

**MEMORANDUM OF UNDERSTANDING
FOR JUVENILE DEPENDENCY COUNSEL COLLECTION SERVICES,
EL DORADO COUNTY DEPARTMENT OF CHILD SUPPORT
SERVICES' REVENUE RECOVERY DIVISION AND
THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF EL DORADO**

This Memorandum of Understanding ("MOU") is made as of July 1, 2014 ("Effective Date"), between the El Dorado County Department of Child Support Services' Revenue Recovery Division ("County"), a political subdivision of the State of California, and the Superior Court of California, County of El Dorado ("Court"), an entity of the California Judicial Branch organized under Article VI of the California Constitution (individually, a "Party"; collectively, the "Parties").

BACKGROUND

- A. The Judicial Council, in compliance with Welfare and Institutions Code section 903.47, has established the Juvenile Dependency Counsel Collections Program (JDCCP), effective January 1, 2013, to collect reimbursements from persons liable under section 903.1 for the courts' costs of appointing counsel to represent parents or children in juvenile dependency proceedings. The Court is required to implement the JDCCP at the local level.
- B. The Court and County have reached an agreement regarding implementation of the JDCCP and wish to set forth their respective rights and responsibilities in this MOU.

AGREEMENT

The Parties agree to the following:

1. COLLECTIONS PROGRAM

- a. The County will collect, from any person liable under section 903.1 for the cost of dependency-related legal services and ordered by the court to pay all or part of those costs, the amount ordered reimbursed under section 903.45. (Accounts).
- b. The County will remit to the El Dorado Superior Court Transition Fund, via deposit permit, all revenue collected from the Accounts. The County may retain a portion of the revenue collected from the Accounts, not to exceed 25% of the

funds collected, as a commission. The County shall transfer monthly by journal entry its reimbursement amount into a Revenue Recovery revenue account, and transfer monthly by journal entry net collections to the Court's trust account.

- c. The Court will remit all revenue collected or derived from the Accounts and received from the County, less any eligible program costs, to the state by depositing that revenue into the same bank account established under, and in the same manner as prescribed under, Government Code section 68085.1(b).
- d. The County will provide the Court with a report no later than the fifteenth [15th] day of each month. This report, produced in the format regularly used by the court to meet its fiscal reporting requirements to the AOC, must indicate the following: 1) the gross revenue collected by the county from all Accounts in the preceding calendar month; and 2) the net revenue remitted to the Court from all Accounts in that same month.
- e. The County may accept full, partial, or installment payments on any Account unless inconsistent with the order for reimbursement.

2. JOINT RESPONSIBILITIES

The Parties will:

- a. Provide upon request of either party, any reports necessary for administrative or fiscal purposes in a timely manner.
- b. Work cooperatively to maximize revenue collections and the quality of service provided to each other and to the public. Each Party will designate an employee to act as the contact person for the other Party to facilitate the exchange of information and resolve any day-to-day issues. In addition, the Parties will conduct management-level meetings on an as-needed basis, but not less often than once every quarter.
- c. Safeguard as confidential all information shared between the Parties to carry out the purpose of this MOU. Except as necessary under this MOU, neither Party will disclose the information shared between the Parties to a third party without the prior written consent of the other Party, with the exception of audits performed by the AOC, the State Controller's Office (SCO), or another legally authorized agency.
- d. Comply with the most recent version of the JDCCP guidelines approved by the Judicial Council of California. (See Cal. Rules of Court, appendix F.) The Parties will develop a cooperative plan and a manual of operational policies and

procedures as necessary to implement these guidelines. The Parties will cooperate as necessary to submit statistical reports to the Judicial Council on the implementation of the JDCCP on the schedule and in the form required by the section 13 of the guidelines.

- e. Monitor and implement any changes or modifications to state laws, rules, or regulations affecting the activities covered by this MOU and notify the other party of any such change.

4. ALLOWABLE DEDUCTIONS

- a. The Court may recover, from the revenue collected and in addition to any commission agreed to with the County, any program implementation costs eligible for recovery under Welfare and Institutions Code section 903.47(a)(1)(B) and section 12 of the JDCCP guidelines. The Court may recover its eligible costs before recording net collected revenue on form TC-145 and remitting that revenue under 1c.
- b. Each Party's obligations for collection efforts remain in effect notwithstanding that Party's inability to defray its costs related to such collection efforts for any reason. Neither Party has any obligation to pay or reimburse the other party for any costs incurred by it in performing its obligations under this MOU.
- c. If the revenue remitted by the County in any month is insufficient to allow the Court to recover all of its eligible costs incurred in that month, the Court may, subject to the regulations and guidelines promulgated by the Judicial Council and the SCO, roll that shortfall over to the subsequent month(s) for recovery. Notwithstanding the preceding, the Court may not roll a shortfall over for recovery to a subsequent fiscal year.

5. TERM/TERMINATION

- a. The term of this MOU will be for two years, beginning on the Effective Date. This MOU will automatically renew thereafter for one year on the anniversary of the Effective Date, unless terminated by any Party in accordance with 5b.
- b. Either party may terminate this MOU by providing written notice of intent to terminate to the other Party at least ninety [90] days before the termination date.

6. DISPUTE RESOLUTION

If, after thirty [30] calendar days of negotiation, the Court and the County cannot resolve a dispute regarding the interpretation or performance of this MOU or

cannot agree on a new collections program, either Party may request a meeting between the Court Executive Officer and the County Administrative Officer for the purpose of resolving the dispute. If such meeting is requested, the meeting will be held within ten [10] days of the receipt of such request. If the meeting fails to occur or fails to resolve the dispute, the dispute will be submitted to nonbinding mediation. If the mediation fails to resolve the dispute, either Party may request binding arbitration by a third party mutually agreed upon by the Administrative Director of the Courts and the California State Association of Counties. Until the dispute is resolved, the Parties will continue to operate the JDCCP as set forth in this MOU and perform and observe their respective responsibilities and rights hereunder.

7. COMPLIANCE WITH AUDITS; RECORDS RETENTION REQUIREMENTS

- a. The Parties will accept receipt of, reply to, or comply with any audit by an appropriate state audit agency that directly relates to this MOU or to funds to be collected, handled, remitted, or deposited hereunder. The Parties will each maintain an accounting system and supporting fiscal records to comply with state audit requirements related to this MOU. The County will implement and follow the requirements set forth in the Information Practices Act of 1977 (California Civil Code section 1798 et seq.) with respect to all personal and confidential information accessed through the Court's computer systems.
- b. The Parties will maintain and preserve all records and documentation related to this MOU, including records related to billings and other financial records, in an accessible location and condition for a period of not less than five years after an Account has been closed or until after an ongoing audit involving an Account has been resolved, whichever is later. Each Party will adequately protect all records against fire or other damage.

8. GENERAL PROVISIONS

- a. Entire Agreement. This MOU constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all previous modifications, agreements, proposals, negotiations, representations, and commitments, both oral and written, between the parties to this MOU.
- b. Amendment. No addition to or alteration of the terms of this MOU will be valid unless made in the form of a written amendment, which is formally approved and executed by the governing bodies of each of the Parties, or their respective authorized designees.

- c. Further Assurances. Each Party agrees to cooperate with the other, and to execute and deliver, or cause to be executed and delivered, all such other instruments and documents, and to take all such other actions as may be reasonably requested of it from time to time, in order to effectuate the provisions and purposes of this MOU.
- d. Waiver. Any waiver by either Party of the terms of this MOU must be in writing and executed by an authorized representative of the waiving party and will not be construed as a waiver of any succeeding breach of the same or other term of this MOU.
- e. Severability. The provisions of this MOU are separate and severable. If any provision of this MOU shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby. Any such provision will be enforced to the maximum extent possible so as to effect the reasonable intent of the Parties and will be reformed without further action by the Parties to the extent necessary to make such provision valid and enforceable.
- f. Independent Contractor. Each Party will be, and is, an independent contractor, and is not an employee or agent of the other Party, and neither Party nor any person engaged by a Party to perform the services described herein is covered by any employee benefit plans provided to the employee of the other Party. Each Party is liable for the acts and omissions of itself, its employees, its subcontractors and its agents. Nothing in this MOU will be construed as creating an employment or agency relationship between the Parties. Each Party will determine the method, details, and means of performing its obligations under this MOU, including, without limitation, exercising full control over the employment, direction, compensation and discharge of all persons assisting the respective Party. Each Party will be solely responsible for all matters relating to the payment of its employees, including compliance with social security, withholding any and all employee benefits, and all regulations governing such matters.
- g. Risk Allocation. It is the intention of both parties that neither will be responsible for the negligent and/or intentional acts and/or omissions of the other, or its judges, subordinate judicial officers, directors, officers, agents and employees. The Parties therefore disclaim in its entirety the pro rata risk allocation that could otherwise apply to this MOU pursuant to Government Code 895.6. Instead, pursuant to Government Code section 895.4, the Parties agree to use principles of comparative fault when apportioning any and all losses that may arise out of the performance of this MOU.

- h. Counterparts. This MOU may be executed in counterparts, each of which is considered an original but all of which together shall constitute one instrument.
- i. Notices. Any notices required to be given pursuant to the terms and provisions of the MOU shall be in writing and shall be delivered to:

County: Department of Child of Support Services
 Revenue Recovery Division
 3883 Ponderosa Rd.
 Shingle Springs, CA 95682
 Attn: Director

Court: Superior Court Executive Officer
 2850 Fairlane Court, Building C
 Placerville, CA 95667
 Attn: Court Executive Officer

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the day and year first below written.

SUPERIOR COURT OF CALIFORNIA,
 COUNTY OF EL DORADO

Date: 7/3/14

By: *Joanne Kennedy*
 Presiding Judge

COUNTY OF EL DORADO

Date: 8/5/14

By: *Norma Santiago*
 Chair, Board of Supervisors

ATTEST: James S. Mitrison
 Clerk of the Board of Supervisors
 glh By: *Marcie MacFarland*
 Marcie MacFarland, Deputy Clerk

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