

**CHAPTER 5
REQUEST FOR ORDER (RFO)**

Rule 5.5.1

Hearings on Request for Order.

A. Calendaring. The court will set a hearing date unless the RFO clearly specifies that no hearing date be set.

B. Retroactive Order. RFOs in which the date of filing may determine retroactivity may be filed without setting a hearing date to preserve retroactivity by using the following procedure:

1. The RFO form must state “No Hearing Date” and “Preserve Retroactivity” where the date would otherwise be written.
2. The RFO and all supporting papers must be filed and promptly served.
3. The moving party must file the following documents within one hundred and eighty days of the filing of the original RFO:

- a. A new RFO form identical to the original but with the hearing date box left blank.
- b. A conformed copy of the first page of the originally filed RFO.
- c. Any additional declarations or exhibits supporting the RFO.

(1) For purposes of the California Rules of Court, the page limit for a party’s moving declaration is the total of the declaration filed and served with the original “no hearing date” RFO and the declaration filed and served with the “hearing date” RFO.

(2) The moving party’s “no hearing date” declaration may be a brief statement that the supporting declaration will be timely filed and served when the hearing date is set to preserve the party’s declaration page limits.

- d. A proof of service showing service of the original RFO.

4. The original RFO will not be heard and the moving party will forfeit all rights to a retroactive order if the documents required in #3 above are not timely filed.

C. Hearing Time Limits.

- 1. All RFOs must indicate a time limit beneath the case number on the first page of the RFO form. “Time limit” means the time needed for the hearing.
- 2. Failure to indicate a time limit will result in a default hearing time limit of 20 minutes.
- 3. If the time limit is reached before the hearing is completed, the court may continue the matter to a future date.
- 4. Failure to adhere to the time limit constitutes good cause for imposing sanctions.
- 5. Refer to rule 5.1.8 for availability of and payment for court reporters at RFOs.

D. Hearing Assignments.

- 1. RFOs limited to 40 minutes or less are set on the short cause calendar of the judicial officer assigned to the case. The official court reporter will stop reporting after 40 minutes.
- 2. RFOs with limits of more than 40 minutes but less than two and a half hours may be heard by the judicial officer assigned to the case, another judicial officer in the family law department, or any trial department.
- 3. RFOs longer than two and a half hours may be heard by the judicial officer assigned to the case, another judicial officer in the family law department, or any trial department, and are subject to the California Rules of Court regarding long-cause hearings.

E. Reissuance of RFO.

- 1. If the RFO is not timely served, the moving party must apply for a reissuance of the RFO and any orders therein in accordance with the California Rules of Court.
- 2. The reissuance request must be made on the mandatory form *Application and Order for Reissuance of Request for Order and Temporary Emergency Orders* (form FL-306).
- 3. The reissuance order will include a new hearing date.

F. Continuance of RFO Hearing.

- 1. If an RFO has been timely served, either party may request a continuance of the hearing without a reissuance of the RFO.
- 2. An *unopposed* request for a continuance may be made by either party. The request must be made at least two court days before the hearing either by:
 - a. Filing a stipulation stating good cause and signed by all parties; or
 - b. Completing the online webform, *Notice of Continuance Request/Settlement*. Self-represented litigants without internet access must timely make their request to the courtroom clerk by telephone.

3. An *opposed* request for a continuance must be made by ex parte application at least two court days before the hearing. The requestor must show good cause for the continuance.

4. Continuances are disfavored and will be granted only for good cause shown.

5. All continuances may be subject to statutory fees under the Government Code.

G. Calendar Calls. Requests for calendar priority should be made prior to the calendar call. Parties or counsel unable to appear at the calendar call must notify the opposing party at the earliest reasonable time.

H. Extra Copies of Pleadings. Parties should always bring an extra copy of all court conformed relevant pleadings and exhibits to the hearing in case the court file is incomplete.

I. Page Limits and Late Filed Papers. The court, in its discretion, may refuse to consider declarations which exceed the mandatory page limits and/or late filed papers.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. & Renum. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010; Rev. 1/1/2011; Rev. 1/1/2012; Rev. & Renum. 1/1/2013; Rev. 1/1/2014; Rev. & Renum. 1/1/2015; Rev. 1/1/2016)

Rule 5.5.2

Related RFO. A party may request that an RFO reasonably related to the issues raised by a scheduled RFO be set on the same date and time. However, the related RFO must meet the standard statutory requirements for filing and service, absent an order shortening time.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2007; Rev. & Renum. 1/1/2008; Rev. 1/1/2011; Rev. 1/1/2012; Rev. & Renum. 1/1/2013; Rev. 1/1/2014; Renum. 1/1/2015; Rev. 1/1/2016)

Rule 5.5.3

RFO Procedures.

A. Tabbing. Prior to filing, the court encourages the tabbing of documents with specific colored post-its placed at the bottom of the face or first page of the document. The following colors should be used:

1. RFO – Red
2. Response to RFO - Blue
3. Reply to Response to RFO – Yellow
4. Income and Expense Declaration - Green

B. FCS Screening Form. When filing an RFO regarding custody or visitation, the moving party must also file the *Family Court Services Screening Form* (form SDSC FCS-046).

C. FCS Data Sheet. When filing an RFO regarding custody or visitation, each party must submit a *Family Court Services Data Sheet* (form SDSC FCS-002), directly to Family Court Services prior to their scheduled FCS appointment.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. & Renum. 1/1/2008; Rev 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2014; Rev. & Renum. 1/1/2015; Rev. 1/1/2016)

Rule 5.5.4

Exhibits and Lodged Documents.

A. The court encourages petitioner to file or lodge exhibits using numbers and respondent to file or lodge exhibits using letters.

B. Exhibits that exceed ten pages must be lodged rather than filed with the court. A *Notice of Intent to Lodge Documents* (form SDSC D-235 or in pleading form) listing the name or description of the exhibit must be filed and served on all parties in conjunction with service of the moving, opposition and reply papers. A conformed copy of the notice must be submitted with the lodged material. Documents lodged with the court must be tabbed to correlate to the notice.

C. Lodged documents will be stamped "received" by the court. Documents may not be lodged more than ten court days and no later than three court days prior to the hearing except by court order. Absent an addressed envelope with sufficient postage or attorney messenger slip for returning the lodged documents, all lodged documents must be picked up within five court days following the hearing or they may be discarded without further notice. All returned lodged documents must be retained by the party until the applicable appeal period has expired and must be re-lodged for subsequent hearings.

D. This rule does *not* apply to lodged Assisted Reproduction Agreements for Gestational Carriers.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. & Renum. 1/1/2008; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2014; Rev. & Renum. 1/1/2015; Rev. 1/1/2016)