

CHAPTER 5 - FAMILY LAW

5.00 Title of Rules.

These rules shall be known as the Family Law Local Rules for the Superior Court of California, County of Sacramento.

(Adopted 1/1/2013)

5.01 Construction of Provision Drawn From the Family Code, California Rules of Court, Code of Civil Procedure, Evidence Code, or Other Uniform Act.

A provision of these rules, insofar as it is the same in substance as a provision of the Family Code, California Rules of Court, Code of Civil Procedure, Evidence Code, or other uniform act shall be construed to effectuate the general purpose of said codes or uniform act.

(Adopted 1/1/2013)

5.02 Effect of Headings.

Section headings herein do not in any manner affect the scope, meaning, or intent of these rules.

(Adopted 1/1/2013)

5.03 Construction of Rules.

Unless the provision or context otherwise requires, the general provisions and rules of statutory construction apply to these rules.

(Adopted 1/1/2013)

5.04 Reference to Statute Includes Amendments and Additions.

Whenever a reference is made to statutory law or Rules of Court, the reference applies to all amendments and additions thereto regardless of when made.

(Adopted 1/1/2013)

5.05 Construction of Tenses.

The present tense includes the past and future tenses, and the future, the present.

(Adopted 1/1/2013)

5.06 Meaning of Shall, May, Shall Not, and May Not.

"Shall" is mandatory and "may" is permissive. "Shall not" and "may not" are prohibitory.

(Adopted 1/1/2013)

5.07 Severability of Provisions.

If a provision or clause of these rules or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of these rules which can be given effect without the invalid provision or application, and to this end the provisions of these rules are severable.

(Adopted 1/1/2013)

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5.08 Definitions and Use of Terms.

As used in these rules, unless the context or subject matter otherwise requires, the following definitions apply:

"Confidential Mediation" means child custody mediation that is confidential; non-recommending mediation.

"Court-connected Mediation" means "child custody recommending counseling" through the Office of Family Court Services.

"Evaluator" means a court appointed investigator as defined in Family Code section 3110.

"Law and Motion" means all hearings set by the filing of a Request for Order or Request for Domestic Violence Restraining Orders.

"Long Cause Hearing" means a law and motion hearing that cannot be completed within the 15 minutes allowed for short cause hearings.

"Mediation" means "child custody recommending counseling."

"Mediator" means a "child custody recommending counselor."

"Presiding Judge" means the Presiding Judge of the Superior Court of California, County of Sacramento.

"Private Mediation" means child custody and visitation mediation conducted by a non-court connected mediator (child custody recommending counselor).

"Self-represented party" means a party not represented by an attorney of record.

"Short Cause Hearing" means a hearing on a law and motion calendar that shall be completed within 15 minutes.

"Status Only Judgment" means a Judgment of Dissolution of Marriage or Legal Separation that affects the marital status only and that reserves jurisdiction over all remaining issues in the action, if any.

"Supervising Judge" means the Supervising Judge of Family Law.
(Adopted 1/1/2013)

5.09 Assignments in Family Law Departments.

Family Law cases shall be assigned to family law departments as the Supervising Judge determines.
(Adopted 1/1/2013)

5.10 Pending Hearing Date: Disclosure on Pleading.

All pleadings filed for use at a pending hearing shall bear the date and time of the hearing, and department number in which the hearing is set, under the case number of the first page of the pleading or form. If a hearing is not set, the pleading or form shall bear the words "No Hearing."
(Adopted 1/1/2013; revised 1/1/2016)

5.11 First Appearance by Appearance, Stipulation & Waivers: Filing Fee Due.

If the respondent makes a general appearance by filing an Appearance, Stipulations, and Waivers (local form FL-130), the respondent's name, address, and telephone number shall be included in the caption section at the top of said form. Unless waived, Respondent's first appearance fee shall be paid at the time local form FL-130 is filed.
(Adopted 1/1/2013)

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5.12 Signature of Self-Represented Party on Agreement or Stipulation - Notary Required.

The signature of a defaulted self-represented party to an Agreement or Stipulation shall be subscribed by a duly authorized Notary Public.

(Adopted 1/1/2013; revised 1/1/2016)

5.13 Ex Parte Application.

(A) Ex parte applications are governed by California Rules of Court, rule 5.151.

(B) Applications for ex parte relief and oppositions thereto shall be filed directly in the assigned department based on the case assignment protocol located on the court's website at <https://www.saccourt.ca.gov>. Ex parte applications are heard on Monday through Friday at 8:30 a.m.

(C) If the party giving notice of the ex parte application fails to report to the department by 8:30 a.m., the application shall be dropped.

(Adopted 1/1/2013; revised 1/1/2014)

5.14 Order Shortening Time - Request for Order.

The court, on its own motion or on application for an order shortening time supported by a declaration showing good cause, may prescribe shorter times for the filing and service of papers than the times specified in Code of Civil Procedure section 1005.

(Adopted 1/1/2013)

5.15 Law and Motion Pleadings - Filing - Assignment. Time Limitation.

(A) Law and Motion pleadings shall be filed with the clerk of the court in room 100.

(B) All Law and Motion shall first be set for a short cause hearing. A short cause hearing shall have a maximum duration of 15 minutes, unless extended by leave of court.

(C) Law and Motion that exceeds, or is likely to exceed, 15 minutes maximum duration may be set for long cause hearing.

(Adopted 1/1/2013)

5.16 Confidential Mediation.

Mediation resulting from a Petition for Confidential Mediation shall be confidential and, except as otherwise authorized by law, there shall be no mediation report offered to the court.

(Adopted 1/1/2013)

5.17 Recommending Mediation.

(A) Except as provided in Local Rules, rule 5.16, mediation of child custody and visitation disputes is non-confidential, and a written report including recommendations may be provided to the parties, counsel, and court pursuant to Family Code section 3183 through the court's Public Case Access System located on the website at <https://www.saccourt.ca.gov> and shall be brought by the parties to any hearing involving custody or visitation issues. Said reports and recommendations may be offered for admission into evidence at hearing or trial, subject to procedural or evidentiary objection.

(B) Pursuant to Family Code section 3183, "mediation" shall be formally known as "child custody recommending counseling" and a "mediator" shall be formally known as a "child custody recommending counselor."

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(C) Parties participating in court-connected mediation and child custody recommending counseling through the Office of Family Court Services shall comply with the rules located on the court's website at <https://www.saccourt.ca.gov/family/fcs.aspx>.

(D) Ex parte communication between parties, counsel, and court shall be governed by applicable statutes and California Rules of Court.

[Rule required by CRC 5.210(d)(1)(H)]

(Adopted 1/1/2013; revised 1/1/2014; revised 1/1/2016; revised 1/1/2018)

5.18 Private Mediation - Procedure - Mediator Standards - Requests to Change - General Problems.

(A) "Private Mediation" is child custody and visitation mediation conducted by a non-court connected mediator (child custody recommending counselor).

(B) A party may request that mediation of disputed custody and visitation issues be conducted by a private mediator not affiliated with the court. Written notice of a request for private mediation shall be made by filing a Petition for Private Child Custody Recommending Counseling (local form FL/E-LP-601), together with an Order of Private Child Custody Recommending Counseling (local form FL/E/LP-603) and Declaration of Private Child Custody Recommending Counselor Regarding Qualifications (local form FL/E-FR-411) for each mediator proposed in the Petition. Absent agreement otherwise, the party filing the Petition shall advance the cost of private mediation and the court shall reserve jurisdiction to allocate the costs by further order.

(C) Absent a Stipulation, the petition (local form FL/E-LP-601), together with the Declarations (local form FL/E-FR-411) and a blank Response to Petition for Private Child Custody Recommending Counseling (local form FL/E/LP-602), shall be served on all parties. Within seven days of service of the Petition (local form FL/E-LP-601) on all parties, any party may object to the relief requested in the Petition (local form FL/E-LP-601) by filing and serving the Response (local form FL/E/LP-602).

(D) Service of the Petition shall be by personal delivery.

(E) The court may, on the pleadings, grant or deny the relief requested, or it may set the matter for hearing.

(F) An order for private mediation shall, by itself, terminate court affiliated mediation.

(G) Private mediators shall be subject to the same standards, and have the same rights, responsibilities, and duties, as court-connected mediators.

(H) Requests to change private mediators shall be submitted to the Supervising Judge and may be granted only upon a showing of good cause.

(I) General problems relating to private mediation shall be submitted in writing to the Supervising Judge for review.

(Adopted 1/1/2013; revised 1/1/2014; revised 1/1/2015)

5.19 Court Ordered Child Custody Evaluations - Finding a Qualified Evaluator.

(A) California Rules of Court, rule 5.220 is implemented.

(B) There shall be no peremptory challenge to a court appointed evaluator.

(C) A court appointed child custody evaluator may petition the court to withdraw from a case.

(D) Ex parte communication between parties, counsel, and court shall be governed by applicable statutes and Rules of Court.

[Rule required by CRC 5.220(d)(1)]

(E) A party may obtain information about finding a qualified evaluator by consulting directories in the local area.

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(Adopted 1/1/2013)

5.20 Admission of Mediation or Evaluation Reports at Short Cause Hearings.

Absent a timely evidentiary objection, or a request for live testimony pursuant to Family Code section 217, the court may receive a mediator's or evaluator's report into evidence and consider its contents at a short cause hearing.

(Adopted 1/1/2013)

5.21 (Deleted effective 1/1/2014)

5.22 Temporary Spousal Support - Calculation.

Except for good cause shown, temporary spousal support shall be calculated by using the computation method commonly known as the "Santa Clara formula" programmed into the support software certified by the Judicial Council. (40% of High Earners net income (less child support) minus 50% of Low Earner's net income = Temporary SS.)

(Adopted 1/1/2013)

5.23 Continuance - Short Cause Hearing, Long Cause Hearing, Trial.

(A) The dates assigned for hearing and trial are firm. All parties and their counsel must regard the date set for hearing and for trial as certain.

(B) A party seeking a continuance of the date set for hearing or trial, if contested, must make the request for a continuance by noticed motion or an ex parte application with supporting declaration. The party must make the motion or application as soon as reasonably practical once the necessity for the continuance is discovered. Noticed motions or ex parte applications to drop or continue mandatory settlement conference, long cause hearing, or trial shall be heard by the Supervising Judge or judge assigned by the Supervising Judge.

(Adopted 1/1/2013; revised 1/1/2016)

(C) A stipulated request to drop or continue a hearing or trial may be submitted by using Facsimile Request to Drop or Continue Hearing, Long Cause Hearing or Trial by Stipulation (local form FL/E/CT-031) no less than two business days before the hearing.

(Adopted 1/1/2016)

(D) Although continuances of hearings and trials are disfavored, each request for a continuance shall be considered on its own merits. The court may grant a continuance only on an affirmative showing of good cause requiring the continuances. Circumstances that may indicate good cause are specified in California Rules of Court, rule 3.1332(c) and (d).

(Adopted 1/1/2013; revised 1/1/2016)

5.24 Telephone Appearance.

(A) Except for Title IV-D child support departments which are subject to California Rules of Court, rule 5.324, the court, in its discretion, may permit a party to appear by telephone. A written request for telephone appearance using Family Law Request for Telephone Appearance (local form FL/E-CT-022) shall be filed in the department in which the hearing is set not less than 10 court days before the hearing date.

(B) If the request is made by a restrained party in a domestic violence or elder or dependent abuse proceeding, the request must be filed at least three calendar days before the hearing.

[Rule required by CRC 5.9(C)]

(C) Telephone appearances for domestic violence and elder or dependent abuse proceedings shall be made through Court Call LLC at 1-888-882-6878 or at www.courtcall.com. Notice: Use of this service will require the payment of a fee.

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(Adopted 1/1/2013; revised 1/1/2014; revised 1/1/2015; revised 1/1/2018)

5.25 Discovery - Pre-Judgment - Post-Judgment.

(A) Pre-judgment discovery is subject to the rules and procedures of the Civil Discovery Act (Part 4, Title 4, of the Code of Civil Procedure) and the California Rules of Court. In addition to all Discovery conducted prior to entry of Judgment, "Pre-judgment" includes discovery related to "reserved bifurcated issues" after a "status only judgment" has been entered.

(B) Post-Judgment discovery is subject to the rules and procedures of the Civil Discovery Act (Part 4, Title 4, of the Code of Civil Procedure) and the California Rules of Court, excepting that "*the date initially set for trial of the action*" specified in Code of Civil Procedure section 2024.020(a) shall mean the date the post-judgment motion was initially set for "long cause hearing."

(Adopted 1/1/2013; revised 1/1/2014)

5.26 Trial Setting Memorandum to Set.

(A) A party may set all issues in a case for trial by filing a Memorandum to Set (Family Law) (local form FL/E-LP-625). Prior to filing the Memorandum to Set, the filing party shall have:

(1) Verified that a Response, Answer, or other responsive pleading is filed in the case;

(2) Served the Preliminary Declaration of Disclosure and the final Declaration of Disclosure on all other parties to the action;

(3) Provided responses to discovery propounded under the Discovery Act, excepting that discovery properly objected to; and

(4) Met and conferred, or attempted to meet and confer, with all other parties to determine agreed upon Mandatory Settlement Conference and Trial dates.

(B) Within 10 days of service of the Memorandum to Set, any party may object to the trial setting by filing a Notice of Hearing on Memorandum to Set/Counter Memorandum to Set (Family Law) (local form FL/E-LP-605) in Department 128 and serving the same on all other parties. If local form FL/E-LP-605 is timely filed, Mandatory Settlement Conference and Trial dates shall not be set until the court has resolved the trial setting dispute.

(C) Trial dates are posted on the court's website at <https://www.saccourt.ca.gov>.

(Adopted 1/1/2013; revised 1/1/2014; revised 1/1/2017; revised 1/1/2018)

5.27 Time Estimates - Long Cause Hearing and Trial.

At the time a case is set for long cause hearing or trial, the parties shall provide a time estimate of the anticipated length of the long cause hearing or trial. The court will rely on the accuracy of the time estimate in setting cases and managing its calendar. All parties must regard the time estimate as certain. If the case is not completed within the time estimate, the court may deem the case submitted on the evidence received, order the case off calendar, declare a mistrial, or complete the trial or hearing.

(Adopted 1/1/2013)

5.28 Mandatory Settlement Conference - Long Cause Hearing, Trial.

(A) Except as provided in subsection (B), a Mandatory Settlement Conference shall be set for all matters proceeding to long cause hearing or trial.

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(B) Mandatory Settlement Conference is not required for the following proceedings: Adoptions, Termination of Parental Rights in Adoption Proceedings, Freedom from Parental Custody and Control, Contempt, and Domestic Violence Prevention Act.

(C) Until excused by the court, each party and counsel shall personally appear at the Mandatory Settlement Conference and shall negotiate in good faith toward resolution of the issues then pending before the court.

(D) Unless the court orders another time period, no later than five court days before the date set for Mandatory Settlement Conference, the parties shall meet and confer, in person or by telephone, and shall:

(1) Identify the facts and issues set for hearing or trial that are uncontested and may be the subject of stipulation;

(2) Identify the facts and issues in the case that are in dispute;

(3) Identify the amount in dispute given the parties respective positions, to the extent the issue lends itself to such an analysis;

(4) Identify and, if possible, resolve, any disclosure or discovery disputes;

(5) Identify and, if possible, resolve, any evidentiary disputes;

(6) Determine whether the cost incurred by the parties to proceed to hearing or trial is reasonable as measured against the amount in dispute; and

(7) Determine whether settlement is possible.

(E) If both parties are self-represented and there is a Domestic Violence Restraining Order or other order prohibiting contact between the parties, then the requirement to meet and confer is excused.

(F) Failure to comply with this rule may result in sanctions as authorized in Code of Civil Procedure section 575.2. (Adopted 1/1/2013)

5.29 Statement of Issues and Contentions.

(A) At least 20 days prior to the date set for Mandatory Settlement Conference, each party shall serve a Statement of Issues and Contentions on all other parties to the case.

(B) The original and two copies of the Statement of Issues and Contentions shall be presented to the courtroom clerk in Department 128 for filing and endorsement. The original Statement of Issues and Contentions shall be filed. The two copies shall be endorsed and retained by the court for use by the settlement conference temporary judges.

(C) The Statement of Issues and Contentions shall identify each issue in dispute, the contention of the party as to each issue in dispute, and the legal authority supporting the party's contention, excluding extensive argument.

(D) The format of the Statement of Issues and Contentions shall be:

(1) Caption: In addition to that required by Code of Civil Procedure section 422.30, the caption shall bear the date and time of the mandatory settlement conference and of the long cause hearing or trial on the first page of the pleading immediately beneath the case number and pleading title.

(2) Statistical information:

(a) Date of marriage and date of separation, if a marital case;

(b) Names and dates of birth of all minor children.

(3) Current Orders: Identify each current order by date the order was issued for the following:

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- (a) Child custody and visitation;
- (b) Child support;
- (c) Spousal support;
- (d) Domestic violence restraining order.

(4) Contested Issues and Contentions: Identify each issue in dispute, the contention of the party as to each issue in dispute, and the legal authority supporting the contention. The order of identification shall be:

- (a) Custody and visitation;
- (b) Child support;
- (c) Spousal support;
- (d) Property characterization and division;
- (e) Credits, reimbursements, and offsets;
- (f) Attorney fees and costs;
- (g) Other miscellaneous disputed issues.

(E) In the event that a Mandatory Settlement Conference is continued, all parties shall serve and file a Supplemental Statement of Issues and Contentions within the time prescribed by this rule.

(F) Failure to comply with this rule may result in sanctions as authorized in Code of Civil Procedure section 575.2. (Adopted 1/1/2013)

5.30 (Deleted effective 1/1/2014)

5.31 Stipulation to Establish or Modify Child Support - Child Receiving Public Assistance.

A stipulation to establish or modify child support payable for a child receiving public assistance shall be approved and signed by an authorized representative of the local child support agency of the county providing public assistance, or of the county in which the existing child support order is registered.

(Adopted 1/1/2013)

5.32 Requests to Change Mediators - Peremptory Challenge to Court-Connected Mediator; Complaints.

(A) There shall be no peremptory challenge to a court-connected mediator.

(Adopted 1/1/2013; revised 1/1/2016)

(B) Complaints relating to court-connected mediation may be identified in writing and submitted to the Family Court Services Manager for review. Complaints relating to private mediation may be identified in writing and submitted to the Supervising Judge for review.

(Adopted 1/1/2013; revised 1/1/2016)

5.33 Complaint Process - Child Custody Evaluators.

A party to the action may present a complaint about the performance of a child custody evaluator to the Supervising Judge. Said complaint shall be in writing and copies of the complaint shall be served on all parties. A proof of

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service evidencing service of the complaint on all parties is required. A response to the complaint, if any, shall be presented to the Supervising Judge within seven days of service of the complaint. Said response shall be in writing and copies of the response shall be served on all parties. A proof of service evidencing service of the response on all parties is required. Upon receipt of the complaint and the response, if any, the Supervising Judge may respond to the complaint as the Supervising Judge deems appropriate.

[Rule required by CRC 5.225(k)]

(Adopted 1/1/2013)

5.34 (Deleted effective 1/1/2015)

5.35 Filing Fee - Pleadings Filed by Minor's Counsel On Behalf of Minor.

The filing fee for a pleading filed by minor's counsel on behalf of a minor child is waived for said minor. The court may assess the filing fee to a party, or parties, to the action.

(Adopted 1/1/2013)

5.36 Minor's Counsel - Complaint Procedure.

A party to the action may present a complaint about the performance of minor's counsel to the Supervising Judge. The complaint shall be in writing and copies of the complaint shall be served on all parties. A proof of service evidencing service of the complaint on all parties is required. A response to the complaint, if any, shall be presented to the Supervising Judge within seven days of service of the complaint. Said response shall be in writing and copies of the response shall be served on all parties. A proof of service evidencing service of the response on all parties is required. Upon receipt of the complaint and the response, if any, the Supervising Judge may respond to the complaint as the Supervising Judge deems appropriate.

[Rule required by CRC 5.240(e)]

(Adopted 1/1/2013)

5.37 Family Law Facilitator - Additional Duties.

To the extent adequate funding is provided, the Family Law Facilitator may perform the following duties in addition to those mandated by Family Code section 10004:

(A) Assist the clerk in maintaining records;

(B) Prepare formal orders consistent with the court's announced order;

(C) Provide the services specified in Family Code section 10004 concerning the issues of child custody and visitation as they relate to calculating child support;

(D) Other duties as the court may from time to time approve as promoting the purpose and intent of Division 14 of the Family Code.

(Adopted 1/1/2013)