



Superior Court of California County of Orange

Chambers of
KIRK H. NAKAMURA
PRESIDING JUDGE

700 CIVIC CENTER DRIVE WEST
SANTA ANA, CA 92701

ADMINISTRATIVE ORDER NO. 20/15

FAMILY LAW ORDER MANDATING REMOTE HEARINGS

PREFACE

On March 17, 2020, Chief Justice Tani Cantil-Sakauye issued an Emergency Order permitting the closure of Court facilities to the public, with minimal exceptions, from March 17, 2020 through March 27, 2020. On March 20, 2020, the Chief Justice issued an Advisory Memorandum recommending the suspension of all Family Law Trials, Hearings, and Proceedings for at least 60 days, with the exception of time-sensitive matters, such as Restraining Orders and urgent matters.

Based upon the Emergency Orders and Advisory Recommendations of the Chief Justice, the Presiding Judge of the Orange County Superior Court issued Administrative Order No. 20/08 on March 23, 2020, suspending all non-emergency Family Law Trials, Hearings, and Proceedings through June 1, 2020; and setting all such matters for a Status Conference to be scheduled for hearing after June 1, 2020.

On April 4, 2020, the Judicial Council of California issued its Emergency Rule No. 3, effective April 6, 2020, which stated, in relevant part:

Use of technology for remote appearances

- (a) Notwithstanding any other law, in order to protect the health and safety of the public, including court users, both in custody and out of custody defendants, witnesses, court personnel, judicial officers, and others, courts **must** conduct judicial proceedings and court operations as follows:
 - a. Courts **may require** that judicial proceedings and court operations be conducted remotely...
 - b. Conducting proceedings remotely includes, but is not limited to, the use of video, audio, and telephonic means for remote appearances; the electronic exchange and authentication of documentary evidence; e-filing and e-service; the use of

remote interpreting; and the use of remote reporting and electronic recording to make the official record of an action or proceeding.

(b) Sunset

- a. This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the Covid-19 pandemic is lifted, or until amended or repealed by the Judicial Council.

[Judicial Council Emergency Rule No. 3, April 4, 2020; Emphasis Added].

BACKGROUND

As a result of the Covid-19 pandemic, and the Orders issued by the Chief Justice and the Governor, the Orange County Superior Court has been closed to the public, with limited exceptions, since March 17, 2020. This was necessary to protect the public, court employees, and judicial officers. Despite this closure, Court Operations have continued based upon the availability of Staff to process filings, minute orders, and other essential services.

Nevertheless, significant backlogs have occurred as a result of the closure in all case types. This will necessitate a prioritization of the allocation of judicial and support services to process time sensitive matters. Of the highest priority, by Federal and State Constitutional Statute and case authority, are criminal matters; such that a reallocation of support staff will be necessary to enable the satisfaction of said Statutory time limitations. This reallocation will necessarily involve the transfer of Sheriff's personnel from non-criminal case types in order to enable currently non-criminal courts to handle criminal matters. This will unavoidably mean that Family Law Courts, with limited exceptions, will not have Sheriff's personnel to act as bailiffs in Family Law Proceedings.

Additionally, significant backlogs are continuing to accrue in Family Law Courts, such that the implementation of protocols to enable these proceedings to go forward must be implemented without delay.

Therefore, as a result of this needed Bailiff reallocation, and the necessity of immediately commencing Family Law Hearings;

IT IS HEREBY ORDERED:

1. FAMILY LAW PROCEEDINGS, WITH LIMITED EXCEPTIONS AS SET FORTH HEREINBELOW, SHALL BE CONDUCTED VIA REMOTE HEARING, USING EITHER THE TEAMS OR WEB EX APPLICATIONS; THE USE OF WHICH APPLICATION TO BE DETERMINED AT THE DISCRETION OF EACH FAMILY LAW JUDICIAL OFFICER;
2. EACH FAMILY LAW JUDICIAL OFFICER SHALL SELECT THOSE MATTERS CURRENTLY PENDING WHICH THEY BELIEVE, IN THEIR DISCRETION, WILL BE MOST CONDUCIVE TO A REMOTE HEARING THAT CAN BE ADJUDICATED WITHIN A TWO HOUR TIME FRAME, ALLOCATING ONE HOUR PER SIDE, SUBJECT TO EXTENSION OF SAID TIME FRAME, WITHIN REASON, AT SAID JUDICIAL OFFICER'S DISCRETION;

3. AN IN-COURT PROCEEDING CAN BE SCHEDULED ON A SHOWING OF GOOD CAUSE AS TO WHY A REMOTE HEARING CANNOT OCCUR, WITHIN THE DISCRETION OF THE ASSIGNED JUDICIAL OFFICER;
4. DUAL PRO PER DOMESTIC VIOLENCE CASES (NO ATTORNEYS) ASSIGNED TO THE DEDICATED FAMILY LAW DOMESTIC VIOLENCE COURTS MAY BE SCHEDULED FOR IN COURT PROCEEDINGS AT THE DISCRETION OF JUDGE HENSON OR COMMISSIONER WATSON;
5. DCSS CHILD SUPPORT MATTERS SHALL BE HEARD REMOTELY PURSUANT TO SEPARATE REMOTE HEARINGS PROTOCOLS AS ESTABLISHED BY FEDERAL AND STATE STATUTE AND THE DEPARTMENT OF CHILD SUPPORT SERVICES, IN CONJUNCTION WITH JUDICIAL COUNCIL EMERGENCY RULE NO. 3;
6. SPECIFIC PROTOCOLS FOR THE SUBMISSION OF, AND PRESENTATION OF EVIDENCE SHALL BE DISTRIBUTED TO ALL PARTICIPANTS IN THE MATTERS SELECTED FOR REMOTE HEARING;
7. EACH FAMILY LAW COURTROOM HAS BEEN ASSIGNED A SEPARATE COURTROOM E-MAIL ADDRESS TO FACILITATE THE RECEIPT OF PROPOSED EVIDENCE FROM PARTIES THAT DO NOT HAVE THE CAPABILITY TO PROVIDE EVIDENCE INTO THE SHAREPOINT FOLDERS CREATED FOR RECEIPT OF EVIDENCE IN REMOTE HEARINGS;
8. THOSE PERSONS WANTING ACCESS TO A FAMILY LAW PROCEEDING THAT ARE NOT RESTRICTED FROM PUBLIC ACCESS SHALL APPLY TO THE COURT FOR SAID ACCESS NO LESS THAN 24 HOURS PRIOR TO THE DATE AND TIME SET FOR HEARING BY CALLING IN TO THE COURT AT A NUMBER TO BE POSTED ON THE COURT'S WEBSITE. THE JUDICIAL OFFICER ASSIGNED TO HEAR THE MATTER SHALL, IN HIS/HER DISCRETION, DETERMINE WHETHER OR NOT THE APPLICANT SHALL BE ENTITLED TO ACCESS SAID PROCEEDINGS, AND SHALL EITHER GRANT OR DENY SAID APPLICATION. THE PERSON OR PERSONS MAKING SUCH APPLICATION SHALL BE ADVISED THAT NO PART OF ANY FAMILY LAW PROCEEDING MAY BE RECORDED AND A VIOLATION OF THIS ORDER SHALL SUBJECT SAID INDIVIDUAL(S) TO POTENTIAL CIVIL AND CRIMINAL PENALTIES [Code of Civil Procedure Section 177.5; Penal Code Section 632, et. seq.]
9. THIS ADMINISTRATIVE ORDER IS TO BE READ IN CONJUNCTION WITH ADMINISTRATIVE ORDER NO. 20/08, AND IS TO BE CONSIDERED AN EXCEPTION TO SAID ADMINISTRATIVE ORDER SUSPENDING FAMILY LAW PROCEEDINGS FOR THOSE CASES SELECTED BY EACH JUDICIAL OFFICER TO BE HEARD REMOTELY UNDER THIS ORDER. ADDITIONALLY, THOSE MATTERS SET FOR STATUS CONFERENCE AFTER JUNE 1, 2020 SHALL BE HEARD REMOTELY

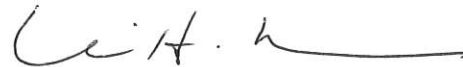
May 12, 2020

UNLESS THIS ADMINISTRATIVE ORDER IS VACATED OR AMENDED, SUBJECT TO THE PROVISIONS OF SECTION 3 IMMEDIATELY HEREINABOVE;

10. THIS ADMINISTRATIVE ORDER SHALL REMAIN IN EFFECT UNTIL VACATED BY THE PRESIDING JUDGE, OR FURTHER ADMINISTRATIVE ORDER BY THE PRESIDING JUDGE.

THIS ORDER IS EFFECTIVE IMMEDIATELY.

IT IS SO ORDERED this 12th day of May 2020, at Santa Ana California.



Kirk H. Nakamura
Presiding Judge