

**CHAPTER 9
FAMILY SUPPORT
DIVISION MATTERS**

Rule 5.9.1

Calendaring

A. Cases to be heard in FSD. Except as otherwise provided by law, all matters involving the DCSS will be set and heard on the FSD Calendar.

1. All Domestic matters filed with the County of San Diego involving parentage determinations or support issues where DCSS has an open case will be heard on a FSD Calendar unless DCSS has provided a written waiver agreeing to the matter being heard in another Family Law court location.

2. Written notice to DCSS is required for any proceeding in a case in which there has been previous DCSS involvement or where one or both of the parties are currently receiving, have received, or intend to apply for any form of public assistance unless not required per Family Code section 17404, subdivision (e)(4). Such notice must be in accordance with Code of Civil Procedure section 1005, subdivision (a) and served on DCSS.

B. FSD Departments. FSD matters are heard in the Central and North County Divisions. Locations and directions are available at www.sdcourt.ca.gov.

C. FSD Calendar Call. The FSD Calendars are called as listed at www.sdcourt.ca.gov or as otherwise determined by the court.

D. Mandatory Meet and Confer. On the day of hearing, prior to appearing in court on a calendared matter, all parties/counsel must meet and confer with the DCSS.

E. Pre-Read Requests in FSD Hearings. If a party or counsel would like the court to read the file prior to a hearing, a pre-read request must be submitted to the court by 12:00 p.m. two days prior to the hearing. Notice of the pre-read request must be given to all parties prior to the submission. If a party or counsel objects to the pre-read request, he or she shall notify the court of their specific objections. Objections shall not prevent the pre-read. For pre-read requests that designate eight or more documents, the requestor must make arrangements with the court to identify the documents in the file with yellow tags.

1. **Pre-Read Requests for North County hearings.** All pre-read requests are due by 12:00 p.m. one week prior to the hearing date. All other pre-read rules apply.

2. **Pre-Read Requests for Trials or Long Cause Hearings.** A pre-read request is not required for trials or long cause hearings. Pre-reads will be done by the court on these cases as a matter of course.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009)

Rule 5.9.2

Telephonic Hearing Requests

A. Request for Telephonic Appearance. The FSD court, in its discretion, may grant a telephonic appearance pursuant to California Rules of Court, rule 5.324 when the DCSS is providing services under Title IV-D of the Social Security Act.

1. Telephonic Appearances are NOT permitted for any of the following:

a. Contested trials, contempt hearings, orders of examination, and any matters in which the party or witness has been subpoenaed to appear in person; and

b. Any hearing or conference for which the court, in its discretion on a case by case basis, decides that a personal appearance would materially assist in a determination of the proceeding or in resolution of the case.

B. Timing of Requests for Telephonic Appearance. Any requests for telephonic appearance must be made at least 12 court days before the hearing utilizing the Request for Telephonic Appearance form (FL-679). The request must be served on all parties by personal delivery, fax, express mail, or other means likely to ensure delivery by the close of business the next court day.

C. Opposition to Request for Telephonic Appearance. Any opposition to a request for telephonic appearance must be under penalty of perjury and served on all parties at least eight court days before the hearing. Service of the opposition may be accomplished through the same methods allowed for requesting a telephonic appearance.

D. Notice by the Court. At least five court days prior to the hearing, the court will notify all parties of its decision.

E. Meet and Confer. All parties granted a telephonic appearance must meet and confer with the DCSS by telephone prior to their telephonic appearance. For the meet and confer, parties must be available at the number listed on their telephonic appearance request form for at least two hours prior to their hearing.

F. Filing of Documents. If a telephonic appearance request is granted, the requesting party must file and serve all relevant documents as required pursuant to Chapter 5 of these rules.

(Adopted 1/1/2008)

Rule 5.9.3

Conduct of Long Cause Hearings and Trials

Long cause hearings and trials set on the Friday FSD calendar or set on the short cause FSD calendar are governed by the rules and readiness procedures as set forth below.

A. Long Cause Hearings

1. Mandatory Meet and Confer. The Monday before the hearing date counsel/parties are ordered to meet and confer either in person or by telephone. On the day of the hearing, DCSS will provide a status report to the court as to the following issues:

- a.** Issues resolved by stipulation;
- b.** Contested issues; and
- c.** Time estimate.

2. Evidence. Long cause hearings are generally limited to factual arguments based on evidence and/or reasonable inferences drawn therefrom, which are contained in declarations filed with the court and signed under penalty of perjury.

3. Oral Testimony. If any party wishes to present oral testimony, written declarations must still be filed in a timely manner. Written declarations must be the direct testimony of the declarant. Failure to give the required notice pursuant to local rule 5.5.8 will generally result in a denial of the request for oral testimony. Even if proper notice is given, the taking of oral testimony will be left solely to the discretion of the court.

4. Notice of Intent. Written notice of the intent to present oral testimony must be served on the opposing party at least five court days before the scheduled hearing. The notice must state the names of the intended witnesses and the subject matter of the witnesses' testimony.

B. Trials

1. Mandatory Meet and Confer. The Monday before the trial, counsel or parties are ordered to meet and confer either in person or by telephone. On the day of the hearing, DCSS will provide a status report to the court as to the following issues:

- a.** Issues resolved by stipulation;
- b.** Contested issues; and
- c.** Time estimate.

2. Filing and Exchange of Documents. By 2:00 p.m. on the Wednesday before trial, counsel/parties must file in the trial department and exchange all documentation including but not limited to the following:

- a.** Any and all pleadings including but not limited to trial statement and trial briefs, which must include a list of issues, whether contested or uncontested;
- b.** Where support or fees are at issue, current Income and Expense Declarations including all required attachments pursuant to these rules;
- c.** A list of proposed exhibits and copies of actual exhibits which are to be pre-marked prior to the trial date; and
- d.** A list designating non-party witnesses including the witness' name and the subject matter of each witness' testimony.

3. Mandatory Trial Statement. A mandatory trial statement for an FSD matter must include all relevant items listed in the Mandatory Trial Statement form available at www.sdcourt.ca.gov under Family Law forms.

4. Failure to Disclose Witnesses or Exchange Exhibits. Any witnesses not properly disclosed will not be permitted to testify at trial. Any exhibits not properly exchanged may not be introduced at trial. The only exceptions are true impeachment or rebuttal witnesses or exhibits.

5. Stipulations Before Trial or Long Cause Hearing. Should counsel/parties reach a full stipulation at any time prior to the hearing date, the DCSS must inform the court immediately. Stipulations may be entered on the record at the scheduled hearing or trial date or submitted in writing by ex parte hearing at least one court day prior to the scheduled trial or hearing.

(Adopted 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2011)

Rule 5.9.4

Time for Ex Parte Matters

Ex Parte matters will be heard as posted at "Family and Children, Child Support" on the court's internet site at www.sdcourt.ca.gov. All other requirements as set forth in Chapter 3 as to notice, meet and confer, and the preparation of an ex parte application and proposed order apply.

(Adopted 1/1/2006; Renum. 1/1/2006; Rev. & Renum. 1/1/2008; Rev. 1/1/2010)

Rule 5.9.5

Orders

A. Orders Involving the DCSS. All orders involving DCSS will include the following provisions:

1. All payments must be made by wage assignment payable to the State Disbursement Unit;

2. The payor must make all payments directly to the State Disbursement Unit unless payments are fully collected by wage assignment;

3. The payor must provide DCSS with his/her date of birth, Social Security Number, income, employer's name, employer's address, and residential address; and

4. The payor must notify DCSS in writing within 48 hours of any change of address, income, or employment;

B. Stipulations. All stipulations reached in matters involving DCSS must be reviewed and signed by a DCSS attorney before being submitted to the court. If DCSS does not sign the stipulation, one of the parties may place the issue before the court on an ex parte basis.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. & Renum. 1/1/2008)

Rule 5.9.6

Written Authorization for Inspection of Paternity File

A. In addition to the statutory requirements for inspection of a paternity file pursuant to Family Code section 7643, the court recommends that any written authorization also include ALL of the following specific information:

1. Case number;

2. Name and signature of the party or attorney authorizing the inspection;

3. Name and signature of the "agent" authorized to inspect and/or copy the documents in the file.

4. The relationship of the "agent" to the party or attorney authorizing the inspection;

5. A designated time frame or duration for the authorization; and

6. Any limitations on inspection and/or copying

B. The original of the written authorization shall be filed stamped and placed in the court file.

C. All requests to inspect and/or copy documents from a paternity file without written or statutory authorization will require a court order.

(Adopted 1/1/2010)

Rule 5.9.7

Custody/Visitation Matters in FSD Cases.

A. Custody and visitation matters are NOT heard in FSD departments. However, the parties may use the DCSS/DF case number to litigate issues of custody and visitation provided there is a judgment granted in the case. Matters involving issues of custody and visitation, when DCSS is or has been involved, shall be filed and heard in the following court division and/or department:

1. A DF case where the children and the parties live in the downtown, east or south part of the county will be heard in Department 45 at 220 West Broadway, San Diego, CA 92101.

2. A DF case that has been transferred to North County will be heard at 325 South Melrose, Vista, CA 92081.

B. When a motion involving custody and visitation and child support is filed in a case involving DCSS, the court will set three hearings:

1. A mediation with FCS;

2. A court hearing for the custody and visitation issue; and

3. An FSD hearing. Motions involving custody and visitation and child support must be served on all appropriate parties in accordance with Code of Civil Procedure section 1005, including DCSS if applicable.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. & Renum. 1/1/2008; Renum. 1/1/2010; Rev. 1/1/2011)