

Court Efficiency and Access to Justice

DECEMBER 15, 2023

Welcome



Members of the Public



Members of the Bar



Office Staff and Administration

Why have we scheduled these meetings?



We wish to promote access to justice to all people in our community through efficient, but thorough procedures administered with the highest ethical standards

Calendars - Trial Backlog

Efficient Hearings

Miscellaneous Updates

2023 Family Law
Legislation Update

Plan for today:

THANK
YOU

Judge Matthew Guerrero



W e l c o m e

Judge Jacquelyn Duffy



Our calendars are getting a bit impacted again.



We've had an increase in dueling restraining orders with counsel on both sides which take more time than usual.



We've seen an increase in counsel asking for trial for pendente lite orders and not putting in the effort needed to settle cases.



We must remain committed to meets and confers. It benefits the public. Access to justice. More time with the bench officer if needed.

Best Practices for Efficient Proceedings

Returning to in-person proceedings:

JUDICIAL OFFICERS AND COURT PERSONNEL FEEL THE TRANSITION HAS BEEN A SUCCESS

REMINDER: APPLICATION FOR REMOTE APPEARANCE MUST BE SERVED AND FILED FIVE (5) DAYS PRIOR TO THE HEARING TO ALLOW FOR OBJECTIONS. (FLO15)

NOTICE: STARTING JUNE, 2024, D7 WILL ONLY HAVE ZOOM AVAILABLE ON MONDAY MORNINGS FOR TRIAL READINESS CONFERENCES AND TRIAL SETTING CONFERENCES. TRIALS SET FOR TUESDAY, WEDNESDAY AND THURSDAY WILL START AT 8:30AM.

D7 REDUCING RFO LIMIT FROM 15 TO 12. THIS WILL GIVE COURT TIME TO RESOLVE ISSUES AT COURT V. CONTINUING MATTER OUT FOR LONG-CAUSE HEARING. (SO BE READY!)

Meeting and Confering (CRC 5.98)

Be prepared to advise the Court of your Meet and Confer efforts, including:

- (1) the date of the meet and confer;
- (2) how long of a meet and confer;
- (3) whether the clients were involved in the meet and confer;
- (4) what issues were resolved or facts stipulated to as a result of the meet and confer;
- (5) what issues or facts remain in dispute.



At Court

- Clients should be present at every court appearance.
- Lengthy oral stipulations are disfavored.
 - Bring laptops or other device for drafting stipulations. Print out or email the stipulations to the Department Clerk.
- Do not set your matter for trial until your case is ready for trial.
- Absent good cause, expect to be held to your time estimates.

Court Reporters

- We are down to just enough court reporters to staff the criminal court rooms.
- Civil court rooms will not have a court reporter available except when requested and available.
- For long stipulations, California Rules of Court rule 1.150 enables us to record proceedings for notetaking purposes only upon permission of the court.
 - The recording may not be used for any purpose other than personal notes.
 - If a proceeding was not reported and a dispute arises, the personal recording, or a transcript of it, could not be used to enforce the agreement through a court order.
- The best practice is to bring a laptop and draft the stipulation at court. We can print it out for you if it isn't prohibitively long and process in the courtroom.





Wi-Fi network:

SLO-GUEST (all caps)

Password:

whyR1ess (wireless)



The Wi-Fi connection is HORRIBLE in the courthouse!

Procedure for Minor's Counsel to Incur Costs

If Minor's Counsel wishes to obtain permission to incur costs, then they should serve and file (1) *MC's Declaration Re Necessary Costs* setting forth details of the expense and the reason(s) why this is necessary and;

(2) A *Proposed Order* providing permission to incur the costs requested. The documents will be provided to the judicial officer to whom the case is assigned.

Updates to JAIM (FL003) and Certificate of NonCompliance (FL004)

JOINT AT-ISSUE MEMORANDUM (FAMILY LAW)		CASE NO.:	CASE NUMBER:																
NOTICE The parties and their attorneys must meet and confer about the preparation of this Joint At-Issue Memorandum.		DATE /PETITION/COMPLAINT FILED: _____ DATE RESPONSE/ANSWER FILED: _____																	
<p>1. Please state:</p> <p>a. Date of petition filed _____</p> <p>b. Date of response filed _____</p> <p>c. Dates Unavailable for Trial Setting Conference:</p> <p>1. _____</p> <p>2. _____</p> <p>3. _____</p>		<div style="border: 1px solid black; padding: 5px; margin: 5px;">NOTE: the parties <u>must confer</u> and select trial dates that are convenient to them and their attorneys and all witnesses who are expected to testify. The parties must also insure that the dates selected permit discovery and trial preparation be completed. The parties must be prepared to begin trial on the date selected by the court.</div>																	
<p>2. Have the parties exchanged settlement demands and offers? YES / NO</p> <p>What form of ADR is likely to resolve disputed issues without a trial?</p> <table border="0" style="width: 100%;"><tr><td>1. Non-Binding Arbitration?</td><td>When? _____</td><td>Who? _____</td><td>What issue? _____</td></tr><tr><td>2. Mediation?</td><td>When? _____</td><td>Who? _____</td><td>What issue? _____</td></tr><tr><td>3. Mandatory Settlement conference?</td><td>When? _____</td><td>Who? _____</td><td>What issue? _____</td></tr><tr><td>4. Other</td><td>When? _____</td><td>Who? _____</td><td>What issue? _____</td></tr></table>		1. Non-Binding Arbitration?	When? _____	Who? _____	What issue? _____	2. Mediation?	When? _____	Who? _____	What issue? _____	3. Mandatory Settlement conference?	When? _____	Who? _____	What issue? _____	4. Other	When? _____	Who? _____	What issue? _____		
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4. Other	When? _____	Who? _____	What issue? _____																
<p>3. Please state the time required for trial: _____</p>																			
<p>4. Is the trial entitled to priority? YES / NO If so, please state the reason and the statutory authority: _____</p>																			
<p>5. Have the parties attended the mandatory parenting class?</p> <p>a. Petitioner: YES / NO If not, when will it be completed? _____</p> <p>b. Respondent: YES / NO If not, when will it be completed? _____</p>																			
JOINT AT ISSUE (FAMILY LAW)		FL003 Rev 12/23 Mandatory																	

Certificate of Noncompliance pursuant to Family Law Policies and Procedures Manual, § 2.9.2.	
<p>1. Type of case:</p> <p>a. <input type="checkbox"/> Dissolution <input type="checkbox"/> Legal Separation <input type="checkbox"/> Nullity</p> <p>b. <input type="checkbox"/> Complaint to Establish <input type="checkbox"/> other: _____</p>	
<p>2. <input type="checkbox"/> Filing of Joint At-Issue Memorandum with one signature</p> <p>i. Fifteen days have passed since I sent the joint at-issue to the opposing counsel/party in pro per. The party has refused or failed to sign the joint at-issue memorandum.</p> <p>ii. I request that the joint at-issue be filed with only one signature and that trial be set.</p>	
<p>3. <input type="checkbox"/> Both parties have filed their preliminary & final declaration of disclosure, if applicable.</p>	
<p>4. <input type="checkbox"/> Time for signing Joint At-Issue Memorandum</p> <p>i. Attorney for _____ moves for an enlargement of time to comply with the requirement checked above.</p> <p>ii. It is anticipated that the noncompliance will be cured no later than _____</p> <p>iii. The circumstances preventing compliance are as follows: _____</p> <p>iv. _____</p> <p>v. It is requested that the court extend time for compliance to: _____</p>	
<p>5. <input type="checkbox"/> This matter will take _____ to try.</p>	
<p>I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p>	
<p>DATED: _____ (Signature)</p> <p>Attorney for: _____ (Type Name)</p>	
ORDER	
<p>___ Relief granted, joint at-issue to be filed and matter set for trial setting conference.</p> <p>___ Relief granted, time extended for <input type="checkbox"/> 15 days <input type="checkbox"/> 30 days <input type="checkbox"/> 45 days</p> <p>___ Other: _____</p>	
YOU ARE ORDERED TO GIVE NOTICE OF THIS RULING TO ALL PARTIES.	
<p>DATED: _____ JUDICIAL OFFICER OF THE SUPERIOR COURT</p>	

Declarations Should Be Limited to Admissible Facts

"We recognize that it is very common for family law practitioners to include argument in their declarations (we know it is done all the time, and we do not want to single out the trial lawyers in this regard), but it is a sloppy practice which should stop. Even at its most benign, it is a practice that forces the trial and appellate courts, and opposing counsel, to sort out the facts that are actually supported by oath from material that is nothing more than the statement of an opinion ostensibly under oath. More fundamentally, however, it makes a mockery of the requirement that declarations be supported by statements made under penalty of perjury. The proper place for argument is in points and authorities, not declarations." (IRMO Heggy (2002) 99 Ca. App.4th 29, FN 3.

Declarations Should Be Limited to Admissible Facts

CRC 5.111(b)(2): "A declaration must be based on personal knowledge and explain how the person has acquired that knowledge. The statements in the declaration must be admissible in evidence."

Declarations should be:

- Factual and Admissible
- Relevant and Persuasive
- Code & Rule Compliant



2023 Family Law Legislative Update

SB 741 – Discovery in Domestic Violence Proceedings

Adds Family Code Section 6309

Prohibits discovery pursuant to Civil Discovery Act for purposes of Domestic Violence Prevention Act except when a court grants a request for discovery upon a showing of good cause.

- Request may be oral at time of evidentiary hearing
- In determining need for discovery, Court will consider
 - (1) importance & relevance of, and need for, info
 - (2) likelihood of alternative discovery method, including pleadings or examination at the hearing
 - (3) delay in completion of hearing
 - (4) potential that the discovery may induce trauma

SB 343 – Child Support

Modifies too many Family Code Sections to list.

Effective 1/1/2024, new guideline child support formula

- establishes a rebuttable presumption that the obligor is entitled to a low-income adjustment

Child support add-ons are to be calculated based upon each parties' net disposable income unless a party requests or court finds on its own motion that expenses should be divided in a different manner.

Further defines "income" under FC 4058

SB 343 – Child Support

Modifies too many Family Code Sections to list.

Court is required to consider the earning capacity where the parent's income is not known or to consider earning capacity in lieu of actual income if doing so is consistent with child's best interest

Court may "take steps to avoid inequitable distribution of support between children" if court learns that a parent is subject to support orders for children with parents who are not parties to the action.

Effective 1/1/2026, DCSS may no longer seek presumed income for obligors, but must seek support on the basis of obligor's actual income or earning capacity.

SB 599 – Visitation Orders

Amends FC 3011, 3100

Court required to find that any child custody and visitation stipulation is in child's best interest.

If TRO or ROAH in effect, Court required to consider whether "virtual visitation" is most appropriate form of visitation.

If a parent is staying at DV shelter due to DV or fear of DV from other parent, Court may only order in-person visitation if it finds that in-person visitation is in child's best interest, after considering

- The other parent's access to firearms and ammunition;
- Whether parent has violated protective order;
- Information obtained pursuant to FC6306/3111; and
- the potential for disclosure of the confidential location.

SB 331 – Child Abuse and Safety [Reunification Treatment]

Modifies FC 3033, 3040.5, 3190

Repeals and adds GC 68555

(1) Prohibits the Court from ordering “family reunification treatment”

- FRT is defined as intended to “reunite, reestablish, or repair a relationship between a child and the parent seeking custody or visitation that is predicated on cutting the child off from, or restricting the contact with, the primary custodial parent, provided that the primary custodial parent is not physically or sexually abusive or neglectful of the child to a degree that places the child at substantial risk of serious harm”

(2) If the Court orders treatment in “resist-refuse” cases, then the counseling “shall primarily address the behavior of the [rejected] parent or that parent’s contribution to the resistance of the child before ordering the primary custodial parent to take steps to potentially improve the child’s relationship with the [rejected] parent.

(3) Court must provide findings on record if ordering treatment

AB 1650 - Adoption; Assisted Reproduction; SJIS Findings

Amends CCP 155

Amends FC 7551, 7573.5, 7613,
FC 8616.5, 8714, 8802, 8912,
9000

- Allows Courts (including Family Court) to make Special Juvenile Immigrant Status findings until child is 21 years of age
- Allows unmarried persons to enter into an agreement for assisted reproduction in which one person renounces all legal interest in embryos or assigns one person all rights to the embryos. If married persons enter into such an agreement, then the agreement would only be effective upon the dissolution of the parties' marriage.
- In adoption proceedings, Petitioners are required to inform the Court in writing of any postadoption contact agreements prior to the adoption being finalized.

AB 1179 – Court initiated FC 271 Sanctions

Modifies Family Code Section 271

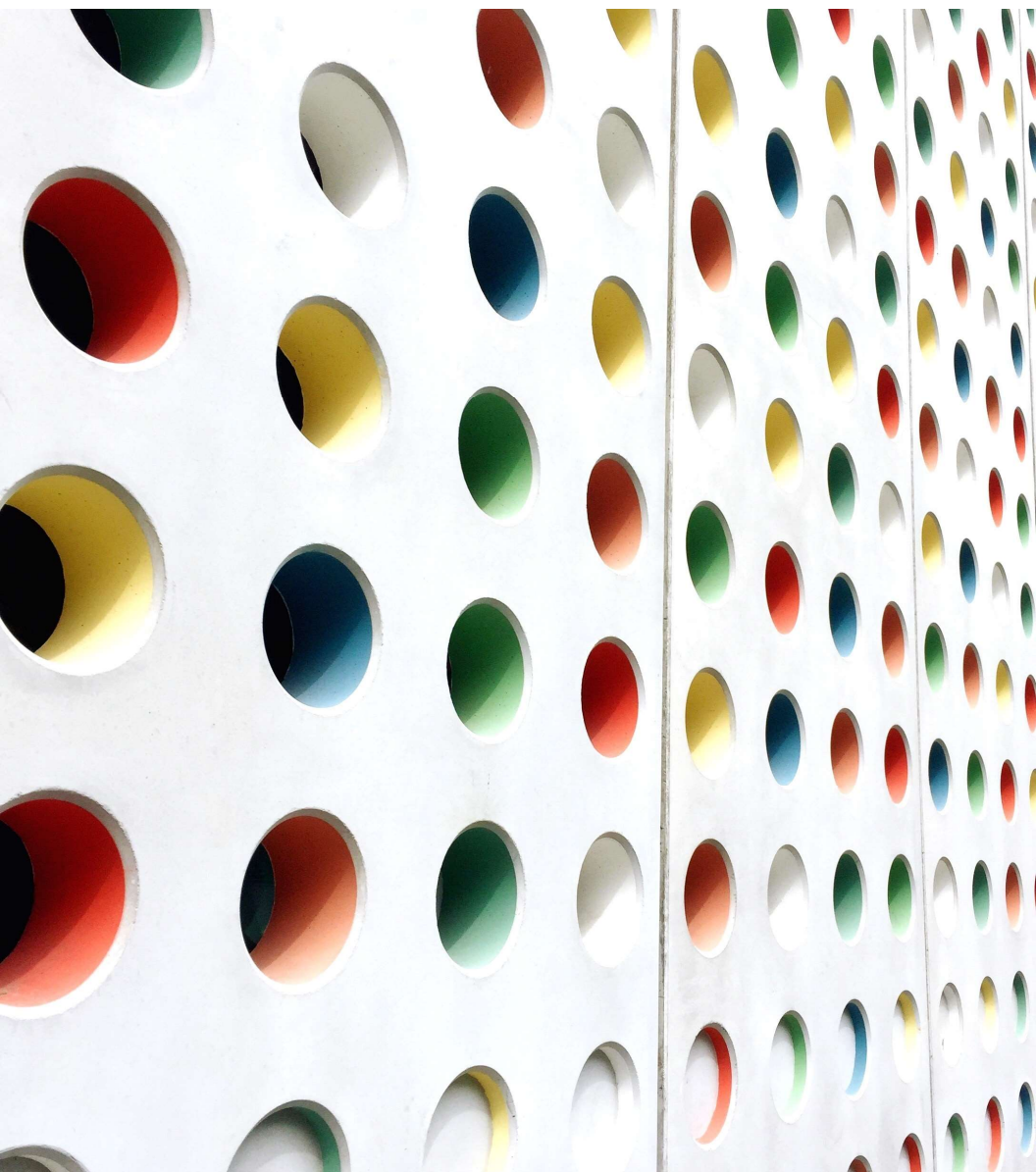
In Featherstone v. Martinez (2022) 86 Cal.App.5th 775, the court questioned whether Family Code Section 271 authorizes a trial court to issue sanctions on its own motion.

AB 1179 clarifies that a court may impose FC 271 sanctions either on its own motion or by a party's motion. When the court seeks a sanction, the notice may be a warning from the court that sanctions may be imposed if a party continues its action. Whether sought by the Court or a party, the party against whom the sanctions are sought must be provided an opportunity to be heard at the hearing on the motion.

AB 1148 – Suspension of Child Support Upon Release

If an obligor is released from incarceration after 1/1/2024, then the obligor's child support obligation shall be suspended until the first day of the 10 month after release.

The obligee may seek reinstatement of support if the obligor obtains employment before the period of suspension ends.



Q & A: Judge Guerrero (Time permitting)

*PLEASE NO CASE-SPECIFIC
QUESTIONS.*

Thank you for being here today!



Now go forth and be awesome.