



Superior Court of California County of San Diego

CENTRAL COURTHOUSE
220 WEST BROADWAY
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SAN DIEGO CA 92112-2724

March 3, 2009

NOTICE TO ATTORNEYS

SAN DIEGO SUPERIOR COURT LOCAL RULE 5.10.2.D

There has been some uncertainty about the interpretation of the language set forth in San Diego Superior Court Rules 5.10.2.D ("Local Rule 5.10.2.D") regarding the submission of writings and other materials to the San Diego Superior Court's Office of Family Court Services ("FCS") for review in connection with mediation services as well as how the court counts days for service of process as it pertains to this local rule. Although the court will be considering amendments to Local Rule 5.10.2.D to be effective January 1, 2010, the court construes the current version of the rule and the Family Court Supervising Judge, Lorna Alksne has instructed FCS as follows:

FCS will only accept and the mediator will only review the writings and other materials presented if the counsel/party provides FCS, prior to the start of the mediation session, with a copy of a timely proof of service on the other counsel/party of either (1) the written materials; OR (2) a descriptive list of the written materials to be provided to FCS prior to the start of mediation, otherwise referred to in the local rule as the "written notice." FCS requests that the attorney/party be served with both the written materials and the written notice descriptive list, but this is not required under the present language of the rule.

The "moving party" is the party who initiated the FCS mediation either by filing an Order to Show Cause or a Notice of Motion requesting custody and/or visitation orders. The last day for personal service (at least 9 court days for the moving party and at least 2 court days for the responding party) is arrived at by counting backwards from the date of the mediation. The day of the mediation (considered the first day) is excluded in the counting while the last day is included. If service is by mail within California, add 5 calendar days at the end of counting court days. If service is by "other means" (for example: facsimile, express mail, overnight delivery), add 2 calendar days. Calendar days include counting holidays and weekends. If the last day for service falls on a holiday or weekend, the papers shall be served on the court day immediately preceding the holiday or weekend.

Any issue of timely service beyond the computations set out above, should be brought before a judicial officer by ex parte application prior to the mediation.


MICHAEL M. RODDY
Executive Officer