

1 **TRIAL/EVIDENTIARY HEARING PROCEDURE ORDERS**

2 **Hon. Leah M. Boucek, Commissioner – Department 704**

3 _____
4 *The parties and/or their counsel are expected to appear, either in-person or remotely, for the*
5 *Trial Readiness Conference (TRC). They will be charged with knowledge of the following*
6 *Orders whether they appear or not. Failure to comply with the following Orders and/or*
7 *causing a delay in a proceeding going forward, may subject a party or counsel to sanctions*
8 *under Code of Civil Procedure §177.5.*

9
10 **Trial/Evidentiary Hearings:**

- 11 • We will complete the trial/evidentiary hearing in the number of days/hours you have set;
12 have your witnesses ready and plan your presentation accordingly. **If your matter settles**
13 **before the trial date, please inform the department clerk immediately.**
- 14 • If you cannot complete the trial in the time set, please address this issue at the trial
15 readiness conference (TRC) or appear ex parte as soon as possible.
- 16 • All else being equal, half the time will be allotted to each side, less time for the court’s
17 ruling.
- 18 • Between now and the date of trial, counsel shall meet and confer and settle as many issues
19 as possible, presenting a *written* stipulation at trial.
- 20 • All parties, counsel and witnesses are expected to appear in person for trials and hearings.
21 A party, counsel or witnesses may request an exception for good cause at the TRC. Unless
22 ordered at the TRC, anyone who wants to appear via videoconferencing on Microsoft
23 Teams will need court approval by way of written request using the proper court forms
24 (RA-010).
- 25 • Unless otherwise noted, we commence trial each day at 9:00 a.m. (the bailiff will open the
26 courtroom between 8:45 to 9:00 a.m.). There will be a 15-minute break during the morning
27 and the afternoon. We will break at noon for lunch and reconvene at 1:30 p.m. to 1:45 p.m.
28 Trial will conclude each day at 4:30 p.m.

1 **Trial/Evidentiary Hearing Briefs:**

- 2 • They are to be exchanged by the parties according to Rule 5.394 of the California Rules of
3 Court unless specifically ordered otherwise by the court. The trial brief form (D-241) can
4 be located on the court’s website.
- 5 • Evidentiary hearing briefs, exhibits, exhibit lists and witness lists are due by close of
6 business no later than a minimum of five court days in advance of the scheduled
7 trial/evidentiary hearing date.

8 **Exhibits:**

- 9 • All exhibits should be **pre-marked and tabbed** as: Petitioner - numbers; Respondent
10 letters. If Respondent has more than 26 exhibits, Petitioner shall use 1-400 and Respondent
11 shall use 401-800. Minor’s Counsel may use the Court’s Exhibit tags (brown) and shall
12 begin with number 801. If an Exhibit contains multiple pages, please give each page an
13 identifying number (bate stamped) in the lower righthand corner.
- 14 • Documents such as bank records should be broken down to monthly periods. For example,
15 bank statements for the period 1/1/22 through 1/31/22 shall be labeled as exhibit 1; bank
16 statements for the period 2/1/22 through 2/28/22 shall be labeled as exhibit 2, and so on
17 and so forth. The multi-paged documents should be bate stamped as indicated above.
- 18 • When judicial notice is taken of a document/exhibit, it is **not** indicated “RECEIVED” on
19 the exhibit tag. If there are impeachment exhibits, they can be identified as “the next in
20 order” and the clerk will mark and adhere the exhibit tag.
- 21 • The exhibit tag should not cover any part of the exhibit, i.e. the writing/numbers and/or
22 photo. If there is not a place to adhere the tag on the front of the exhibit, place it on the
23 back. If there are multiple pages, place it on the last page of the exhibit. The exhibit
24 number is to be placed in the lower right-hand corner by way of an exhibit tag (Pink tag –
25 Petitioner; Yellow tag – Respondent,) and have the case number and exhibit number pre-
26 written as follows:
27
28

PINK

YELLOW

Ptnr's Ex: 1, 2, 3	
FL 123456	
Rec'd	Dept
Clk	

Resp's Ex: A, B C or 401, 402, 403	
FL 123456	
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				A or 401			
2				B or 402			
3				C or 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 front and spine of the binder the exhibits contained therein.
- **No exhibit binders should be more than three (3) inches thick.** Binders that exceed this limit will most likely 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).
- The Court welcomes all parties and counsel to utilize iPads for the presentation of evidence during trial if resources allow, particularly in cases where exhibits will be numerous. If iPads are used, only one set of devices should be provided for trial, and each parties'

1 exhibits shall be downloaded on the iPads. The parties shall meet and confer to determine if
2 use of iPads is feasible, who shall provide them, and how the downloading of exhibits on to
3 the iPads shall be overseen and accomplished. If iPads are utilized, one set of hard copy
4 exhibits shall be provided by all parties, to be marked by the clerk and/or used in the event
5 of equipment failure.

- 6 • The Court strongly encourages the parties to agree on the admissibility of exhibits, if
7 possible, and the parties are ordered to meet and confer regarding the same. If parties
8 stipulate to exhibits, note the stipulated exhibits on the cover sheet in the binder.
- 9 • Be advised that the Court ***does not have the capability of presenting electronically stored***
10 ***evidence using its own equipment.*** The Court has a screen on which evidence can be
11 shown, and cables that can be connected to a laptop, but will not be able to insert flash
12 drives, memory sticks, CDs, or other storage devices into court computers or laptops.
13 Therefore, you must provide your own laptop or other equipment to show that evidence
14 during the trial.
- 15 • Move exhibits into evidence as you present them at trial. Exhibits are deemed authenticated
16 unless there is a ***genuine*** dispute. You need not ask a witness to authenticate a document
17 unless the opposing party objects.
- 18 • Any text messages or social media posts must be identified by date and time on the exhibit.
- 19 • Please meet and confer in advance as to the admissibility of evidence.
- 20 • Please be sure to include a means of return for all exhibits.

21 **In *Limine* Motions:**

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

1 **Witness Testimony:**

- 2 • If your witness has been authorized to appear via videoconferencing, please ensure that
3 each witness knows how to connect to Microsoft Teams and has a good connection *prior* to
4 the hearing.
5 • You must ensure that any parties or witnesses appearing remotely have copies of all
6 necessary exhibits in advance of the hearing.

7 **Experts:**

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

12 **Child testimony:**

- 13 • If you would like to call a child as a witness, please review California Rule of Court
14 5.250(d)(3).
15 • Calling children to testify is not usually in their best interest, particularly when a child is
16 there to testify against a parent or to express a preference in favor of one party over
17 another.
18 • Advise the court at the TRC whether a child wishes to address the court. The court may set
19 a separate hearing to address the issue of whether the child will testify, and if so, the
20 parameters of the child’s testimony.
21 • If a child is mature enough to have a meaningful preference, the court prefers that they be
22 interviewed by Family Court Services (FCS).

23 **The Court’s Trial Preparation:**

- 24 • The court will read the briefs and all past orders.
25 • Please be sure Income and Expense Declarations are complete per statutory
26 requirements and follow directions on the form FL-150, providing proof of income and
27 bringing your most recent tax return to the hearing.
28

1 **Court Reporters:**

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

5 **Court Interpreters:**

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

10 **Filing:**

- 11 • All pleadings, lodgments, trial briefs, witness lists, exhibit lists and any other written
12 material **must be directly filed** in Department 704. **Do not e-file trial documents.**
13 **Before** making the delivery, please call 619-844-2074 to make an appointment with the
14 department clerk for delivery.
- 15 • **Department 704 will not accept any documents via email to the courtroom clerk.**
16 **Do not ask the courtroom clerk directly for permission to email any documents.**
- 17 • Trial briefs should be separated from binders and/or boxes when delivered to
18 Department 704 otherwise there is a high likelihood they will not be filed and/or
19 reviewed by the Court prior to the start of the Trial/Evidentiary hearing.
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22 **IT IS SO ORDERED.**

23 Dated: _____

24 _____
25 Leah M. Boucek
26 Commissioner of the Superior Court
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