

EMERGENCY RULE 3. FAMILY LAW DIVISION

The Court adopts and implements the following as Emergency Local Rule 3 for the Family Law Division, under the authority granted to the Court by the March 23, 2020, and March 30, 2020, Orders of the Chief Justice of the California Supreme Court, as Chair of the Judicial Council (“Orders”), and by the Emergency Rules in Response to the COVID-19 Pandemic issued by the Judicial Council on April 6, 2020 (“Judicial Council Emergency Rules”) and as amended thereafter. This Emergency Rule is intended to address the ongoing COVID-19 pandemic and the local and State declarations of emergency and the State-wide “shelter-in-place” order made by the Governor. This rule is effective May 1, 2020, and shall remain in effect until 90 days after the state of emergency has ended and the court has resumed full operations.

Emergency Rule 3.1 Application.

These rules shall apply only to Family Law cases. During the period of closure pursuant to the COVID-19 emergency, Family departments will conduct hearings for limited matters only. Department #4A will hear RFOs for custody and visitation and DVROs with custody issues. Cases that have not previously been continued due to the court closure may be continued. Department #4B will hear DVRO cases in court, however, the cases will be spread throughout the day to ensure social distancing. Department #5A will hear all support and law and motion matters telephonically. During the period of closure all documents may be submitted for filing.

Emergency Rule 3.2 Filing of Papers.

The Court is not accepting in-person filings during the Court closure period. Whenever practical, attorneys and self-represented litigants are strongly encouraged to submit documents by mail as provided below. The Court encourages all parties and attorneys to avoid in-person travel to the courthouse when reasonably possible.

a. Submission of documents other than requests for Emergency Custody RFOs, DVROs, or Elder Abuse ROs.

I. Attorneys and self-represented litigants shall submit documents other than Emergency Custody RFOs, DVROs and Elder Abuse ROs for filing by US mail. Filings submitted by mail should be sent to:

San Joaquin County Superior Court
Family Law Division
180 East Weber Avenue, Suite #413
Stockton, CA 95202

ii. DCSS may submit filings by mail or through batch drop-offs to be coordinated with the clerk’s office.

iii. Filing fees, if required, must be enclosed with the paperwork via check or money order.

iv. All documents shall contain the filing party's mailing address, email address, and phone number, including cellular phone number.

v. Except for DVROs and Elder Abuse ROs, attorneys or litigants requesting copies of filed documents must provide an extra copy and a return, self-addressed stamped envelope, with adequate postage, with the paperwork. If an extra copy or return, self-addressed stamped envelope, with adequate postage, is not provided, documents will not be returned. Ex parte temporary orders must be picked up by attorneys and litigants as described in section c.

b. Filing Requests for DVROs and Elder Abuse ROs.

i. Requests for DVROs, Elder Abuse ROs, and responses thereto may be submitted by mail or drop box. To ensure prompt review of such requests, they should be submitted in the drop box by 10:00 a.m. in order to be processed and ready for pick up by 3:30 p.m. that same day.

ii. All documents regardless of manner of submission shall contain a return mailing address, email address, and phone number, including cellular phone number.

iii. Temporary restraining orders will not be returned by mail or email and must be picked up by attorneys and litigants as described in section c, below. Attorneys or litigants requesting copies of filed responses to requests for DVROs or Elder Abuse ROs must provide an extra copy and a return, self-addressed stamped envelope, with adequate postage, with the paperwork. If an extra copy or return, self-addressed stamped envelope, with adequate postage, is not provided, such documents will not be returned.

c. Picking Up Emergency Orders (DVROS, Elder Abuse ROs, or Ex Parte Temporary Emergency Orders).

DVROs, Elder Abuse ROs, and Ex Parte Temporary Orders will not be returned by mail or email; they must be picked up from the San Joaquin County Superior Court at 180 East Weber Avenue, first floor, from 3:30 p.m. to 5:00 p.m. When picking up documents, attorneys and self-represented litigants shall stay at least 6 feet away from the Court personnel. The attorney or self-represented litigant will give the Court personnel the case name and provide identification. In the event a self-represented litigant is unable to personally pick up the RO, a friend or family member may do so, but must provide their identification and a note from the self-represented litigant authorizing that person to pick up the documents. The Court personnel will retrieve the documents and provide them to the litigants.

d. Judgments and Defaults.

i. Judgments may be mailed to the Court only. The requirements for submitting judgments will remain the same. Judgments will be returned by mail or placed in the attorney box. Please submit one self-addressed stamped envelope of an appropriate size and with sufficient postage for the return of the Judgment and two additional self-addressed stamped envelopes for the mailing of the Notice of Entry of Judgment to each party.

ii. The Court will not enter any stand-alone defaults (true defaults) until 90 days after the Court resumes normal operations.

e. E-signature Accepted for DCSS Stipulations.

The Court will accept an e-signature as an original signature on all Stipulations between Department of Child Support Services/Local Child Support Agency and the parties they serve that have been executed using DocuSign technology as set forth more fully in the General Order Regarding Implementation of Electronic Signature of Stipulations Through Department of Social Services dated April 22, 2020.

f. Limited Fax Filings.

i. The Court will accept fax filings for Proofs of Service and Substitution of Attorneys for all matters with a hearing date on calendar during the period of the Court closure.

ii. The Court will accept fax filings for Responses to Requests for DVROs, Elder Abuse ROs, or Emergency Custody Orders with a hearing date during the period of the Court closure. Any Response to a Request for Emergency Custody Order that requires a first appearance filing fee **will not be accepted by fax filing**. If a first appearance filing fee is required for a Response to a Request for Emergency Custody Order, then the responding party must mail the responsive pleadings to the Court, along with the first appearance filing fee, or personally deliver the responsive pleadings, along with the first appearance filing fee, to the drop box on the first floor of the Courthouse.

iii. The fax number for sending documents for fax filing during the Court closure is (209) 992-5658.

iv. All documents submitted for fax filing must have the Judicial Council Facsimile Transmission Cover Sheet (JC form MC-005) as the first page of each case filing. When submitting documents for multiple cases, use a separate MC-005 for each case.

v. The Judicial Council Facsimile Transmission Cover Sheet (JC form MC-005) shall include an email address for the person fax filing for communication with the Court.

vi. Each document transmitted for direct filing with the Court must contain

the phrase “By Fax” immediately below the title of the document.

vii. Limit of 20 pages per document. Any pages in excess of 20 pages will not be considered by the Court.

viii. Documents will be reviewed by the Clerk of the Court for completeness. Documents are not deemed “filed” until they have been accepted by the reviewing Clerk, processed, and filed in the register of actions for the case.

ix. If a document fax filed is deemed by the Clerk to be unacceptable for filing, a Notice to the filing party will be sent specifying the reason(s) it was rejected.

x. If the case is not confidential, the Court will electronically send an endorsed, filed-stamped copy of the document to the filing party. If the case is confidential, an endorsed, filed-stamped copy will be placed in the attorney box for pick up.

Emergency Rule 3.3. Remote Appearance for Family Court Proceedings Held in Departments #4a and #5A.

A. Intent. The intent of this Rule is to promote uniformity in the practices and procedures relating to remote appearances in family law departments #4A and #5A. To improve access to the courts and reduce litigation costs, courts shall permit parties, to the extent feasible, to appear by simultaneous audiovisual and/or audio transmission equipment at appropriate proceedings pursuant to these rules.

B. Definitions.

(1) For Department #4A, “remote video appearance” means a party, an attorney, or a witness may appear remotely through the use of:

(a) A desktop or laptop computer with webcam capabilities that depict the parties, attorneys, the court, mediators, and court personnel, if any, in real time on a screen visible to the user who is at another location; and with capabilities to allow for transmitting the user’s image and voice; or

(b) A smartphone with video camera capabilities that depict the parties, attorneys, the court, mediators, and court personnel, if any, in real time on a screen visible to the user who is at another location; and with capabilities to allow for transmitting the user’s image and voice; or

(c) A phone with no video camera capabilities that transmits the voices of the parties, attorneys, the court, mediators, and court personnel, if any, in real time to the user who is at another location, and with capabilities to allow for transmitting the user’s voice. This option is **only available** if a party has no access to a device with video capabilities.

(2) For Department #5A, “remote telephonic appearance” means a party or an attorney may appear remotely through the use of:

(a) A phone that transmits the voices of the parties, attorneys, the court, mediators, and court personnel, if any, in real time to the user who is at another location, and with capabilities to allow for transmitting the user’s voice.

C. Application. These rules apply to the following cases:

(1) Department #4A: RFOs for custody and visitation and DVROs with custody issues. Cases that have not previously been continued due to the court closure may be continued. Priority will be given to cases that have been continued at least once due to the court closure. Mediations will also be conducted by videoconferencing. Hearings and mediations will be abbreviated in order to provide, at a minimum, some temporary orders.

(2) Department #5A: All law and motion and support matters, exclusive of trials and settlement conferences.

D. Procedure.

(1) The court must ensure that the statements of participants are audible and/or visible to all other participants and the court staff and that the statements made by a participant are identified as being made by that participant.

(2) The party/attorney must timely appear by joining the link and/or telephone conference provided in the Notice and must enter his/her full name as the username.

(3) The party/attorney must provide the court with their mobile phone number and email address at the time of the hearing. A party/attorney shall register his/her email address and mobile phone number with the Court through the Online Services, Attorney Registration page on the Court’s website. You do not need to be an attorney to register.

(4) No child(ren) shall be present for the hearing; only the parties and their attorneys.

(5) Parties must be dressed in appropriate attire.

(6) Parties must first identify themselves whenever speaking and only one party at a time may speak.

(7) Any and all document a party/attorney wants the court to consider shall be submitted with a party’s moving/opposition papers prior to the hearing. In the event the court requires a party/attorney to submit a document at the time of the hearing, the party/attorney must send the document in a .pdf format to the court at familycourtclerks@sjcourts.org, and must copy all counsel of record and self-represented

parties on that email. The case name, number, and hearing date must be stated in the subject line of the email and the other party or their attorney must be copied (cc'd) in the email or the court will not consider the document as it is an ex parte communication.

(8) For matters heard in department #5A, any documentary evidence that the parties wish the bench officer to consider must be emailed directly to the other party or that party's attorney, if represented, and, if the matter is a DCSS matter, then to DCSS at least five days prior to the hearing, excluding any Saturday, Sunday, or holiday as provided for under Code of Civil Procedure section 135. Failure to provide at least five court days notice of proffered documentary evidence may result in its exclusion. If no email exists for the opposing party or counsel, alternative methods of service must be used (e.g., text, mailing, or instant message). The bench officer will determine the sufficiency of any such alternative service method. The case name, number, and hearing date must be stated in the subject line of the email and the other party or their attorney must be copied (cc'd) in the email or the court will not consider the document as it is an ex parte communication.

(9) A party/attorney whose case is referred to mediation, will be given instructions at the time of the hearing for joining the videoconference with the assigned mediator. Mediation is private and there shall be no other persons in the room with the party/attorney during mediation. If you do have other persons present during the mediation, the mediator will immediately terminate the mediation.

(10) The videoconference hearings and mediations may be abbreviated due to the limited ability to hear evidence under these circumstances.

(11) Any recording of the videoconference/phone court proceeding and/or mediation is absolutely prohibited, including, but not limited to, "screen-shots" or other visual copying or audio recording. Violation of these prohibitions may result in sanctions, including removal of court-issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the court.