

**DIVISION V
FAMILY LAW**

The Family Rules (Divisions 1 and 2) of the California Rules of Court and the Judicial Council state forms are often revised mid-year. To the extent any conflicts arise with these local rules, they are preempted by the applicable state laws and California Rules of Court.

**CHAPTER 1
GENERAL**

Rule 5.1.1

Application of Rules and Sanctions

A. These rules apply in all departments of the San Diego Superior Court hearing family law matters (“Family Law Division”). They must be read and applied in conjunction with the applicable law, including federal and state statutes, and the California Rules of Court.

B. Violation of and/or failure to comply with these local court rules in accordance with the applicable California Rules of Court is good cause for imposing sanctions whether or not specifically stated.

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

Rule 5.1.2

Definitions

Unless the context otherwise requires, the following definitions govern the construction of these rules.

1. “Party” includes a self-represented litigant or a person represented by an attorney.
2. “Person” is as defined in California Rules of Court, rule 5.14.
3. “Self-represented litigant” means any party who is representing himself or herself.
4. “Must” is mandatory; “may” is permissive.
5. “Imaged cases” are family law and family support division cases filed on or after August 23, 2015, in which all documents have been imaged and stored electronically by the court. The word “[IMAGED]” will appear in the case title.
6. “Non-imaged cases” are family law cases filed on or before August 22, 2015, in which all documents are stored in paper format by the court.
7. “Partial-Imaged cases” are family law cases filed on or before August 22, 2015, in which documents filed prior to June 1, 2022 are stored by the court in paper format and documents filed on or after June 1, 2022 have been imaged and stored electronically by the court. The designation “[Partial-Imaged]” will be used to denote the case type.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2014; Rev. & Renum. 1/1/2015; Rev. 1/1/2018; Rev. 1/1/2019; Rev. 1/1/2022; Rev. 1/1/2023.)

Rule 5.1.3

Abbreviations

The following abbreviations are used throughout these rules:

- CSC = Case Status Conference with the Family Law Facilitator (when neither party is represented by an attorney)
- DCSS = Department of Child Support Services, County of San Diego
- DF = All actions under Title IV-D of the Social Security Act (See Chapter 10) FCS = Family Court Services
- FL# = Judicial Council state form
- FLF = Family Law Facilitator
- FRC = Family Resolution Conference (when at least one party is represented by an attorney)
- FSD = Family Support Division
- IC = An independent calendar department where cases are assigned to a judicial officer for all purposes
- MSC = Mandatory Settlement Conference
- RFO = Request for Order
- SDSC# = Local court form

SFRC = Self-Represented Family Resolution Conference (when neither party is represented by an attorney)
SRL = Self-Represented Litigant
TSC = Trial Setting Conference
TRC = Trial Readiness Conference

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2014; Rev. & Renum. 1/1/2015; Rev. 1/1/2016; Rev. 1/1/2017; Rev. 1/1/2018; Rev. 1/1/2020; Rev. 1/1/2021; Rev. 1/1/2022)

Rule 5.1.4

General Resources

A. Website Information

1. The San Diego Superior Court’s website address is <http://www.sdcourt.ca.gov>. References to “online” throughout these rules generally refer to this court’s website. A register of actions is available online for all family law matters. Information about inspecting or copying court records is available on the court’s website.

2. The “California Courts Website” address is <http://www.courts.ca.gov>.

3. Both websites contain extensive family law information, detailed self-help instructions, and forms, including all forms referenced in these rules.

B. Other Resources. Informational handouts are also available in the court’s business office, from FLF and FCS.

C. Disclaimer. The San Diego Superior Court does not control or maintain the California Courts Website and is not responsible for the accuracy of the information or its content. Additionally, the court’s website is updated periodically. When using the San Diego Superior Court’s website, the user is subject to its terms of use and privacy policy.

(Adopted 1/1/2013; Rev. 1/1/2014; Del. & Reserved for Future Use 1/1/2014; Rev. & Renum. 1/1/2015; Rev. 1/1/2016; Rev. 1/1/2018; Rev. 1/1/2019)

Rule 5.1.5

Family Law Divisions and Venue

A. Proper Division and Venue for Filing Action. Each family court location (“Central” in San Diego, “South County” in Chula Vista, “East County” in El Cajon, and “North County” in Vista) is a separate division and a separate venue according to zip code.

B. The [Zip Code List](#) (SDSC Form #ADM-254) for filing divisions may be found on the court’s website at www.sdcourt.ca.gov.

C. Matters involving surrogacy and DCSS are the only exceptions to the zip code filing rule and must be filed in the Central Division.

D. Marvin Actions. *Marvin* actions, or any similar family law related action not specifically authorized by the Family Code, must be filed as a separate proceeding in the Civil Law Division.

E. Venue Declaration.

1. All initial case filings must include a completed Family Law Certificate of Assignment Venue Declaration (SDSC Form #D-049).

2. In DF cases, the initial filing of a request for a domestic violence temporary restraining order or an RFO for child custody/visitation must include a completed Family Law Certificate of Assignment-Venue Declaration (SDSC Form #D-049) and a completed Declaration Under Uniform Child Custody and Jurisdiction Act (JC Form #FL-105).

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2014; Renum. 1/1/2015; Rev. 1/1/2016; Rev. 1/1/2017; Rev. 1/1/2018; Rev. 1/1/2019; Rev. 1/1/2020; Rev. 1/1/2022)

Rule 5.1.6

Notice to Court and Sanctions

A. Parties must immediately notify the judicial officer assigned to the case when circumstances arise that might cause any scheduled proceeding to be rescheduled or taken off calendar; for example, inability to timely serve, a stipulation, or illness. Failure to notify the court in accordance with this rule is good cause for imposing sanctions.

B. Notice to the judicial officer assigned to the case should be made through the judicial officer’s name on the court’s webform, [Notification of Rescheduling Request/Settlement](#). For information on rescheduling a hearing date, see rule 5.5.1.

C. If an SRL has no access to the internet, notice must be given to the assigned judicial officer’s courtroom clerk by telephone.

(Adopted 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2016; Rev. 1/1/2019; Rev. 1/1/2021)

Rule 5.1.7

Requirement for Current Mailing Address. It is the obligation of all SRLs and attorneys to keep the court informed of their current mailing address by promptly filing a Notice of Change of Address or Other Contact Information (JC Form #MC-040).

(Adopted 1/1/2010; Rev. & Renum. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2015; Rev. 1/1/2016; Rev. 1/1/2020; Rev. 1/1/2022)

Rule 5.1.8

Official Court Reporters and Reporters Pro Tempore. The court official policy of availability of official court reporters in family proceedings is set forth in the court’s Policy Regarding Normal Availability and Unavailability of Official Court Reporters (SDSC Form #ADM-317), which may be found on the Court’s website at www.sdcourt.ca.gov, and Division I, Rule 1.2.3.

(Adopted 1/1/2013; Rev. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2016; Rev. 1/1/2019; Rev. 1/1/2020; Rev. 1/1/2022)

Rule 5.1.9

Imaged Cases and Partial-Imaged Cases

A. Notice of Imaged Case and Service of Notice. For imaged cases, the petitioner will receive a *Notice of Electronic Case File and Imaged Documents* when the petition is filed. A copy of this Notice must be served on the respondent with the petition.

B. “Imaged” Identifier. All documents filed in an imaged case must include the words “IMAGED FILE” in all caps immediately under the case number.

C. “Partial-Imaged” Identifier. All documents filed on or after June 1, 2022 must include the words “PARTIAL-IMAGED FILE” in all caps immediately under the case number.

D. Original Documents. All original documents filed on or after June 1, 2022 will be destroyed. If a party wants to retain an original document, it should be lodged as an exhibit in accordance with subsection E below.

E. Lodged Documents. The original Notice of Intent to Lodge Documents (SDSC Form #D-235 or in pleading format) must not have the lodged documents attached. The lodged documents will not be imaged, will not be part of the official court file, and will be returned only if specifically requested. All other procedures for lodged documents set forth in rule 5.5.5 will apply to imaged and partial-imaged cases.
(Adopted 1/1/2018; Revised 1/1/2019; Rev. 1/1/2020; Rev. 1/1/2022; Rev. 1/1/2023)

Rule 5.1.10

Electronic Filing (E-Filing)

The court permits e-filing in Imaged and Partial- Image cases. E-filing is encouraged, but not mandated. All e-filers are required to comply with California Rules of Court, rules 2.250-2.261, Code of Civil Procedure 1010.6, and the electronic filing requirements set forth in e-filing Requirements (Family) (SDSC Form #D-305), which is available on the court's website at <http://www.sdcourt.ca.gov>.

An original of all documents filed electronically, including original signatures pursuant to California Rules of Court, rule 2.257, must be maintained by the filing party. Refer to the Electronic Filing Requirements (Family) (SDSC Form #D-305) for additional information.
(Adopted 1/1/2021; Rev. 1/1/2022; Rev. 1/1/2023)

CHAPTER 2 CASE MANAGEMENT

Rule 5.2.1

Case Assignment for All Purposes

A. Notice of Assignment and Service of Notice. New cases are assigned to a specific judicial officer for all purposes. The petitioner will receive a *Notice of Case Assignment* when the petition is filed. A copy of this Notice must be served on the respondent with the petition.

B. Notice of Reassignment. All case reassignments initiated by the court as a result of the change of a judicial officer in a department are posted online and in the courthouse lobbies approximately 30 days in advance of the reassignment. The court will also post a copy of the Notice of Reassignment on the door to the department’s courtroom as soon as reasonably possible.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2019; Rev. 1/1/2023)

Rule 5.2.2

Family Resolution Conference (FRC), Case Status Conference (CSC), and Self-Represented Family Resolution Conference (SFRC) (collectively “conferences”) (See Family Centered Case Resolution Process-General Information [SDSC Form #D-080] for additional information.)

A. Purpose of Conferences. The purpose of these conferences is to allow the court to manage cases from initial filing to final disposition in an effective and timely manner consistent with California Rules of Court, rule 5.83. These conferences benefit the parties by providing judicial assistance and case management for the purpose of expediting the processing of the case, reducing the expense of litigation, and focusing on early resolution by settlement. They are a tool to allow the court to better assist families.

B. Scheduling and Service of Notice of Conference

1. The court will set an initial FRC or CSC date and issue a *Notice of Hearing* for an FRC or issue a *Notice of Case Status Conference* for a CSC (collectively “Notice”) at the time the petition is filed.

2. The petitioner must serve the respondent with a copy of this Notice along with the petition. The petitioner must also serve a copy of this Notice on all parties or their attorneys of record who have made an appearance in the case before the scheduled conference.

3. Subsequent conferences may be set and noticed by the court.

C. Rescheduling a Conference

1. A stipulated rescheduling of an FRC or an SFRC must be requested by using the procedure in rule 5.5.1.; however, an Order on Request to Reschedule Hearing (JC Form #F1-309) is not required to reschedule the conference. The court may grant the request to reschedule upon a showing of good cause.

2. A stipulated continuance of a CSC must be requested directly with the Family Law Facilitator's Office (FLF) by completing the court's online webform, *Notice of Continuance Request/Settlement*, on the assigned department's page under Judges and Departments on the court's website.

3. Upon submission of the request, the matter will remain on calendar with appearances required unless the parties are specifically informed otherwise by the court.

D. Alternative Dispute Resolution (ADR) and Reconciliation. Parties who file a stipulation prior to the conference indicating they are participating in ADR or attempting reconciliation will be exempt from the conference for six months. If a judgment or dismissal is not filed within six months of the filing of the stipulation, the parties will be required to attend the noticed conference.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010; Rev. & Renum. 1/1/2012; Rev. & Renum. 1/1/2013; Rev. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2016; Rev. 1/1/2017; Rev. 1/1/2018; Rev. 1/1/2019; Rev. 1/1/2021; Rev. 1/1/2022; Rev. 1/1/2023)

Rule 5.2.3

Alternative Dispute Resolution (ADR)

A. Mediation or Arbitration. Except in cases involving domestic violence, ADR is encouraged but voluntary. When parties engage in private mediation or arbitration, the parties should advise the court as soon as possible. All agreements reached at private mediation or arbitration must be submitted to the court in a writing signed by all parties.

B. Collaborative Law Process

1. **Stipulation.** Before participating in the collaborative law process, the parties must file with the court a signed stipulation pursuant to Family Code section 2013.

2. **Designation.** The words "Collaborative Case" must be included below the case number in the case caption of every document filed with the court.

3. **Termination.** The case may be removed from the collaborative process either by filing a signed stipulation by both parties or by either party by filing and serving a notice of termination. Termination of the process does *not* require good cause. After filing the stipulation or notice of termination, the clerk will schedule an FRC or SFRC and notify the parties of the date.

C. Privately Compensated Temporary Judge (PCTJ)

1. A request for the appointment of a PCTJ and an RFO to withdraw the appointment must be directed to and heard by the supervising judge of the family law division.

2. Absent a court order withdrawing the appointment, the case will remain with the PCTJ until a *Notice of Case Completion* is filed by the PCTJ and accepted by the supervising judge of the family law division.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010; Rev. 1/1/2012; Rev. & Renum. 1/1/2013; Rev. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2016; Rev. 1/1/2017; Rev. 1/1/2018; Rev. 1/1/2019; Rev. 1/1/2023)

Rule 5.2.4

Related Cases. Parties must file and serve a notice of related case, as defined by the California Rules of Court, either at the time of filing a new case or immediately upon learning of the existence of a related case. The court encourages the use of the Notice of Related Case (JC Form #CM-015).

(Adopted 1/1/2013; Rev. 1/1/2015; Rev. 1/1/2017; Rev. 1/1/2020; Rev. 1/1/2022)

Rule 5.2.5

Remote Appearances in Family Court

A party or witness who intends to appear remotely (via telephone, audio or video) must refer to the Family Law section of the court's website for the most up-to-date information regarding remote appearances.

A. Remote Appearance Notice Requirements for RFO Hearings

1. A party who intends to appear remotely at a 20 or 40-minute request for order hearing, including domestic violence restraining order hearing set for same duration, must provide notice to the court and all parties or persons entitled to receive notice of the proceedings at least two court days prior to the hearing. Notice to the court must be given by filing the mandatory Judicial Council form, Notice of Remote Appearance (JC Form #RA-010) and must specify whether the party intends to appear remotely throughout the case or for a specific request for order hearing, and whether the party intends to appear by videoconference or audio only (including telephone). Notice to the other parties and persons entitled to receive notice of the proceedings may be provided in writing, electronically, or orally in a way reasonably calculated to ensure notice is received at least two court days prior to the hearing.

2. Parties shall not call the courtroom clerk or business office to provide notice.
3. Notwithstanding the rules above, at any time during a case, a party may notice the court and all other parties or persons who are entitled to receive notice of the proceedings that the party intends to appear remotely during the duration of the case. Notice must be in writing by serving and filing Notice of Remote Appearance (JC Form #RA-010). If any party appears in the case after this notice has been given a conformed copy of the Notice of Remote Appearance (JC Form #RA-010) and any order already made thereon, must be served on that party.
4. At any time during a case, all parties to the action may stipulate to waive notice of any other participants' remote appearance. This stipulation may be made orally during a court proceeding or in writing filed with the court using Notice of Remote Appearance (JC Form #RA-010).
5. Notwithstanding the rules above, any party or witness may ask the court for leave to appear remotely without notice. The court may permit the party or witness to appear remotely upon a finding of good cause, unforeseen circumstances, or that the remote appearance would promote access to justice.
6. Any party or witness, including a party or witness who has given notice that they intend to appear remotely, may choose to appear in person without providing advance notice to the court or other parties.

B. Remote Appearance Notice Requirements for Evidentiary Hearings and Trials

1. A party who intends to appear remotely at an evidentiary hearing or trial must provide notice to the court and all parties or persons entitled to receive notice of the proceedings at least ten court days prior to the hearing or trial, and when possible before any Trial Setting Conference or Trial Readiness Conference. Notice to the court must be given by filing the mandatory Notice of Remote Appearance (JC Form #RA-010). Notice to the other parties and persons entitled to receive notice of the proceedings may be provided in writing, electronically, or orally in a way reasonably calculated to ensure notice is received at least ten court days prior to the hearing.
 - a. A party who has requested to appear remotely throughout the case must still submit a separate Notice of Appearance (JC Form #RA-010). Notice to the other parties and persons entitled to receive notice of the proceedings may be provided in writing, electronically, or orally in a way reasonably calculated to ensure notice is received at least ten court days prior to the hearing.
 - b. If the judicial officer hearing an evidentiary hearing or trial has made an order regarding remote appearance at a specific evidentiary hearing or trial prior to submission of a Notice of Remote Appearance (JC Form #RA-010), and that order identifies the evidentiary hearing or trial on the Order Regarding Remote Appearance (JC Form #RA-020), or in the court's minutes, a separate request need not be submitted.
2. Any witness who intends to appear remotely at an evidentiary hearing or trial must provide notice in writing using Notice of Remote Appearance (JC Form #RA-010) at least ten court days prior to the hearing or trial.
3. The court will attempt to resolve the issue of remote appearances at evidentiary hearings and trials at a Trial Setting Conference or other case management hearing. If orders regarding remote appearances have been made in advance of the evidentiary hearing or trial, the parties will need to appear ex parte before the judicial officer assigned to the evidentiary hearing or trial to address any modification of the orders already issued.
4. A party who wishes to oppose the use of remote technology at an evidentiary hearing or trial must do so in writing by filing and serving mandatory form Opposition to Remote Proceedings at Evidentiary Hearing or Trial (JC Form #RA-015) no later than five court days before the hearing.
5. The portion of the hearing in which it is determined whether to conduct an evidentiary hearing or trial through the use of remote technology, over objection, may be conducted remotely. If the court sustains the objection, the matter may be continued to a later time or future date to allow the parties and/or witness(es) to appear in person. Failure to oppose the remote proceeding prior to the commencement of the proceeding shall be considered an agreement by the party to proceed remotely.

C. Remote Appearance Notice Requirements for Ex Parte Hearings

1. For ex parte hearings, a moving party intending to appear remotely must file a Notice of Remote Appearance (JC Form #RA-010) with the court no later than 12:00 p.m. on the court day before the hearing, which should be submitted with the ex parte pleadings. Notice to the other parties must be provided by 2:00 p.m. on the court day before the hearing by service with the moving ex parte pleadings.
2. If a non-moving party intends to appear remotely, the non-moving party may provide notice by filing Notice of Remote Appearance (JC Form #RA-010) by 4:00 p.m. the court day prior to the ex parte hearing and notifying the moving party in writing, electronically, or orally in a way reasonably calculated to ensure notice is received by 4:00 p.m. the court day prior to the ex parte hearing or in open court prior to the commencement of the ex parte hearing.
3. Notwithstanding the rules above, any party may ask the court for leave to appear remotely without notice at the ex parte hearing. The court may permit the party to appear remotely upon a finding of good cause, unforeseen circumstances, or that the remote appearance would promote access to justice.

4. A party may appear remotely at an ex parte hearing before receiving a ruling on the remote appearance request. However, if the court determines a remote appearance is not appropriate or failure to timely request a remote appearance has impacted the court's ability to rule on the request, the court may trial or continue the ex parte hearing so that a party can appear in person, at the discretion of the court.

D. General Remote Appearance Rules Applicable to Family Court

1. All confidentiality requirements, whether statutory, constitutional, or derived from case law, applicable to proceedings held in person, apply equally to remote proceedings.

2. Parties and witnesses are advised that the use of remote technology may result in technological or audibility issues that could require a delay or halt to the proceedings. No party or witness in any action is required to appear remotely. Any party who appears remotely without objection, including self-represented parties, shall be deemed to have agreed to do so.

3. Further information on how to appear remotely and the types of proceedings and cases for which the court has the technological capabilities to allow remote appearances, may be found on the court's website at <http://www.sdcourt.ca.gov/familyandchildren2/familylawvirtualhearings>. Prior to each hearing for which an appearance will be made remotely, a party or witness who intends to appear remotely (by telephone, audio, or video) must refer to the Family Law section of the court's website for the most up-to-date information regarding remote appearances. Directions will be posted on the court's website at <http://www.sdcourt.ca.gov/virtualhearings> on how to alert the court of technology or audibility issues during a remote proceeding. In addition, the mandatory Judicial Council forms may be found on the Judicial Council's website at <http://www.courts.ca.gov>. (Adopted 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2010; Rev. 1/1/2012; Rev. & Renum. 1/1/2013; Rev. 1/1/2014; Rev. 1/1/2015; Renum. 1/1/2017; Rev. 1/1/2018; Rev. 1/1/2019; Rev. 1/1/2020; Rev. 1/1/2021; Rev. 1/1/2022; Rev. 1/1/2023)

**CHAPTER 3
TEMPORARY EMERGENCY ORDERS (EX PARTE ORDERS)**

Rule 5.3.1

Temporary Emergency Orders (Ex Parte Orders)

A. Notice of a request for temporary emergency orders (ex parte orders) is governed by the California Rules of Court.

B. Moving papers must be submitted to the court no later than 12:00 p.m. the court day before the hearing and served on all parties by 2:00 p.m. the court day before the hearing. In addition to the documents required by the California Rules of Court, the moving papers must include a completed form Ex Parte Application and Order – Family Law (SDSC Form #D-046) unless specified otherwise in these rules. Consideration of late filed and/or late served papers is at the court's discretion.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2016; Rev. 1/1/2017; Rev. 1/1/2020; Rev. 1/1/2022; Rev. 1/1/2023)

Rule 5.3.2

Non-Emergency Orders Not Requiring Notice. The business office at each division has a drop box where a request for a non-emergency order may be deposited for processing. An attorney service slip or stamped self-addressed envelope must be included if conformed copies are requested.

(Adopted 1/1/2013; Rev. 1/1/2014; Rev. 1/1/2015)

**CHAPTER 4
DOMESTIC VIOLENCE RESTRAINING ORDERS**

Rule 5.4.1

Domestic Violence Restraining Order Hearings

A. **Definitions.** The initial temporary order, if granted, is referred to as a temporary restraining order or a DVTRO. The final order, if granted, is referred to as a restraining order after hearing or a DVRO.

B. **Rescheduling Hearing Date.** A request to reschedule the hearing date scheduled on a DVTRO must be made either by:

1. Ex parte request prior to the scheduled hearing; or
2. In court on the day of the hearing when the case calendar is called.

C. Forms. All rescheduling requests must be submitted on the mandatory form Request to Continue Hearing (JC Form #DV-115) and the completed top portion of the mandatory form Order on Request to Continue Hearing (JC Form #DV-116).

D. Dismissal of DVTRO. A request by the protected party to dismiss the DVTRO and have the DVRO hearing taken off calendar prior to the hearing may be submitted using Ex Parte Request and Order to Terminate Domestic Violence Temporary Restraining Order (SDSC Form #D-001). The court may require a personal appearance by the protected party. A separate and completed Ex Parte Application and Order – Family Law (SDSC Form #D-046) is not required if SDSC Form #D-001 is submitted.
(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2014; Del. 1/1/2015; Adopted 1/1/2016; Rev. 1/1/2017; Rev. 1/1/2018; Rev. 1/1/2019; Rev. 1/1/2021; Rev. 1/1/2022)

Rule 5.4.2

Residence Removal Orders. A protected party requesting to have the restrained party removed from the residence must prepare and submit for the court’s signature the Order for Removal from Residence (SDSC Form #D-072). If granted, the protected party must give the Sheriff two certified copies of the removal order for service.
(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2012; Rev. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2016; Rev. 1/1/2022)

Rule 5.4.3

Guardian Ad Litem on Behalf of Minor and Related Cases.

A. Related Cases. Parties to a domestic violence restraining order case filed on behalf of a minor child must file and serve a notice of related case regarding any case involving the minor child, the minor child’s parents or the minor child’s legal guardian either at the time of filing the Request for Domestic Violence Restraining Order (JC Form #DV-100) or immediately upon learning of the existence of the related case. The court encourages the use of the Notice of Related Case (JC Form #CM-015).

B. Guardian Ad Litem on Behalf of Minor in DVPA Proceeding.

1. As provided in Code of Civil Procedure section 372, a guardian ad litem must be appointed for a minor, incompetent person, or a person for whom a conservator has been appointed, and may be appointed for a minor age 12 or older at the court’s discretion. Due to potential conflicts of interest, parents may not serve as guardian ad litem (GAL) for their minor children in a domestic violence restraining order sought against the child’s other parent or the child’s legal guardian, absent a court order to the contrary. Petitions for appointment of a GAL must be filed at the same time as the request for temporary domestic violence restraining order.

2. Parties must include a reference to any case involving the minor child, the minor child’s parents, or the minor child’s legal guardian and specifically the proposed GAL’s role in any other matters on the Application and Order for Appointment of Guardian Ad Litem of Minor – Family Law (JC Form #FL-935). Failure to provide this required information may result in later removal of the GAL at the court’s discretion.

3. If the application for appointment of GAL is set for hearing and a custody order is in effect, the proposed GAL should bring a copy of the most recent order to the hearing, if available in the public portion of the court file from the matter in which it was entered.

(Adopted 1/1/2022; Rev. 1/1/2023)

CHAPTER 5 REQUEST FOR ORDER (RFO)

Rule 5.5.1

Hearings on Request for Order

A. 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 entire 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 reschedule the matter to a future date.

4. Failure to adhere to the time limit constitutes good cause for imposing sanctions.

B. 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.
2. RFOs with limits of more than 40 minutes but less than a single court day may be heard by the judicial officer assigned to the case, another judicial officer in the family law department, or any trial department.
3. **Long-Cause Hearing.** RFOs longer than a single court day 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.

C. Rescheduling Hearing Date

1. The procedures and forms for rescheduling a hearing date for an RFO are governed by California Rules of Court, rule 5.95. Rescheduling hearing dates is disfavored and will be granted only for good cause shown.
2. In addition to the procedures for written agreements (stipulations) to reschedule a hearing per rule 5.95, parties may complete the online webform, Notice of Rescheduling Request/Settlement and submit an Agreement and Order to Reschedule Hearing (JC Form #FL-308) or other written stipulation and order to the court no later than the date of the hearing.
3. If a response to a request to reschedule a hearing is not provided by the court before the hearing, parties should attend the scheduled hearing.

D. 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.

E. 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.

F. 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; Rev. 1/1/2017; Rev. 1/1/2018; Rev. 1/1/2019; Rev. 1/1/2021; Rev. 1/1/2022; Rev. 1/1/2023)

Rule 5.5.2

Proposed Orders Entered at Hearing

A. Parties are encouraged to submit proposed orders at the time of the hearing, including but not limited to, income withholding orders.

B. In the event the court does not sign or issue a written order immediately following the hearing, the procedures set forth in the California Rules of Court must be followed regarding the preparation, service and submission of orders after hearing.

(Rev. & Renum. 1/1/2017; Rev. 1/1/2018; Del. 1/1/2019; Adopted 1/1/2020; Rev. 1/1/2022)

Rule 5.5.3

Related RFO

A. Reasonably Related Issues

1. Subject to calendar availability, a party may request that an RFO with issues reasonably related to the issues raised by a scheduled RFO be set on the same date and time only if the related RFO meets the standard statutory time requirements for filing and service.

2. The first page of the related RFO must state "Related RFO."

(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; Rev. & Renum. 1/1/2017)

Rule 5.5.4

RFO Procedures

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

B. FCS Data Sheet. When filing an RFO regarding custody or visitation, each party must submit a Family Court Services Data Sheet (SDSC Form #FCS-002), directly to FCS 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; Renum. 1/1/2017; Rev. 1/1/2018; Rev. 1/1/2022; Rev. 1/1/2023)

Rule 5.5.5

Exhibits

A. Identification of Exhibits. All exhibits must be filed or lodged with the court. The petitioner's exhibits must be numbered and the respondent's exhibits must be lettered.

B. Filed and Lodged Exhibits

1. Exhibits that do not exceed 10 pages may be filed rather than lodged.
2. For imaged and partial-imaged cases, the court's copy of exhibits filed in paper format must not include overhanging tabs or dividers. Copies for counsel, the judicial officer and witnesses should have tabs/dividers and should be BATES stamped or numbered consecutively.

3. Exhibits that exceed 10 pages, exclusive of tabs/dividers, should be lodged.

4. Compact Discs (CDs), Digital Video Discs (DVDs) and/or other types of recorded or digital storage devices that require the use of any equipment to hear or view the exhibit must be lodged.

C. Lodging Procedures

1. A Notice of Intent to Lodge Documents (SDSC Form #D-235 or in pleading format) listing the name or description of the exhibit must be filed and timely served with the moving, opposition and reply papers.

2. The documents themselves must be lodged with the court no sooner than 10 court days and no later than five court days prior to the hearing, absent a court order.

3. Lodged documents will be stamped "received" by the court.

4. Lodged documents must be tabbed to correlate to the notice of intent to lodge documents and BATES stamped or numbered consecutively throughout the entirety of the lodgment.

5. A conformed copy of the notice of intent to lodge documents must be the face page of the lodged documents.

D. Recorded or Digital Exhibits Offered as Evidence. A party who intends to offer into evidence an electronic or digital sound or sound-and-video recording must strictly comply with the provisions of California Rules of Court, rule 2.1040.

E. Service of Lodged Exhibits. The time frame for lodging documents with the court does not affect the statutory time for service of the notice of lodgment and the exhibits themselves which must be done with the moving, opposition, or reply papers. This includes transcripts of electronic or digital exhibits to be offered as evidence and/or a duplicate of the electronic or digital recording as set forth in California Rules of Court, rule 2.1040.

F. Return and Party Retention of Lodged Documents.

1. The court will return lodged documents only in accordance with the California Rules of Court. Otherwise, all lodged documents must be retrieved within five court days following the hearing or trial, unless the court provides otherwise. Any lodged documents not timely retrieved may be discarded without further notice.

2. 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.

G. This rule does not apply to the lodgment of Assisted Reproduction Agreements for Gestational Carriers.

H. The above procedures do not apply to pleadings, declarations, and Judicial Council forms, which must be filed with the court.

(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; Rev. & Renum. 1/1/2017; Rev. 1/1/2018; Rev. 1/1/2019; Rev. 1/1/2020; Rev. 1/1/2022; Rev. 1/1/2023)

CHAPTER 6 INCOME AND EXPENSE DECLARATION

Rule 5.6.1

Parties' Income

A. Filing and Service. An I&E required with the moving or responsive papers must be filed and served pursuant to the California Rules of Court. If an *updated* I&E is required pursuant to statute, rules, or court order, it must be filed with the court and served on all parties no later than five court days prior to the hearing.

B. Privileges and Protective Order. It is the obligation of the party asserting a privilege to obtain a protective order.

C. Additional Documentation of Income. The court may require additional documentation regarding a party's income, depending upon the facts and circumstances of that case. If so required, a continuance may be necessary so that the parties can provide the documentation as ordered.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. & Renum. 1/1/2013; Rev. 1/1/2014; Rev. 1/1/2016; Rev. 1/1/2018; Rev. 1/1/2020; Rev. 1/1/2022; Rev. 1/1/2023)

CHAPTER 7 MASTER CALENDAR ASSIGNMENTS

Rule 5.7.1

Master Calendar Assignments and Procedure

A. Assignments.

1. Trials and RFO hearings with time limits over 40 minutes may be assigned to any judicial officer in the family law department or a trial department. This assignment will be made by the supervising judge of the family law division, or their designee, as a master calendar assignment.

2. If necessary, post appeal remands will be made by the supervising judge of the family law division, or their designee, as a master calendar assignment.

B. Procedures.

1. Other than requests to reschedule, issues related directly to a trial or an RFO, including, but not limited to, discovery motions, must be directed to the assigned IC judicial officer.

2. A request to reschedule a trial or an RFO must be directed to the judicial officer assigned to conduct the RFO or trial.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010; Rev. 1/1/2011; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2016; Rev. 1/1/2017; Rev. 1/1/2020; Rev. 1/1/2021)

CHAPTER 8 MANDATORY SETTLEMENT CONFERENCES AND TRIALS

Rule 5.8.1

Mandatory Settlement Conference (MSC)

A. Setting Trials and MSC Date.

1. An MSC is required before any trial, unless excused by court order, except in matters where all parties are self-represented litigants in which case an MSC is not set unless specifically ordered by the court.

2. Prior to requesting an MSC, all parties must meet and confer, and engage in good-faith settlement discussions to determine whether any or all issues can be resolved in advance.

3. The MSC will be set only when all parties and/or their attorneys have completed, signed and filed the Joint Readiness Declaration–Mandatory Settlement Conference (SDSC Form #D-274).

B. Settlement Conference Brief and Supporting Documents

1. Unless otherwise ordered by the court, a settlement conference brief is required. The court encourages the use of the Mandatory Settlement Conference Brief-Long Cause Hearing Brief-Trial Brief (SDSC Form #D-241).

2. The settlement conference brief and all attachments must be exchanged between the parties and served on the assigned settlement conference attorney in a manner that ensures they are received no later than 4:00 p.m., three court days before the MSC, unless otherwise ordered by the court.

C. MSC Confirmation. No later than 10 calendar days before the scheduled MSC, parties must call the court to confirm that the MSC will go forward and to receive the name and address of the settlement conference attorney. Upon confirmation by the parties an MSC will go forward, the court will assign a settlement conference attorney who must contact the parties regarding the assignment within 48 business hours. The settlement conference attorney will instruct the parties regarding service method of the MSC settlement conference brief and supporting documents, along with the determination of whether and how the settlement conference will be conducted remotely.

D. Rescheduling and Sanctions. An MSC may be rescheduled only by court order, requested at least five court days before the scheduled date for the MSC. Failure to timely request a rescheduling of the conference, for any reason, other than the settlement of the entire case, is good cause for imposing sanctions.

E. Meet and Confer. All parties must meet and confer by telephone prior to an MSC at least 15 calendar days before the scheduled MSC. The parties must continue to meet and confer in good faith prior to the MSC. Failure to comply with this rule is good cause for imposing sanctions.

F. Appearance and Sanctions. All parties must attend the MSC as instructed by the assigned settlement conference attorney, unless excused in advance by the court. Failure to attend the MSC is good cause for imposing sanctions.

G. Stipulated Judgment. If the parties intend to enter a stipulated judgment on the day of the MSC, they may bring the following prepared forms along with the required self-addressed stamped envelopes: Judgment (JC Form #FL-180), Notice of Entry of Judgment (JC Form #FL-190), Appearance, Stipulations and Waivers (JC Form FL-130), Declaration Regarding Service of Disclosure and Income and Expense Declaration (JC Form #FL-141), Stipulation and Waiver of Final Declaration of Disclosure (JC Form #FL-144), and Declaration for Default or Uncontested Dissolution or Legal Separation (JC Form #FL-170).
(Adopted 2005; Rev. 2006; Rev. 1/1/2007; Rev. 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. 1/1/2015; Rev. 1/1/2016; Renum. 1/1/2017; Rev. 1/1/2018; Rev. 1/1/2019; Rev. 1/1/2020; Rev. 1/1/2021; Rev. 1/1/2022; Rev. 1/1/2023)

Rule 5.8.2

Trial Setting. All trial related dates and procedures, including but not limited to, discovery cut-off dates, designation of expert witnesses, trial briefs, motions in limine, exchange and submission of exhibit lists and exhibits, and witness lists will be as ordered by the court, and if the court fails to set the dates, the dates will be pursuant to the Code of Civil Procedure.
(Adopted 1/1/2017; Rev. 1/1/2020)

Rule 5.8.3

Trial Exhibits. Absent a separate court order, all trial exhibits must be lodged in a format in accordance with Rule 5.5.5.B. above.
(Adopted 1/1/2017; Rev. 1/1/2019; Rev. 1/1/2020)

**CHAPTER 9
PARENTAGE ACTIONS**

Rule 5.9.1

Inspection and Copying of Court Files in a Parentage Action. The inspection and copying of documents in a parentage action are governed by state and federal law, orders within the file and general orders by the Presiding Judge of the San Diego Superior Court. Any dispute as to who can inspect a parentage file and/or what documents may be copied without a prior court order must be determined by a judicial officer.
(Adopted 1/1/2010; Renum. 1/1/2012; Rev. & Renum. 1/1/2013; Rev. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2016; Rev. & Renum. 1/1/2017; Rev. 1/1/2018)

**CHAPTER 10
FAMILY SUPPORT DIVISION**

Rule 5.10.1

Family Support Division. All actions under Title IV-D of the Social Security Act initiated or maintained by the Department of Child Support Services (DCSS) are referred to as “FSD” matters. Case files are delineated and referred to as “DF” files
(Adopted 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2016; Renum. 1/1/2017)

Rule 5.10.2

Pre-Hearing Mandatory Meet and Confer; Acknowledgment of Advisement of Rights

A. All parties and/or counsel must meet and confer with DCSS prior to the hearing as set forth in notices to be served in advance. Parties must provide a working telephone number, and email if available, on their pleadings so the meet and confer conferences can be conducted. A party who has not provided their telephone number and/or email in the matter, must contact DCSS at the earliest opportunity before the hearing to provide a telephone number and/or email at where they can be reached.

B. All parties must be available at the telephone number listed on a Request for Remote Appearance (JC Form #RA-010) form at least two hours prior to the hearing.

C. Each party must sign and file an Acknowledgment of Advisement of Rights (SDSC Form #D-253) prior to the hearing.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009; Rev. & Renum. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2015; Rev. 1/1/2016; Rev. & Renum. 1/1/2017; Rev. 1/1/2020; Rev. 1/1/2022; Rev. 1/1/2023)

Rule 5.10.3

Remote Appearance in FSD. All remote appearances (by telephone, audio, or video) in FSD are subject to rule 5.2.5.
(Adopted 1/1/2018; Rev. 1/1/2022; Rev. 1/1/2023)

**CHAPTER 11
CHILD CUSTODY AND VISITATION**

Rule 5.11.1

Child Custody Recommending Counseling

A. FCS Counseling Sessions. Detailed and important information about FCS counseling procedures before, during and after the counseling session is available online or from FCS Family Court Services Child Custody Recommending Counseling Information Sheet (SDSC Form #FCS-022) and should be read by the parties no later than one week before the session.

B. Absent a court order, an FCS session may be set only once every 12 months.

C. Cancellation, Rescheduling and Sanctions

1. Cancellation. Only the moving party in an RFO may request that an FCS session be cancelled. This request must be made by notifying FCS directly, no later than 4:00 p.m. on the court business day before the session. The moving party is responsible for notifying the other party of the FCS cancellation. The cancellation must be based on one of the following reasons:

- a. The custody/visitation issue is settled.
- b. The parties are using a private counselor.
- c. The other party has not received timely notice of the session date.

2. Rescheduling. The parties may ask to reschedule an FCS session one time by notifying FCS directly of their joint agreement to reschedule, no later than 4:00 p.m. on the court business day before the session. All subsequent requests to reschedule require a court order.

3. Sanctions. The following conduct is good cause to order monetary sanctions of up to \$1,500 pursuant to Code of Civil Procedure section 177.5:

- a. Failure to timely cancel an FCS session.
- b. Failure to timely reschedule an FCS session.
- c. Failure of the moving party to notify the other party of a cancelled session.
- d. Failure to attend the counseling session.

D. Materials for FCS Review

1. No documents may be submitted to FCS for the counselor's review absent either a court order or a specific request for the materials by the counselor.

2. A party seeking a court order that documents be submitted to FCS for review must prepare a Notice of Lodgment attaching copies of the proposed documents and must serve the Notice of Lodgment with attached documents on the other side prior to requesting the court order.

3. If the court issues an order granting a request that materials be submitted to FCS for review, the requesting party must provide FCS with a conformed copy of the court order and a copy of those documents as to which the court has granted the request.

4. When FCS requests documents from one of the parties, the responding party must provide copies of the submitted documents to the other side as soon as possible and no later than when the requested documents are submitted to the FCS counselor.

E. Ex Parte Communication with FCS. Ex parte communications between FCS counselors, parties, attorneys, including minors' counsel, are governed by Family Code section 216 and California Rules of Court, rule 5.235.

F. Peremptory Challenge. A peremptory challenge of an FCS counselor is not allowed.

G. Counselor Reassignment Due to a Conflict of Interest. Before or during a counseling session, if a party or the counselor discovers a conflict of interest, the matter must be brought to the attention of FCS management for consideration of reassignment to a different counselor.

H. Complaint Procedure. Complaints about an FCS counselor must be submitted on the Family Court Services Complaint Form (SDSC Form #FCS-044) which is available online or from FCS. A complaint may not be based on a party's or an attorney's dissatisfaction or disagreement with the counselor's recommendation or a related court order.
(Adopted 1/1/2005; Rev. & Renum. 1/1/2006; Rev. 1/1/2007; Rev. & Renum. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010;

1/1/2011; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2016; Rev. & Renum. 1/1/2017; Rev. 1/1/2018; Rev. 1/1/2022)

Rule 5.11.2

Non-Confidentiality and Recommendation

A. Non-Confidential. Unless otherwise ordered by the court, all child custody recommending counseling in San Diego County is *non-confidential* as between the counselor, the court, the parties and their attorneys, but remains confidential as to the public.

1. Confidentiality of Reports. The confidentiality of FCS reports is governed by statute including, but not limited to, Family Code sections 3025.5 and 3177.

B. San Diego is a “Recommending” County

1. FCS Report.

a. If the parties reach an agreement during the FCS session and both parties are self-represented, the counselor may prepare a written agreement that will be approved and signed by the parties and filed with the court.

b. If the parties do not reach an agreement during the FCS session, the counselor will submit a comprehensive written report to the court that includes, but is not limited to, a custody and visitation recommendation and the reasons for the recommendation.

2. Court’s Consideration of Report. Absent timely evidentiary objections, the entire FCS report will be considered by the court and may be used as a basis for the court’s order.

C. Subpoena Process. As employees of the Superior Court, witness subpoenas for FCS counselors, are governed by Government Code sections 68097.1 and 68097.2, including the subpoenaing party’s obligation for all statutory fees and salary reimbursements.

1. Counselor’s Availability and Service of Process. Before serving the subpoena, the party must first contact FCS to confirm the counselor’s availability on the scheduled hearing date and time. After confirmation of the counselor’s availability, FCS must be served with the subpoena at least 10 calendar days before the hearing along with the required fee deposit. If a completed and signed Proof of Service for the subpoena is not provided to the FCS office at the time of initial service, then the subpoenaing party must submit a completed and signed Proof of Service to the FCS office within 24 hours of service of the subpoena.

2. Hearing Off-Calendar or Rescheduled Hearing

a. If the counselor’s appearance will no longer be required, the subpoenaing party must notify FCS at their earliest opportunity.

b. If the counselor’s appearance will still be required, but for a rescheduled hearing date, a new subpoena will not be necessary *if* the subpoenaing party does both of the following: (1) contacts FCS, at their earliest opportunity, to determine the counselor’s availability on the continued hearing date and time; and (2) immediately provides FCS written notice that the counselor’s appearance is required on the new date and time.

3. If at the time of the hearing, the FCS counselor is no longer an employee of the Superior Court, is on leave, or other circumstances prevent the Superior Court from producing the counselor as a witness in response to a subpoena, FCS will assign the case for another child custody recommending counseling session with a different counselor.

4. Depositions. The court will not order depositions of counselors absent a showing of extraordinary good cause.

5. FCS Files. Certain privileges attach to FCS files. The court will not order the production of any FCS documents without a prior in-camera review. A party desiring an in camera review must serve FCS with a subpoena duces tecum for the file/documents at least 15 calendar days before the trial or hearing. If an objection is received, the subpoenaing party must file an RFO compelling the in-camera review.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Renum. & Rev.1/1/2012; Rev. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2016; Rev. & Renum. 1/1/2017; Rev. 1/1/2018; Rev. 1/1/2019; Rev. 1/1/2020; Rev. 1/1/2021; Rev. 1/1/2022)

Rule 5.11.3

Reserved for Future Use

(Adopted 1/1/2005; Rev. & Renum. 1/1/2006; Rev. 1/1/2007; Rev. & Renum. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010; Renum. & Rev. 1/1/2011; Rev. 1/1/2012; Rev. 1/1/2013; Del. 1/1/2014; Renum. 1/1/2017)

Rule 5.11.4

Private (Non Court-Connected) Child Custody Counseling

A. Stipulation. The parties may stipulate to use a private child custody counselor at the parties' own expense. The private counseling may be confidential or non-confidential as agreed to by the parties.

B. Qualifications. It is the parties' obligation to investigate and know that a private counselor meets the statutory qualifications, training and continuing education requirements.

C. Formal Order. It is the parties' obligation to prepare a formal stipulation and order for the court's signature with the statutorily required content before participating in private counseling.

D. Agreements. If the parties reach an agreement, the private counselor will prepare a report setting forth the terms of the agreement. If the counseling was stipulated as non-confidential, either party or the counselor may submit the report to the court.

E. Unresolved Issues

1. Confidential Counseling. If no agreement is reached and the private counseling was stipulated to as confidential, the parties must then participate in non-confidential counseling before the matter is heard by the court. This non-confidential counseling may be either with a private counselor or with FCS.

2. Non-confidential Counseling. If no agreement is reached and the private counseling was stipulated to as non-confidential, the counselor will submit a full written report with a recommendation and reasons for the recommendation to the parties, their attorneys and the court before the hearing.

3. Court's Consideration of Report. Absent timely evidentiary objections, the private counselor's entire written report will be considered by the court and may be used as a basis for the court's order regardless of whether the report is admitted into evidence.

F. Ex Parte Communication with the Private Counselor. Communications between a private counselor, parties, and attorneys, including minors' counsel, are governed by the provisions of Family Code sections 216 and 1818.

(Adopted 1/1/2008; Rev. 1/1/2010; Renum. & Rev. 1/1/2011; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2015; Renum. 1/1/2017; Rev. 1/1/2019)

Rule 5.11.5

Child Custody Evaluations

A. Order Appointing Evaluator. The court may order a child custody evaluation in accordance with the law.

1. The Order Appointing Child Custody Evaluator (JC Form #FL-327) may be supplemented by and/or attached to a separate stipulation prepared by the parties. It is the responsibility of the parties to ensure that the form and content of the order, including but not limited to, the purpose and scope of the order, complies with the law. Failure to ensure the order complies with the law may be considered as a factor in a party's objection related to the evaluator's report.

2. Parties must immediately provide a copy of the order to the appointed evaluator.

B. Finding a Qualified Private Child Custody Evaluator

1. The specific criteria required under the law, including licensing, education and training, for a private mental health professional to be qualified as a court-appointed child custody evaluator is available on the California Court's website. The list of qualifications may then be used to search through any standard public resource, such as the internet, to find a mental health professional who meets all the legal criteria.

2. A private court-appointed evaluator must be able to sign under penalty of perjury and file a Declaration of Private Child Custody Evaluator Regarding Qualifications (JC Form #FL-326) within 10 days of the appointment.

3. The court does not maintain a list of qualified evaluators nor does it endorse any mental health professional.

4. The parties are responsible for ensuring a private child custody evaluator meets all the legal qualifications.

C. Qualifications Declaration. The parties are responsible for ensuring the timely filing of the qualifications declaration signed by the private evaluator. Failure to ensure the timely filing of the qualifications declaration may be considered by the court as a factor in a party's objection related to the evaluator's report.

D. Child Custody Evaluator's Report. The court may consider the evaluator's report in accordance with the law, including proceedings indirectly related to child custody or visitation.

E. Peremptory Challenges and Challenges for Cause

1. A peremptory challenge of a private evaluator appointed by the court is not allowed.

2. A party may challenge an evaluator for cause by noticed motion upon a substantial showing that the evaluator is biased or prejudiced against one of the parties or otherwise unable to render a fair and impartial evaluation.

F. Withdrawing from a Case. A private evaluator may petition the court to withdraw from the case for good cause by delivering a letter addressed to the trial judge assigned to the case stating the reasons for their request. A copy of the letter must also be served on all parties and minor’s counsel. Any objections to the request to withdraw must be filed with the court and served on the evaluator, all parties, and minor’s counsel, within 10 court days of notice of the petition to withdraw. Based on the court’s review of the petition and any objections, the court may schedule a hearing or decide the matter by issuing an ex parte order. All withdrawals require a court order.

G. Ex Parte Communications. Ex parte communications between an attorney, including minor’s counsel, and the court-appointed evaluator, are governed by Family Code sections 216 and 1818 and California Rules of Court, rule 5.235.

H. Complaints. Complaints about an evaluator must be in writing and addressed to the supervising judge of the family law division. Complaints must be as specific as possible in describing what the evaluator did or did not do. The supervising judge, or his or her designee(s), will investigate, evaluate and respond to the complaint in due course. (Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2010; Renum. & Rev. 1/1/2011; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2016; Renum. 1/1/2017; Rev. 1/1/2019; Rev. 1/1/2022)

Rule 5.11.6

Supervised Visitation Providers

A. List. A list of professional providers of supervised visitation (“professional providers” as defined by Family Code section 3200.5) is available as a courtesy through the San Diego Superior Court Professional Providers of Supervised Visitation (PPSV) List (SDSC Form #ADM-392) (“PPSV List”) which is online. The individuals/entities have identified themselves to the San Diego Superior Court as professional providers. The professional providers are not affiliated with the court, and each professional provider is independently responsible for compliance with any and all applicable legal requirements. The court does not endorse, evaluate, supervise, or otherwise monitor the professional providers. All parties reviewing the PPSV List should concurrently review the San Diego Superior Court’s Professional Providers of Supervised Visitation Policy (SDSC Form #ADM-390).

B. Declaration of Qualifications. All professional providers and non-professional supervised visitation providers (“non-professional provider” as defined by Family Code section 3200.5) must sign and file the Declaration of Supervised Visitation Provider (JC Form #FL-324P for professional providers or form #FL-324NP for non-professional providers), or a declaration containing the same qualifications information, before the first supervised visit. In addition, each time a professional provider submits a report to the court, the professional provider must also sign, serve on all parties, their attorneys, and the attorney for the child, and file a new and current declaration.

C. Qualifications. It is the parties’ obligation to investigate and know that a professional or non-professional provider meets the statutory qualifications, training and continuing education requirements.

D. Current Declaration of Visitation Provider. “Current” means the Declaration of Supervised Visitation Provider (JC Form #FL-324P or NP) has been completed and signed within 10 days prior to filing the form with the court. In the event any information contained in the Declaration of Supervised Visitation Provider (JC Form #FL-324P or NP) has changed, an updated version must be served by the provider on all parties, their attorneys, and the child’s attorney, and filed within 5 days of the change in information.

E. Ineligibility of Supervised Visitation Provider. In the event a provider becomes ineligible to provide services for any reason (including but not limited to, failure to meet the qualifications and training set forth in California Rules of Court, Standards of Judicial Administration, Standard 5.20, or Family Code section 3200.5) the provider must immediately contact all parties, their attorneys, and the child’s attorney, and must state, in writing, the reasons the provider is no longer eligible. Within 5 days of receipt of the provider’s written notice of ineligibility, the parties must file a declaration containing all pertinent information related to the provider’s ineligibility. (Adopted 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010; Renum. 1/1/2011; Rev. 1/1/2012; Rev. 1/1/2013; Rev. & Renum. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2016; Renum. 1/1/2017; Rev. 1/1/2019; Rev. 1/1/2022)

CHAPTER 12 JUDGMENTS AND ORDERS AFTER HEARING

Rule 5.12.1

Preparation of Orders After Hearing and Judgments

A. Procedure. Failure to comply with the mandatory requirements for an order after hearing as set forth in the California Rules of Court or allowed under Rule 5.5.2 may be good cause to impose sanctions.

B. Format. The order or judgment must be prepared so that at least two lines of text appear on the page which will have the judicial officer's signature and no text may appear after the judicial officer's signature.

C. Attachments or Exhibits.

1. Only the recommendation portion of an FCS counselor's report or a non-confidential, private counselor's report may be attached as an exhibit to an order or judgment when the court has adopted the recommendation as its order. No other portion of the report may be attached to the order.

D. Mandatory Forms. All orders and judgments, whether contested or by stipulation, must include all applicable Judicial Council mandatory forms. All judgment packets should include a Judgment Checklist (JC Form #FL-182). The parties are encouraged to indicate on the FL-182 what date the previously submitted documents were filed or to include a courtesy copy for the court's review.

E. Requests for a Statement of Decision and Objections.

1. All requests for a statement of decision and objections to the proposed statement of decision must be filed and served pursuant to the California Rules of Court and a courtesy copy must be provided directly to the IC department.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010; Rev. 1/1/2011; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2016; Renum. 1/1/2017; Rev. 1/1/2018; Rev. 1/1/2019; Rev. 1/1/2020; Rev. 1/1/2021; Rev. 1/1/2022; Rev. 1/1/2023)

CHAPTER 13 MINOR'S COUNSEL

Rule 5.13.1

Minor's Counsel

A. Qualifications Declaration. The failure by minor's counsel to timely file the required Declaration of Counsel for a Child Regarding Qualifications (JC Form #FL-322) may result in a forfeiture of fees and costs incurred prior to the filing date.

B. Review Hearings and Compensation

1. The court generally will hold a review hearing every 90 days to consider both the continued appointment of minor's counsel and the parties' ability to pay.

2. Minor's counsel must submit a declaration and order for payment of fees on the Declaration and Order for Payment of Attorney Fees and Costs of Minor's Counsel (SDSC Form #D-137) at every "ability to pay" and/or "review" hearing or no less than every 90 days if there is no pending review hearing. Failure to timely submit the fee declaration may result in the forfeiture of all billings older than 180 days.

C. Complaint Procedure

1. **Written Complaint.** A complaint regarding minor's counsel must be submitted in writing addressed to the supervising judge of the family law division, and contain all the following information:

- a. Case name and number;
- b. Name of the judicial officer assigned to the case;
- c. Name of the minor's counsel;
- d. Specific facts, conduct and dates regarding the alleged inadequacies or behaviors which give rise to the complaint.

2. **Complaint Basis.** A complaint *cannot* be based on a party's or an attorney's dissatisfaction or disagreement with a court order in which minor's counsel was involved.

3. **Court Response.** The supervising judge has the discretion to respond to the complaint directly, to consult with other judges, or to refer the complaint to the chairperson of the Minor's Counsel Subcommittee of the San Diego Family Law Bar Association. If referred to the chairperson, the chairperson will attempt to resolve the complaint informally.

4. **Review Panel.** If the complaint cannot be resolved informally, a review panel will be convened to investigate the complaint and provide a written report with recommendations to the supervising judge. The review panel will include the supervising judge or his or her designee and two volunteer attorneys. The attorneys will have no connection to the underlying case and at least one will be a qualified minor's counsel. Based on the report, the supervising judge will take appropriate action.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010; Rev. 1/1/2011; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2019; Rev. 1/1/2022)

**CHAPTER 14
MISCELLANEOUS**

Rule 5.14.1

Attorneys of Record

A. Attorneys Seeking to be Relieved. The court may deny a request to be relieved as attorney of record if there are outstanding proposed orders after hearing or judgments that have not been submitted to the court for filing.

B. Attorneys Seeking to Withdraw. No attorney may withdraw as attorney of record absent compliance with Code of Civil Procedure section 285.1.

C. Conflicts and Errors in Orders After Hearing and Judgments

1. Any and all conflicts or disagreements on the form, content, or language of an order after hearing or judgment must be resolved in accordance with the California Rules of Court before submitting the proposed order after hearing or judgment.

2. If an order after hearing or judgment is returned for any errors and/or corrections, the attorney of record for the party or, if no attorney of record, the self-represented litigant who submitted the order after hearing or judgment must promptly correct all errors and resubmit the order or judgment to the court.

Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Renum. 1/1/2010; Rev. 1/1/2011; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2016; Rev. 1/1/2018; Rev. 1/1/2020)

Rule 5.14.2

Appointment of Elisor

A. Request for Order. A court order for the appointment of an elisor must be made by a request for order, and cannot be granted on an ex parte basis unless previously ordered otherwise. The request for order must include at least one supporting declaration with a list of the exact documents the elisor is being asked to sign. The request must be accompanied by a proposed order.

B. Mandatory Information in Supporting Declaration(s). The supporting declaration(s) must include all of the following:

- 1.** The title, date, page(s) and line(s) of the court order upon which the request to appoint an elisor is based.
- 2.** A description of the good faith efforts to meet and confer to resolve the issue informally.
- 3.** Specific facts establishing the necessity of the appointment of an elisor, including the reason, by a person with personal knowledge, why each document requires the elisor's signature.

C. Mandatory Language in Proposed Order. The proposed order must include all of the following:

1. Designate "The Clerk of the Court or Clerk's Designee" as the elisor. The order cannot state a name or title of a specific court employee.

2. State the party's name for whom the elisor is being appointed; the exact title or a sufficient description that accurately identifies each document to be signed; and the capacity in which the elisor will be signing each document.

D. Mandatory Additional Requirements

1. Copies of all documents to be signed must be attached to the proposed order.

2. The original documents presented to the elisor for signing must be identical to the copies of the documents attached to the proposed order.

E. Order Granted

1. If the court grants the order, the party must contact the business office to schedule an appointment for the actual signing of the documents.

2. If the elisor is signing documents requiring notarization, the party must arrange for a notary public to be present when the elisor signs the documents.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. & Renum. 1/1/2010; Rev. 1/1/2012; Rev. & Renum 1/1/2013; Rev. 1/1/2016; Rev. 1/1/2020)

Rule 5.14.3

Reserved for Future Use.

(Adopted 1/1/2013; Rev. 1/1/2014; Del. 1/1/2017)

Rule 5.14.4

Family Law Facilitator

A. Authority. The services provided by the FLF are pursuant to the Family Law Facilitator Act, Family Code section 10000 et seq. including the additional duties set forth in Family Code section 10005. The duties set forth in Family Code section 10005 are expanded to include that the FLF may prepare a formal order after hearing in cases where one or both of the parties is represented by counsel when directed by the court to do so. All orders prepared by the FLF at the request of the court will be submitted directly to the court unless otherwise ordered.

B. Facilitator Disqualification or Bias. If, at any time, a facilitator providing services deems himself or herself to be disqualified or biased, the facilitator will immediately stop providing services and arrange for a new facilitator to assist that litigant.

C. Complaint Procedure. Complaints against a facilitator must be submitted to the FLF manager on the Family Law Facilitator Customer Complaint Form (SDSC Form #FLF-008). The FLF manager, or his or her designee will investigate, evaluate and respond to the complaint in due course. A complaint must *not* be based on a party's dissatisfaction or disagreement with a court order.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Renum 1/1/2010; Rev. & Renum. 1/1/2013; Rev. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2016; Rev. 1/1/2022)

Rule 5.14.5

Communication and Coordination Regarding Criminal Protective Orders, Domestic Violence Restraining Orders and Child Custody and Visitation Orders (Cal. Rules of Court, rule 5.445)

Refer to San Diego Superior Court Rules, Division I, Chapter 4, rule 1.4.5.

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

Rule 5.14.6

Appointment of Counsel Under Servicemembers Civil Relief Act (SCRA)

A. If the court reasonably believes a person is protected by the SCRA, the court will appoint counsel from the SCRA Pro Bono Panel Program for limited scope representation.

B. A party or counsel having knowledge that an opposing party is or may be protected by the SCRA must notify the court at the earliest opportunity.

(Adopted 1/1/2005; Renum. 1/1/2006; Renum. 1/1/2008, Rev. 1/1/2009; Rev. & Renum. 1/1/2010; Rev. 1/1/2011; Rev. & Renum. 1/1/2013; Rev. 1/1/2020)