

**Trial/Evidentiary Hearing Procedure Orders**  
**Honorable Sara Kirby, Judge - Department 10**

---

**Trial/Evidentiary Hearings:**

- We will complete the trial/hearing in the number of days/hours you have set; have your witnesses ready and plan your presentation accordingly. **If your matter settles before the trial date, please inform the department clerk immediately.**
- If you cannot complete the trial in the time set, please request new dates at the trial readiness conference (TRC). You may come in *ex parte* to request to reset the trial date or revise your time estimate.
- All else being equal, half the time will be allotted to each side.
- Between now and the date of trial, counsel shall meet and confer and settle as many issues as possible, presenting a **written** stipulation at trial.
- All parties and counsel are expected to appear in person for trials and hearings. A party or counsel may request an exception for good cause at the TRC. In most cases, witnesses have the option of appearing in person or remotely by videoconferencing via Microsoft Teams (MS Teams). Unless ordered at the TRC, anyone who still wants to appear via videoconferencing on Microsoft Teams will need court approval by way of written request using the proper court forms (RA-010).
- Unless otherwise noted, we commence trial each day at 9:00 a.m. (the bailiff will open the courtroom between 8:45 to 9:00 a.m.) There will be a 15-minute break during the morning and the afternoon. We will break at noon for lunch and reconvene at 1:30 p.m. Trial will conclude each day between 4:15 and 4:30 p.m.

**Trial Briefs:**

- They are to be exchanged by the parties according to Rule 5.394 of the California Rules of Court unless specifically ordered otherwise by the court. The trial brief form (D-241) can be located on the court's website.
- Evidentiary hearing briefs, exhibits, exhibit lists, and witness lists are due by close of business no later than seven days in advance of the scheduled trial date.

**Exhibits:**

- All exhibits should be pre-marked and tabbed as Court's exhibits: Petitioner 1 – 400; Respondent 401 – 800 (Respondent's first exhibit will be number 401). Minor's Counsel may use the Court's Exhibit tags (brown) and shall begin with number 801 and on. If an Exhibit

contains multiple pages, please give each page an identifying number (bate stamped) in the lower righthand corner.

- Exhibits that can be considered as one exhibit and will not need each page to be bate stamped are: Family Court Services (FCS) Reports, Income and Expense Declarations, Letters, Photos (taken on the same date and time), Findings and Orders After Hearing, and Judgments. Documents such as bank records should be broken down to monthly periods. For example, bank statements for the period 1/1/22 through 1/31/22 shall be labeled as exhibit 1; bank statements for the period 2/1/22 through 2/28/22 shall be labeled as exhibit 2, and so on and so forth. Multi-paged documents should be bate stamped as indicated above.
- When judicial notice is taken of a document/exhibit, it is not indicated “RECEIVED” on the exhibit tag. If there are impeachment exhibits, they can be identified as “the next in order” and the clerk will mark and adhere the exhibit tag.
- The exhibit tag should not cover any part of the exhibit (i.e. the writing/numbers and/or photo). If there is not a place to adhere the tag on the front of the exhibit, place it on the back. If there are multiple pages, place it on the last page of the exhibit. The exhibit number is to be placed in the lower right-hand corner by way of an exhibit tag (Pink tag – Petitioner; Yellow tag – Respondent,) and have the case number and exhibit number pre-written as follows:

**PINK**

Ptnr's Ex: <b>1, 2, 3</b>	
<b>FL 123456</b>	
Rec'd	Dept
Clk	

**YELLOW**

Resp's Ex: <b>401, 402, 403</b>	
<b>FL 123456</b>	
Rec'd	Dept
Clk	

- **Exhibit lists** are to be provided to the court. Three (3) copies are to be provided – for the court, the court clerk, and the court reporter (if one is obtained by the parties).
- To assist the clerk and for the benefit of all to ensure the exhibits are correctly identified and received, **please be sure the exhibit list is formatted as follows:**

Pet #	Description	ID'd	Rec'd	Resp #	Description	ID'd	Rec'd
1				401			
2				402			
3				403			

- **Exhibit binders:** If there are more than 50 pages of exhibits, they must be compiled in 3-ring binders. If you are submitting more than one binder, identify on the spine of the binder the exhibits contained therein.
- No exhibit binders should be more than three (3) inches thick. Binders that exceed this limit may be returned to the party for reorganization.
- Each party must submit to the court two sets of any 3-ring binders containing your exhibits: an original and one copy for the court and the clerk. Each party must also provide one set of exhibit binders to the other party/counsel and must have binders available to any witnesses at court or at their locations (including those who will be appearing on MS Teams only – they must receive all exhibits in advance of the trial/hearing).
- Move exhibits into evidence as you present them at trial. Exhibits are deemed authenticated unless there is a genuine dispute. You need not ask a witness to authenticate a document unless the opposing party objects.
- Any text messages or social media posts must be identified by date and time on the exhibit.
- Please meet and confer in advance as to the admissibility of evidence.
- Please be sure to include a means of return for all exhibits.

***In Limine* Motions:**

- All *in limine* motions must be filed, served, and responded to on the schedule set at the Trial Scheduling conference (TSC) or TRC, or if no such schedule was provided, then the motions must be filed and served no later than seven court days before the start of the trial or the evidentiary hearing, unless the court orders otherwise. Opposition to *in limine* motions must be filed and served no later than two court days before the start of the trial.

**Witness Testimony:**

- If your witness has been authorized to appear via videoconferencing, please ensure that each witness knows how to connect to Microsoft Teams and has a good connection prior to the hearing.

**Experts:**

- Experts must meet and confer prior to the trial. They must prepare a side-by-side comparison that must be provided to the court showing the differences and the reasons for the differences and any agreements on the same issues for which they have submitted a report to the court for the trial (i.e. income available for support, business valuation).

**Child Testimony:**

- If you would like to call a child as a witness, please review California Rule of Court 5.250(d)(3).
- Calling children to testify is not usually in their best interest, particularly when a child is there to testify against a parent or to express a preference in favor of one party over another.
- Advise the court at the Trial Readiness Conference whether a child wishes to address the court. The court may set a separate hearing to address the issue of whether the child will testify, and if so, the parameters of the child's testimony.
- If a child is mature enough to have a meaningful preference, the court prefers that they be interviewed by Family Court Services (FCS).

**The Court's Trial Preparation:**

- The court will read the briefs, review the file, read all past orders, and give a cursory review to exhibits.
- Please be sure income and expense declarations are complete per statutory requirements and follow directions on the form FL-150.

**Court Reporters:**

- Please review the court's website for current information regarding the court's policies on the availability and unavailability of official court reporters in family law matters and official reporters *pro tempore*.

**Court Interpreters:**

- If an interpreter is needed for a party or witness, please complete and file the Interpreter Request/Cancellation Form (SDSC ADM-348) as soon as possible. Please keep in mind, the Interpreter Request form should be filed at least 3-4 weeks in advance of the hearing/trial or it's possible an interpreter will not be available.

**Filing:**

- All pleadings, lodgments, trial briefs, witness lists, exhibit lists, and any other written material must be directly filed in Department 10. **DO NOT E-FILE TRIAL DOCUMENTS.** If filed in the Family Business Office, they will be sent to the assigned IC department and not this department. **Before** making the delivery, please call **760-201-8010** to make an appointment with the department clerk for delivery.

**IT IS SO ORDERED.**