

**Policies and Procedures for
Lamoreaux Justice Center Department L61
Judge Adrienne E. Marshack
(657) 622-5561**

All parties and counsel shall read and understand these Policies and Procedures. Counsel shall give a copy of these Policies and Procedures to their clients.

I. EX PARTE (EMERGENCY) REQUESTS

Ex parte requests require an emergency. The Court strictly enforces the requirement that a party seeking an *ex parte* order must make a factual showing of irreparable harm, immediate danger, or other statutory basis for relief *ex parte*.

Ex parte requests are disfavored and will rarely be granted if they relate to financial matters (e.g., support, property, and attorneys' fees), or to situations that involve harm that is not immediate and can be repaired (visitation or custody matters).

II. CONTINUANCES

Requests for Order, Motions, and Conferences may be continued telephonically up to two (2) times by agreement of the parties. Otherwise, the requesting party must make a showing of good cause by written request for a continuance. More than two continuances, and requests for a continuance made at the hearing are disfavored.

Continuances of trials and specially-set hearings are heavily disfavored. Parties must request a continuance of a trial or specially-set hearing as soon as they are aware of the need. The earlier a continuance is requested, the more likely the Court is to grant it. A continuance that is requested less than one week before trial or at trial is heavily disfavored and will not be granted absent a showing of an unavoidable and unexpected emergency.

III. MOTIONS/REQUESTS FOR ORDERS¹

A. Before the Hearing

1. **Try to come to an agreement.** Unless a domestic violence restraining order is being requested or is already in place, Rule 5.98 of the California Rules of Court (hereinafter "CRC") requires that parties attempt to settle the matter before coming to Court.

In addition, Section 3170 of the Family Code (hereinafter "FC") requires parties

¹ The procedures in this Section III.A.1.-5. do not apply to Requests for Domestic Violence Restraining Orders ("DVRO") except for Section III.A.3. if both parties are represented by counsel; the procedures in Section III.B. do apply to DVRO hearings.

to attend mediation with Family Court Services prior to any Request for Order regarding custody and/or visitation.

Parties are almost always happier with an agreement. If the parties come to an agreement before the hearing, please inform the clerk and the matter will be moved to the front of the line.

2. **Determine what issues are in dispute.** Even if the parties cannot agree on all the issues, they can still agree on some of the issues. The Court expects both parties to be able to identify the matters on which they can and cannot agree.
3. **Exchange documents and witness lists.** If a party plans to present documents or evidence in court, that party must submit the documents or evidence to the Court and to the other party at least three (3) court days before the hearing. You can meet this requirement by sending the documents to the other party (or their counsel if they are represented) by email, while also complying with the procedures set forth in Policies and Procedures Section VII.B. below. If a party plans to present information contained on a cell phone, computer, or other technology, the party must print it out and submit it in the same manner described above. Each party must also inform the other party of the witnesses that will testify on their behalf, as well as a brief description of what their expected testimony will be. The Court may disallow documents, evidence, or witnesses if a party fails to follow this rule. See sample witness lists here: <https://www.occourts.org/directory/family/RemoteHearingRules.html>.
4. **Submit financial documents.** If the matter involves financial issues (such as child support, spousal support, or property division), you must follow Rule 702 of the Orange County Superior Court Local Rules (hereinafter “Local Rules”). At least one week before the scheduled hearing, each party must serve the other party and file with the Court an Income and Expense Declaration (Mandatory Judicial Council Form FL-150).

At the same time, the parties must also produce to the opposing party (and should bring to Court at the hearing but need not file): pay stubs for the two most recent months (if employed), a profit and loss statement and balance sheet for the last 12 months (if self-employed), the party’s most recent signed and filed state and federal tax returns (if self-employed), the party’s most recent W-2, 1099, and K-1 forms, and all other documents required by CRC 5.260 and Local Rule 702.

5. **Prepare support calculation printout.** In any matter involving child support or temporary (prejudgment) spousal support, counsel must present to the Court a printout from DissoMaster™ or Xspouse™ showing the calculations supporting their client’s position on support. The Court may not rule on a Request for Order involving child support or temporary spousal support if counsel for the moving

party fails to present this printout.

A party who does not have counsel does not need to bring a printout but must be ready to discuss the first two pages of the Income and Expense Declaration for themselves and the other party.

6. **File the proper proof of service.** If you are required to serve the other party (in other words, give them a copy of your Court papers so that they know what you are requesting and when the matter will be heard), then you are also required to file a proof of service with the Court at least five (5) court days before the hearing. This document confirms with the Court that you have properly served the other party. The Court may not move forward with any matter without a proper proof of service.

B. At the Hearing

1. **Check in before the hearing.** Parties and counsel should arrive and check-in with the Court clerk at least five (5) minutes before the hearing time.
2. **Let the Court know if you will be late.** If a party or attorney will be late, they must call the Court clerk at (657) 622-5561 as soon as possible.
3. **Be courteous during the hearing.** This is a court of law. All parties and counsel must act in a dignified and civil manner. The Court expects all attorneys who appear before it to abide by the Civility guidelines adopted by the Orange County Bar Association. (See https://www.occourts.org/directory/local-rules/2021/Civility_Guidelines.pdf.)
4. **Bring three (3) copies of documents.** If you wish to present documents in court, you must bring three (3) copies of each document – one for yourself, one for the other party, and one for the Court. The Court may not allow documents if insufficient copies are provided. While in Court, if you need to give a document to the judge, request to give it to the bailiff.
5. **Be focused and efficient in your presentation.** Hearings should be limited to one hour unless there is a showing of good cause that more time is needed or the matter is set for trial or a specially-set hearing.
6. **After the Court has decided,** you may ask the judge questions if you do not fully understand the decision. However, the Court will not answer legal questions or hear further testimony or argument.

IV. AT-ISSUE MEMORANDUM AND TRIAL-SETTING CONFERENCE

Once an At-Issue Memorandum for Trial Setting (Orange County Local Form L-0031) is

filed, the Court will set a Trial-Setting Conference. At the Trial-Setting Conference the Court will schedule a Mandatory Settlement Conference and a Trial Readiness Conference.

V. MANDATORY SETTLEMENT CONFERENCE (“MSC”)

- A. Let the Other Party Know Your Position and Proposals for Settlement.** At least seven (7) calendar days prior to the MSC, each party must file and serve on the other party a Settlement Conference Brief. The parties may use Local Form L-0966 to prepare the Settlement Conference Brief. Any Settlement Conference Brief must include the information in Sections I, II, and III of Local Form L-0966.
- B. Be Present at Your MSC.** All parties must be present at the MSC unless they obtain a Court order to the contrary. All parties must make a good-faith effort to resolve the case at the mandatory settlement conference and comply with Local Rule 707. The Court will entertain requests for sanctions pursuant to Family Code § 271 against any party who fails to follow Sections V.A. and/or V.B.
- C. Request the Assistance of a Mediator.** Particularly for self-represented litigants, the Court encourages the parties to request the assistance of an Orange County Human Relations mediator or a Temporary Judge mediator during the MSC. Please ask the clerk when the MSC is scheduled to have an Orange County Human Relations mediator or a Temporary Judge mediate your case. The more advanced notice the Court has that you would like the assistance of a mediator, the more likely it is that a mediator will be available on the date of the MSC.

VI. TRIAL READINESS CONFERENCE

- A. Prepare for the Trial Readiness Conference.** At least 21 calendar days before the trial readiness conference the parties must meet and do the following:
1. Exchange current Income and Expense Declarations (Form FL-150)
 2. Exchange witness lists (*see* FC § 217; Form FL-321)
 3. Exchange exhibit lists
 4. Exchange exhibits, including audio/video recordings and transcripts of the recordings (*see* CRC 2.1040)
 5. Exchange expert witness reports or reports prepared pursuant to Evidence Code §§ 730 or 733
 6. Discuss what issues need to be decided at trial
 7. Discuss which exhibits or evidence the parties will stipulate are admissible

8. Discuss which material facts are agreed upon (and to which the parties will stipulate) and which are in dispute
 9. In trials involving financial issues, confirm that final Declarations of Disclosure and Local Rule 702 disclosures have been made
 10. Exchange information and prepare the joint statements listed below
- B. File Pre-Trial Documents.**² At least ten (10) calendar days before the trial readiness conference, the parties are required to file with the Court and serve on the other party:
1. Trial Brief of no more than 15 pages on pleading paper that conforms to CRC 5.394
 2. Joint Statement of Issues (*See* Local Form L-0966)
 3. Witness lists with a brief description of the subject-matter of the testimony and time estimates for direct examination (*see* FC § 217; Form FL-321)
 4. Exhibit lists with notations of which exhibits have been stipulated to as admissible without objection subject to cross-examination
 5. Stipulation of Material Undisputed Facts
 6. Joint Statement of Critical Disputed Facts, not to exceed 20 facts; if the parties cannot agree then each party shall list 10 critical facts
 7. **If permanent (post-judgment) spousal support is at issue:** Joint Statement of Family Code § 4320 Factors that includes a side-by-side summary of the parties' contentions as to each factor
 8. **If the characterization, valuation or division of assets, debts, or retirement plans are at issue:** a Joint Marital Balance Sheet listing all assets, debts, and retirement plans at issue and a side-by-side summary of each party's position as to the characterization, valuation, and division of each asset, debt, and retirement plan at issue
 9. **If child support is at issue:** A DissoMaster™ or Xspouse™ printout showing the calculations supporting their client's position on support (*see* Section III.A.5.)
 10. Current Income and Expense Declarations (Form FL-150)
 11. Declaration Regarding Service of Final Declaration of Disclosure and Income and

² Certain pre-trial sample documents/templates can be found at <https://www.occourts.org/directory/family/RemoteHearingRules.html>.

Expense Declaration (Form FL-141) or Stipulation and Waiver of Final Declaration of Disclosure (Form FL-144)

12. Courtesy copies to the Court of any expert witness reports or any report prepared pursuant to Evidence Code §§ 730 or 733 (these need not be filed)

C. Trial Will Not Be Set Until All Trial Readiness Requirements are Completed.

The Court will set trial dates once all the requirements in Sections VI.A. and VI.B. above have been met. The Court will not allow presentation at trial of any issue, witness, document, or evidence that is not reasonably disclosed or exchanged during the trial readiness process, unless a party shows good cause (for example, if a party did not have knowledge of and could not have, with reasonable diligence, obtained knowledge of the issue, witness, document, or evidence, or the witness, document, or evidence is used for impeachment purposes only).

VII. TRIAL

A. Motions in Limine and Requests for Judicial Notice. Any Motion *in Limine* or Request for Judicial Notice must be filed no later than ten (10) calendar days before trial. Oppositions shall be filed at least five (5) calendar days before trial. No replies shall be filed.

B. Submit All Exhibits and Lodge All Documents.

1. All exhibits and lodged documents for trials and specially-set hearings must be submitted directly to Department L61. If more than ten (10) exhibits are to be presented, they must be placed in a binder, with each exhibit appropriately separated and tabbed sequentially. Petitioner must use numerical tabs (*e.g.* 1, 2, 3) and Respondent must use alphabetical tabs (*e.g.* A, B, C, and if more than 26 exhibits, AA, AB, AC and so on). Two sets of the exhibits (*e.g.* 2 binders) are required for the Court—one for the clerk and one working copy for the judge, in addition to copies for the parties and a witness. Exhibit tags may be found as Form L-0529 in the Family Law Section at <https://www.occourts.org/forms/formslocal.html> or <https://www.occourts.org/directory/family/RemoteHearingRules.html>.
2. To the extent a proffered exhibit comprises multiple pages that does not already include page numbers, each page of the exhibit must be marked sequentially, with the exhibit number first. For example, in reference to Petitioner's Exhibit 1, it must be paginated as 1-1 on the first page, 1-2 on the second page, and so on.
3. **Documents for Witnesses at Zoom Hearings:** For Zoom hearings, counsel or the party must be prepared to show a document to a witness through the Chat feature (you will upload the file).

C. Trial Briefs in Lieu of Opening Statements. A party's trial brief shall serve as their opening statement. A party that fails to file a trial brief may be deemed to have waived their opening statement.

VIII. SPECIALLY-SET HEARINGS. Specially-set hearings are all hearings that are not trials but have a time estimate longer than two (2) hours and are set for times when no other matters will be scheduled, normally 1:30 pm.

A. File Pre-Hearing Documents. At least ten (10) calendar days before a specially-set hearing, the parties shall file with the Court and serve on the other party all of the documents listed in Section VI.B. except for the items described in Sections VI.B.1. (Trial Brief), VI.B.2. (Joint Statement of Issues), VI.B.6. (Joint Statement of Critical Disputed Facts), VI.B.11. (Declaration Regarding Service of Final Declaration of Disclosure and Income and Expense Declaration or Stipulation and Waiver of Final Declaration of Disclosure), and any other document which is not relevant or is unnecessary to the issues to be decided in the specially-set hearing. Failing to file the necessary documents may lead to waiver of the matters presented in the document or to a delay in holding the specially-set hearings.

B. Treat Specially-Set Hearings as Trials. Section VII shall apply to all specially-set hearings.