpoena
- ❖ As ordered by Court

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Presentation

Objectives

- ❖ Explain what a minute order is
- ❖ Define basic minute order requirements
- ❖ Understand basic minute order guidelines
- ❖ Know how the minute order for 1058 child support courtrooms differs from others




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A Minute Order is...

The clerk's minutes is the official record of the Court's proceedings, required by law, showing who was present at the hearing and what happened, as well as what findings and orders the court made.

Meskill v. Culver City Unified School District (1970) 12 Cal.App.3d 815, 821



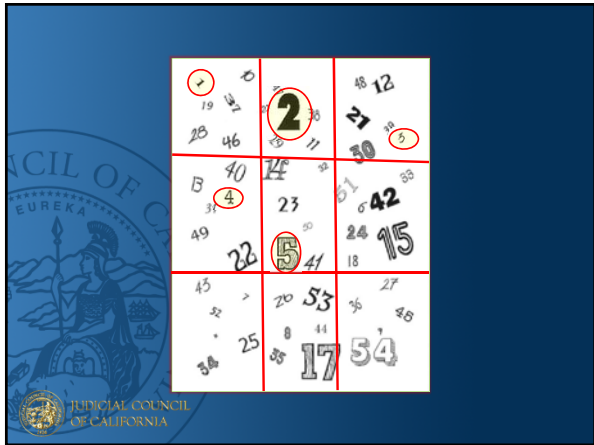
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Guidelines for Minutes

The clerk of the superior court shall keep the minutes and other records of the court, entering at length within the time specified by law, or forthwith if no time is specified, any order, judgment, and decree of the court which is required to be entered and showing the date when each entry is made. Failure so to enter the date or failure to enter the order, judgment, or decree within the time specified in this section shall not affect the validity or effectiveness of the entry.

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Content

Aside from the chronological record of events (and maintaining clarity of the court orders), the minute order is the official document reflecting the findings and orders made by the Judge/Commissioner. The language of the minute order is precise. The content of a minute order may be divided into the following categories:

- Heading
- Body
- Closure

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Mandatory items

needed on minutes

- ❖ Date of hearing
- ❖ Judicial Officer
- ❖ Court Clerk
- ❖ Court Reporter (if any)
- ❖ Bailiff (if any)
- ❖ Type of Hearing
- ❖ Parties who are present


Family Law Code §4251
 Advisement (if case heard by Commissioner)

Findings made by judge

Orders made by judge

Future hearing dates (if any)

Exhibits (if any)



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Note: the clerk's minutes is not a detailed word-for-word description of the court hearing, but rather an outline of the important components of the court hearing

Not all information needs to be in the body of the minutes – it may be in the heading

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Guidelines for Minutes


- ❖ Use complete sentences.
- ❖ Present tense or past tense (need to be consistent)
- ❖ Better to say too much than too little
- ❖ Chronological record of events
- ❖ Do not use abbreviations (i.e. OSC, FTA, BW, MRPS)
- ❖ Keep in mind your minutes may be read by Judicial Officers, counsel, the public, the Appellate Court, and possibly the Supreme Court
- ❖ Judicial Council Form FL-692, adopted for *alternative mandatory use*.

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WHAT NOT TO DO...



Can you repeat the part of the stuff where you said all about the things?





Group Discussion

- ❖ Does your Commissioner require anything else besides the basic guideline language in your minute order?
- ❖ Do you have any strategies for multitasking and listening for orders for your minutes?
- ❖ Do you have any creative ways to get your minute orders completed?




Family Code §4057

- ❖ Deviations to Guideline
- ❖ May be downward (less than guideline) or upward (more than guideline)
- ❖ Must include Court's findings as to why deviation is in the best interest of the child(ren)

**FAMILY CODE – 4057
(excerpts)**

- ❖ (a) The amount of child support established by the formula provided in subdivision (a) of Section 4055 is presumed to be the correct amount of child support to be ordered.
- ❖ (b) The presumption of subdivision (a) is a rebuttable presumption affecting the burden of proof and may be rebutted by admissible evidence showing that application of the formula would be unjust or inappropriate in the particular case, consistent with the principles set forth in Section 4053, because one or more of the following factors is found to be applicable by a preponderance of the evidence, and the court states in writing or on the record the information required in subdivision (a) of Section 4056:
 - ❖ (1) The parties have stipulated to a different amount of child support under subdivision (a) of Section 4065.



Family Code §4057(b)(3)

(3) The parent being ordered to pay child support has an extraordinarily high income and the amount determined under the formula would exceed the needs of the children.



**Marriage of Cryer, Jon & Sarah
Court of Appeal, Second District,
California Case No. B222906**



- ❖ Mom originally had custody; Dad paid \$10,000/month child support per stipulation
- ❖ Due to CPS case, Dad got full custody and requested reduction to zero
- ❖ Per child support calculator, guideline child support should be \$1,141 from Dad to Mom



♦ Court deviated UPWARD per Family Code §4057 (b) and ordered Dad to pay Mom child support of \$8,000 due to the disparity in their incomes.
 Dad ordered to pay \$40,000 for Mom's attorneys' fees (she had requested \$90,000)
 Court of Appeal upheld trial court's orders.

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MINUTE ORDER ENTRY EXERCISE

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Examples of minute orders from Odyssey

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Cyndi Thompson
(Multitasking Ninja Clerk for over 10 years)
Family Law Court Clerk II
Mariposa County Superior Court

Mitzi Kaufman
(Former Multitasking Ninja Clerk for over 11 years)
Program Coordinator/Specialist
DCSS/Family Law Division
Orange County Superior Court
