

**DIVISION V
FAMILY LAW**

**CHAPTER 1
GENERAL**

Rule 5.1.1

Application of Rules

A. Applicability of Rules

These rules apply in all departments of the San Diego Superior Court hearing family law matters ("Family Law Courts") unless preempted by California Rules of Court governing family law matters.

B. Sanctions. For any noncompliance with these rules, the court may set a hearing, on its own motion, for sanctions pursuant to Code of Civil Procedure section 575.2. For violations of the California Rules of Court in family law cases, sanctions may be imposed pursuant to the California Rules of Court, rule 5.14.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2010; Rev. 1/1/2012)

Rule 5.1.2

Family Law Courts and Venue

For purposes of the proper filing venue, each of the Family Law Courts ("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 except for matters involving DCSS filed in the FSD as set forth in Chapter 9 of these rules. A list of filing districts by zip code is available at: <http://www.sdcourt.ca.gov/pls/portal/docs/page/sdcourt/generalinformation/forms/adminforms/adm254.pdf>. The street addresses and telephone numbers for each of the Family Law courts are listed on the court's web site at: www.sdcourt.ca.gov.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010, Rev. 1/1/2012)

Rule 5.1.3

Work of the Family Law Courts

Matters arising under the Family Code and the Hague Convention on Civil Aspects of the Prevention of International Child Abduction are assigned to the Family Law Courts, except adoption, freedom from parental custody, and other matters specifically assigned to other departments by these rules or order of the court. *Marvin* actions must be filed in the Civil Division.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2010)

Rule 5.1.4

Words and Phrases Defined

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

"Attorney" and "counsel" are used interchangeably and synonymously and include a self-represented litigant.

"Child" includes the plural "children".

"Declaration of Disclosure" as defined by Family Code sections 2100 through 2113 and California Rules of Court, rule 5.543.

"Family Centered Case Resolution Plan/Process/Conference" as defined by Family Code section 2450 and California Rules of Court, rule 5.83.

"Party" includes a self-represented litigant or a person represented by an attorney.

"Self-Represented Litigant" (formerly referred to as "Pro Per," "Pro Se" and "In Propria Persona") means any litigant or party who is representing himself or herself in a family law matter without an attorney of record.

"Shall" and "must" are mandatory; "will" and "may" are permissive.

"Status Conference" as defined by California Rules of Court, rule 5.83

"Writing" is as set forth in Evidence Code section 250.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2012)

Rule 5.1.5

Applicable Abbreviations. The following abbreviations are used throughout these rules:

ADR = Alternative Dispute Resolution

CLETS = California Law Enforcement Telecommunications System

CRC = (Family Centered) Case Resolution Conference

DCSS = Department of Child Support Services, County of San Diego
DVTRO = Domestic Violence Temporary Restraining Order
FCCRP = Family Centered Case Resolution Plan
FCS = Family Court Services
FSD = Family Support Division
MSC = Mandatory Settlement Conference
NOM = Notice of Motion (also referred to as a request for order or an order to show cause)
OSC = Order to Show Cause (also referred to as a request for order or a notice of motion)
PCTJ = Privately Compensated Temporary Judge
RFO = Request for Order (also referred to as an order to show cause or a notice of motion)
SC = Status Conference
SRL = Self Represented Litigant
TRO = Temporary Restraining Order
(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2012)

Rule 5.1.6

Forms and Other Self-Help Information

All local family forms designated “SDSC D-#, or FCS-# or FLF-#” and all Judicial Council family forms designated “FL-#” or “DV-#” may usually be accessed on the San Diego Superior Court’s website at www.sdcourt.ca.gov under the family law forms and the link to the “Judicial Council Family and Children Forms.” Judicial Council forms may also be accessed directly at www.courtinfo.ca.gov/forms. Self-help information is available on both the court’s website at www.sdcourt.ca.gov “Self-Help Center” and the Judicial Council website at www.courtinfo.ca.gov/selfhelp. Reference to “online” in these rules means the court’s website at www.sdcourt.ca.gov.

The San Diego Superior Court does not control or maintain the Judicial Council website and cannot be responsible for the accuracy of the information or content it contains. Additionally, the content of any website, including this court’s website, may change at any time. When using any website, the user is subject to the terms of use and privacy policies of that website.

(Adopted 1/1/2012)

Rule 5.1.7

Requirement for Current Mailing Address

It is the obligation of all SRLs to keep the court informed of their current mailing address by promptly filing a Notice of Change of Address which is available free of charge in the business office of the court

(Adopted 1/1/2010; Rev. & Renum. 1/1/2012)

CHAPTER 2 CASEFLOW MANAGEMENT

Rule 5.2.1

Direct Calendar Case Assignment

A. New cases are randomly assigned to a judicial officer for all purposes. The petitioner will receive a notice of case assignment when the petition is filed. A copy of the notice of case assignment must be served on the respondent with the petition.

B. The time limits for filing a peremptory challenge are set forth in California Code of Civil Procedure section 170.6.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010; Rev. 1/1/2012)

Rule 5.2.2

Alternative Dispute Resolution (ADR)

Except in cases involving domestic violence, both the family laws and the family court encourage the voluntary use of ADR including mediation, arbitration, and the collaborative law process. A request for the appointment of a privately compensated temporary judge must be directed to and granted by the family court supervising judge.

A. Mediation or Arbitration. The Alternative Dispute Resolution Informational Notice (Form SDSC D-9) is available at the family court business offices or online. Parties wishing to participate in mediation or arbitration must advise the court as soon as possible by submitting a written stipulation signed by both parties and their attorneys, if represented. Where known, the name of the mediator or arbitrator selected by the parties must be

included in the written stipulation.

B. Collaborative Law Process

The collaborative law process is completely voluntary and requires the written agreement of all parties.

1. A case will be designated a "Collaborative Family Law Case" if the parties have signed and filed with the court a written collaborative law process stipulation pursuant to Family Code section 2013 which shall include the following provisions:

- a. The parties will engage in the full and candid informal exchange of all relevant information and documentation;
- b. The collaborative attorneys are disqualified from continuing to represent the parties if the collaborative law process is terminated by either party;
- c. The parties will jointly retain any experts needed to assist them in reaching a collaborative settlement;
- d. All documents filed in the case will be submitted by the parties themselves;
- e. No contested matters will be presented for determination by the court while the case is proceeding as a Collaborative Family Law Case; and
- f. The words "Collaborative Family Law Case" will be included in the caption of every document filed with the court.

2. The essence of the collaborative law process is a series of intense settlement negotiations. Therefore, pursuant to the written stipulation of the parties:

- a. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to the process will be admissible as evidence or subject to discovery, and disclosure of such will not be compelled in any non-criminal proceeding;
- b. No writing that is prepared for the purpose of, in the course of, or pursuant to the process will be admissible or subject to discovery, and disclosure of the writing will not be compelled in any non-criminal proceeding; and
- c. All communications, negotiations, and/or settlement discussions by and between the participants will remain confidential.

3. In accordance with the written stipulation, the court will:

- a. Consider collaborative counsel to be advisory counsel and not attorneys "of record;"
- b. Refuse to schedule any contested hearings, impose discovery deadlines, or enter any scheduling orders; and
- c. Provide notice and an opportunity to be heard prior to any dismissal based on a failure to prosecute or delay.

4. The Collaborative Family Law Case designation will be removed by the court upon the written stipulation of the parties or upon the filing and service of a Termination Election indicating a party's desire to terminate the process. Upon the filing of a Termination Election, the clerk shall schedule a CRC or SC and notify the parties of the date.

C. Use of a Privately Compensated Temporary Judge (PCTJ). With the court's authorization, the parties may agree to use a PCTJ to adjudicate their case in accordance with California Rules of Court, rules 2.830-2.835.

1. **Submission of Stipulation.** Parties must submit the stipulation, a proposed order for appointment of a PCTJ, and one original and one copy of the "Notice of Posting" to the supervising family law judge (located in the Central Division). The Stipulation and Order for Appointment of Privately Compensated Temporary Judge (Form SDSC D-008) and Notice of Posting (Form SDSC D-010) are available online.

2. **Representations by the Stipulating Parties.** By submitting the stipulation and proposed order to the court, the stipulating parties and their attorneys represent that they are the only parties in the case and that no new parties will be added.

3. **Application of Settlement Conference Rules to Proceedings before PCTJs.** The case will become exempt from the MSC after the order is signed. Until the order is signed, the case remains subject to the MSC rules, to all other applicable rules of this court, and all previously ordered deadlines, hearings, and other orders will remain in full force and effect.

4. **CRC and Status Reports.** The supervising family court judge will set a CRC or SC every six months at the time the stipulation and order is signed to be heard in the supervising judge's department. Each month, the PCTJ must submit a report to the supervising judge giving the status of all matters under submission including a description of the matters taken under submission and the length of time under submission.

(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)

Rule 5.2.3

Reserved for Future Use

(Del. 1/1/2010)

Rule 5.2.4

***Marvin* Actions**

Any family law related action not specifically authorized by the Family Code (e.g., *Marvin* complaints) must be filed initially as a separate proceeding in the Civil Division. On the court's own motion or upon noticed motion, the action may be coordinated with a pending Family Law case pursuant to California Rules of Court, rule 3.350 and Local Rule 5.2.3.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2010; Rev. 1/1/2012)

Rule 5.2.5

Reserved for Future Use

(Del. 1/1/2012)

Rule 5.2.6

Family Centered Case Resolution Plan (FCCRP) and Conference (CRC) and Status Conference (SC)

A. Purpose. The purpose, definitions goals and procedures of the FCCRP, the CRC and a SC are set forth in the Family Code sections 2450, 2451 and California Rules of Court, rule 5.83.

B. Scheduling and Service of Notice of CRC or SC. The court will set an initial CRC or SC hearing date and issue a "CRC Notice" or "SC Notice" at the time the petition is filed. The petitioner shall serve the respondent with a copy of the Notice along with the petition. Petitioner must also serve a copy of the Notice on all parties or their attorneys of record who have made an appearance in the case before the scheduled CRC or SC. Subsequent CRCs and/or SCs will be set and noticed by the court as needed or if requested by a party.

C. Alternative Dispute Resolution (ADR). Parties who file a stipulation prior to the CRC or SC indicating they are participating in ADR will be exempt from the CRC or SC for 6 months. If a judgment or dismissal is not filed within 6 months of the filing of the petition, the court will proceed with a CRC or SC upon notice to the parties.

D. Reconciliation. Parties who file a stipulation prior to the CRC or SC indicating they are attempting reconciliation will be exempt from the CRC or SC for 6 months. If a judgment or dismissal is not filed within 6 months of the filing of the petition, the court will proceed with a CRC or SC upon notice to the parties.

E. Attendance. All parties to whom notice of the CRC or SC has been sent by the court must attend the CRC or SC unless represented by counsel, or there is a stipulation and order for non-appearance, or there is an exemption for ADR or reconciliation, or a judgment has been filed, or a dismissal entered

(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)

Rule 5.2.7

Reserved for Future Use

(Del. 1/1/2012)

Rule 5.2.8

Mandatory Settlement Conference (MSC)

A. Setting, Attendance, Continuances. As part of the CRC or SC, the court may order a MSC along with additional orders to meet and confer and submit a settlement conference brief with attachments using Form SDSC D-241 (Settlement Conference/Trial/Long Cause Hearing Brief) which is found online.

B. Settlement Conference. The court will appoint a qualified family law attorney to assist the parties and trial counsel in reaching a settlement.

(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)

Rule 5.2.9

Telephone Appearances in Family Court

Appearance by telephone shall be governed by California Rules of Court, rules 5.9 and 3.670.

(Adopted 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2010; Rev. 1/1/2012)

**CHAPTER 3
EMERGENCY ORDERS
(also known as "ex parte" applications)**

Rule 5.3.0

(Del. 1/1/2012)

Rule 5.3.1

Emergency Order Hearing

- A. All emergency order hearings will be governed by the California Rules of Court, rules 5.151-5.169.
 - B. The court may consider the matters set forth in California Rules of Court, rule 5.165(a)(3) without notice and personal appearance. In such cases, the business office at each division has a drop box where an emergency order application may be deposited for processing. An attorney service slip or stamped self-addressed envelope should be included if conformed copies are requested
 - C. If an emergency order application is contested, both sides should attempt to meet and confer on the issue(s) in dispute prior to the hearing
 - D. Each family court division has its day and time schedule for emergency order hearings posted in the courthouse and online.
 - E. The party requesting an emergency order must obtain a case number before the court will consider the application, including a request for a temporary restraining order.
 - F. When notice of an emergency hearing application is given, the party must also request that the court file be pulled and made available in advance to the judicial officer assigned to hear the emergency matter. The telephone numbers for requesting the case file are available online
- (Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2012)

Rule 5.3.2 – 5.3.15

(Del. 1/1/2012)

**CHAPTER 4
DOMESTIC VIOLENCE RESTRAINING ORDERS
(DVRO)**

Rule 5.4.1

Domestic Violence Restraining Orders

- A. Both the Judicial Council and the San Diego Superior Court websites contain detailed self-help information, required forms, and instructions on obtaining and opposing a domestic violence temporary and permanent restraining order.
 - B. If granted, the court will deliver a copy of the domestic violence temporary restraining order (DVTRO) to the Sheriff for entry into the Department of Justice's computer system (CLETS).
 - C. If a hearing is continued, only the court may reissue the DVTRO so that it remains in effect pending the new hearing date.
- (Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010; Rev. 1/1/2012)

Rule 5.4.2

Residence Removal Orders

If a DVTRO includes an order to have the restrained party removed from the residence, a separate order directing the Sheriff to assist in the removal must be prepared and submitted to the court for signature. Form SDSC D-072 (Order for Removal from Residence) is online. The Sheriff requires two certified copies of the removal order.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2012)

Rule 5.4.3

Ending a Restraining Order

Only the protected party can end a restraining order before its expiration date. The protected party must file Form SDSC D-001 (Ex Parte Request and Order to Vacate Restraining Order) which is online. If granted, the court will deliver a copy of the order to the Sheriff for removal from CLETS.

(Adopted 1/1/2012)

**CHAPTER 5
LAW & MOTION RULES/
REQUEST FOR ORDER (RFO)**

Rule 5.5.1

Forms and Procedures

A. An RFO (also referred to as an OSC (Order to Show Cause) or NOM (Notice of Motion)) shall comply with California Rules of Court, rules 5.90 through 5.115. Discovery motions must also comply with California Rules of Court, rules 5.12.

1. Legal arguments should be made in a memorandum of points and authorities and not in factual declarations.

2. The court will notify the parties as soon as possible if a RFO requires a memorandum of points and authorities which may result in the hearing date being rescheduled.

B. Family Court Services Initial Screening Form. When filing a RFO regarding custody or visitation, the moving party must also file Form SDSC FCS-046 (Family Court Services Screening Form). (Adopted 1/1/2005; Renum. 1/1/2006; Rev. & Renum. 1/1/2008; Rev 1/1/2012)

Rule 5.5.2

Exhibits

A. The provisions of the California Rules of Court, rules 3.1116 and 3.1302 shall apply.

B. Exhibits filed or lodged by Petitioner/Plaintiff should be numbered. Exhibits filed or lodged by Respondent/Defendant should be lettered. The evidentiary foundation for the exhibits should be set forth in the appropriate declarations filed with the court.

C. Exhibits which exceed 10 pages must be lodged rather than filed with the court. A "Notice of Intent to Lodge Documents" listing the name or description of the exhibit must be filed and served on all parties and a copy submitted with the lodged material. Documents lodged with the court must be tabbed to correlate to the Notice..

D. Lodged documents will be stamped "received" by the court. Due to limited storage space, exhibits may not be lodged more than 10 court days prior to the hearing except by court order. Absent an addressed envelope with sufficient postage for mailing the material, all lodged documents must be picked up from the courtroom within five court days following the hearing or they may be discarded without further notice. All returned lodged exhibits must be retained by the party until the applicable appeal period has expired.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. & Renum. 1/1/2008; Rev. 1/1/2012)

Rule 5.5.3

Reserved for Future Use

(Del. 1/1/2012)

Rule 5.5.4

Reserved for Future Use

(Del. 1/1/2012)

Rule 5.5.5

Reserved for Future Use

(Del. 1/1/2012)

Rule 5.5.6

Companion Matters

A. An opposing party may request that a matter reasonably related to the issues raised by the original RFO be set on the same date and time as the RFO. The companion matter must be able to be timely filed and served like any other RFO allowing for the standard response time, absent an order shortening time.

B. A companion matter need not and should not be filed for affirmative relief otherwise available by law and the California Rules of Court, rule 5.92, in the responsive declaration.

C. Absent prior court order, an OSC re Contempt may not be filed as a companion matter. However, a request to determine support arrears and/or for attorney fees and costs may be filed as a companion matter to an OSC re Contempt for Failure to Pay Support.

(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)

Rule 5.5.7

Reserved for Future Use

(Del. 1/1/2012)

Rule 5.5.8

Hearings on Request for Order

A. **Calendar**. The Business Office will assign a hearing date on a RFO unless the moving party asks that no hearing date be set. The business office will advise parties in advance of the approximate dates available in each department. In addition, the court's website provides a ten-week calendar for domestic cases to assist counsel in selecting a date. Preferred dates and times for hearings may be indicated to the business office on the messenger slip or by other writing addressed to the clerk, such as a post-it note attached to the front page of the RFO.

1. Motions to set support, or other motions in which the date of filing determines retroactivity, may be filed without setting a hearing date to preserve retroactivity. The pleading must plainly state "NO HEARING DATE REQUESTED" just below the hearing date line. The motion and all supporting papers must be filed and copies of all papers promptly served on the opposing counsel/party. The moving party must submit the following documents within 180 days of the filing of the original RFO to have a hearing date set in the ordinary course:

a. A new RFO form as previously filed, but without the request for no hearing date.

b. A conformed copy of the first page of the originally filed RFO.

c. Any additional declaration or exhibits supporting the RFO that were not available at the time of the filing of the original RFO keeping in mind the party's single declaration in support of or in response to an RFO must not exceed 10 pages in length total pursuant to California Rules of Court, rule 5.111(a).

d. A proof of service showing the opposing party was properly served with the original RFO.

2. Failure to file the documents listed above within 180 days will result in the party being required to file a new RFO.

B. **Time Estimates**. All RFOs must indicate a time estimate immediately beneath the case number on the first page of the pleading. Short cause matters are those which take no more than 20 minutes of court time. Long cause matters are those which take more than 20 minutes but less than 40 minutes. Matters which require more than 40 minutes must be specially set by the court and will require payment of half-day court reporter fees.

C. **Continuances**. Continuances are disfavored and will not be automatically granted even pursuant to stipulation. Prior to the hearing date, a request for continuance should be made to the calendar clerk who will submit the request to the judicial officer. Continuances requested at the hearing will only be granted for good cause including continuances to prepare for live testimony or if a party has not had at least ten days to review a child custody recommending counselor's report. If counsel have a good faith belief that the matter will not be heard on the merits at the hearing, a "Don't Read" notice should be provided.

D. **Calendar Calls**. The court will attempt to accommodate counsels' calendar conflicts upon reasonable request. Requests for calendar priority should be made prior to the calendar call. Counsel unable to appear at the calendar call must notify the opposing party at the earliest reasonable time.

E. **Chambers Conferences**. Chambers conferences may be held at the discretion of the judicial officer. The purpose of a chambers conference is solely to discuss matters with the court which should not be set forth on the record in open court.

F. **Stipulation Forms**. Long and short stipulation forms are available in all family law departments and should be used in lieu of oral stipulations. Parties will complete the form and give it to the clerk for immediate judicial signature, filing and distribution. Use of the stipulation forms eliminates the need for the filing of a formal order but does not preclude parties from later submitting a formal order, within a reasonable amount of time, which mirrors the signed stipulation.

G. **Live Testimony**. All live testimony shall be governed by Family Code section 217 and California Rules of Court, rule 5.113.

H. **Request for and Award of Attorneys' Fees and Costs**. All requests for attorney fees and costs, including requests made at trial, shall comply with California Rules of Court, rule 5.247. If attorneys' fees and costs are awarded on a monthly installment basis, acceleration provisions upon default will apply such that if any two payments are missed, the entire balance will immediately accelerate and become all due and payable.

I. **Extra Copies of Pleadings**. Counsel should always bring an extra set of all relevant pleadings and exhibits to the hearing in case the court file is incomplete.

(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)

CHAPTER 6 DECLARATIONS OF DISCLOSURE AND INCOME & EXPENSE DECLARATIONS

Rule 5.6.1

Declarations of Disclosure

Service of preliminary and final declarations of disclosure shall be governed by Family Code sections 2100 through 2113 and California Rules of Court, rules 5.54 and 5.405.
(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2011; Rev. 1/1/2012)

Rule 5.6.2

Income and Expense Declaration

All income and expense declarations shall be filed and served as provided in the California Rules of Court, Family Law Rules, and all applicable Family Code statutes.
(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010; Rev. 1/1/2012)

Rule 5.6.3

Attachments to Income and Expense Declaration

To verify current income, parties must serve copies of the following documents with their Income and Expense Declaration. Documents that are required by this rule to be served with the Income and Expense Declaration may be lodged with the court at the time of the hearing.

For salaried employees: The prior calendar year's W-2 and all pay stubs for the last two months showing all forms of year-to-date earned income.

For self-employed individuals, including independent contractors: A schedule reflecting all compensation received year-to-date and the last two filed IRS 1040 Schedule C or C-EZ; profit-and-loss statements and balance sheets for the two prior calendar years and the current year-to-date.

For employees who are shareholders in a closely-held corporation: The prior calendar year's W-2; all pay stubs for the last two months showing all forms of year-to-date earned income; all IRS K-1's for the two prior years; the last filed IRS Schedule E (Part II); profit and loss statements and balance sheets for the two prior calendar years and the current year-to-date.

For partnership income: A schedule reflecting all compensation received year-to-date, all IRS K-1's for the two prior years; the last filed IRS Schedule E (Part II); profit and loss statements and balance sheets for the two prior calendar years and the current year-to-date.

For rental income: The last filed IRS Schedule E (Part I); summaries of all rental receipts, deposits, disbursements and expenses for the prior calendar year, and for all periods year-to-date.

For dividend income, interest income or other unearned income: The prior calendar year's IRS 1099's; the last filed IRS Schedule B; an itemized summary of all funds on deposit, shares of stock, bonds, or other income-producing assets owned, and the rate of return currently being paid thereon; and, any income derived therefrom during the prior calendar year, and year-to-date.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008)

Rule 5.6.4

(Del. 1/1/2012)

Rule 5.6.5

(Del. 1/1/2012)

**CHAPTER 7
TRIALS AND LONG CAUSE HEARINGS**

Rule 5.7.1

Trials

A. Definitions, Calendaring and Continuances

1. A "trial day" and a "long cause hearing" are defined in California Rules of Court, rule 5.393(a), and will be collectively referred to as "trial" in these rules. Trials will be set as the calendar permits to comply with California Rules of Court, rule 5.393(c).

2. When a trial is estimated to last two or more days, the court in which the case is currently assigned may assign the case to either another family law department or to the general civil calendar.

3. If the case is to be assigned to the general civil calendar, generally, the family law judge assigned to the case will schedule the trial call in the Presiding Department of the Central Courthouse and will notify all parties and counsel of the date and time. The case may be trailed until a trial department becomes available.

4. Prior to the trial date, requests for emergency orders, discovery issues or continuances of the

trial date shall be directed to the family law department to which the case is assigned.

B. Custody and/or Visitation Issues. If custody or visitation is an issue, the parties must meet with FCS before trial. This meeting must be scheduled sufficiently in advance of trial to allow the counselor to prepare and file a recommendation at least 30 calendar days before the scheduled trial date.

C. Bifurcation of Issues. A motion to bifurcate issues, including the termination of the marriage or domestic partnership status, shall be governed by California Rules of Court, rule 5.390.

D. Motions In Limine. All motions in limine will be calendared and heard by the judge assigned for trial.

E. Trial Brief. If the court requires a trial brief, the contents and time for service shall comply with California Rules of Court, rule 5.394 and include all other matters determined by the court to be necessary and provided to the parties. Briefs should be in the format set forth in SDSC D-241 (Settlement Conference/Trial/Long Cause Hearing Brief) which is online.

F. FSD. See Chapter 9 of these rules for additional information governing trials in FSD.
(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)

Rule 5.7.2

Pre-Trial Conference and Day of Trial/Hearing

A. For all trials and long cause hearings, the judge may schedule a pre-trial/hearing conference with the parties and their attorneys to discuss all relevant matters including, but not limited to, time estimates, briefs, witnesses, exhibits and motions in limine and make orders accordingly pursuant to California Rules of Court, rules 5.393 and 5.394.

B. Day of Trial/Hearing

1. Each party must pay the mandated statutory court reporter fee for each half day of trial and any hearing over one hour. It is the duty of each party to know the amount of this fee before the day of trial and to deliver this amount to the clerk in the trial department before the start of each half day of trial. The amount must be paid by cash, check or credit card. Checks can only be from a party or the attorney's client trust account. Checks must be made payable to the Clerk of the Superior Court. Credit card payments can only be made in the business office between the hours of 8:30 a.m. and 3:30 p.m.

2. Generally, each day, the morning session of trial will usually begin at 9 a.m. and end at noon with a 15 minute break at approximately 10:30 a.m. The afternoon session will usually begin at 1:30 p.m. and end at 4:30 p.m. with a 15 minute break at approximately 3:15 p.m. At the end of each day of a multi-day trial, parties and the judicial officer will review the next day's witnesses, examination time and any other calendaring issues.

(Adopted 1/1/2009; Rev. 1/1/2010; Rev. 1/1/2011; Rev. 1/1/2012)

CHAPTER 8 (Reserved for Future Use)

Rule 5.8.1

Reserved for Future Use

(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. & Moved to 5.7.2 on 1/1/2012)

Rule 5.8.2

(Adopted 1/1/2009; Rev. 1/1/2010; Rev. 1/1/2011; Rev. & Moved to 5.7.2 on 1/1/2012)

CHAPTER 9 FAMILY SUPPORT DIVISION

Rule 5.9.1

Family Support Division

Unless otherwise specified in these rules, all actions under title IV-D of the Social Security Act are referred to as Family Support Division ("FSD") matters. Matters in FSD are governed by the California Rules of Court, Family Rules and, more specifically, rules 5.300 through 5.375.

(Adopted 1/1/2012)

Rule 5.9.2

Calendaring

A. Cases to be heard in FSD. Except as otherwise provided by law, all domestic matters involving the

DCSS and/or involving support issues or parentage determination where DCSS has an open case will be set and heard on the FSD Calendar unless there is an exceptional circumstance pursuant to California Rules of Court, rule 5.305.

B. FSD Departments. FSD matters are heard in the Central and North County Divisions. Locations and directions are available at www.sdcourt.ca.gov.

C. FSD Calendar Call. The FSD calendars are called as posted outside the courtroom and listed online or as otherwise determined by the court.

D. Mandatory Meet and Confer. On the day of hearing, prior to appearing in court on a calendared matter, all parties/counsel must meet and confer with the DCSS.

E. Pre-Read Requests in FSD Hearings. If a party would like the court to read the file prior to a hearing, a pre-read request must be submitted to the court by 12:00 p.m. two days prior to the hearing. Notice of the pre-read request must be given to all parties prior to the submission. If a party or counsel objects to the pre-read request, he or she shall notify the court of their specific objections. Objections shall not prevent the pre-read. For pre-read requests that designate eight or more documents, the requestor must make arrangements with the court to identify the documents in the file with yellow tags.

1. Pre-Read Requests for North County hearings. All pre-read requests are due by 12:00 p.m. one week prior to the hearing date. All other pre-read rules apply.

2. Pre-Read Requests for Trials or Long Cause Hearings. A pre-read request is not required for trials or long cause hearings. Pre-reads will be done by the court on these cases as a matter of course.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009; Rev. & Renum. 1/1/2012)

Rule 5.9.3

Telephone Appearance

A. All telephone appearances shall be governed by California Rules of Court, rule 5.324.

B. Meet and Confer. All parties granted a telephone appearance must meet and confer with the DCSS by telephone prior to their telephonic appearance. For the meet and confer, parties must be available at the number listed on their telephone appearance request form for at least two hours prior to their hearing.

(Adopted 1/1/2008; Rev. & Renum. 1/1/2012)

Rule 5.9.4

Trials and Long Cause

A. Pre-Trial/Hearing Conferences. For all trials and long cause hearings, as defined in California Rules of Court, rule 5.393(a), the Commissioner may schedule a pre-trial/hearing conference with the parties, their attorneys and DCSS to discuss all relevant matters including, but not limited to, time estimates, briefs, witnesses, exhibits and motions in limine and make orders accordingly pursuant to California Rules of Court, rules 5.393 and 5.394.

B. Stipulations. If parties reach a full stipulation at any time prior to the trial date, the DCSS must inform the court immediately. Stipulations may be entered on the record at the scheduled trial date or submitted in writing by ex parte hearing at least one court day prior to the scheduled trial.

(Adopted 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2011; Rev. & Renum. 1/1/2012)

Rule 5.9.5

Emergency Order Hearing (also known as “ex parte” application)

See Chapter 3 above.

(Adopted 1/1/2006; Renum. 1/1/2006; Rev. & Renum. 1/1/2008; Rev. 1/1/2010; Rev. & Renum. 1/1/2012)

Rule 5.9.6

Orders

A. Orders Involving the DCSS. All orders involving DCSS will include the following provisions:

1. All payments must be made by wage assignment payable to the State Disbursement Unit;

2. The payor must make all payments directly to the State Disbursement Unit unless payments are fully collected by wage assignment;

3. The payor must provide DCSS with his/her date of birth, Social Security Number, income, employer's name, employer's address, and residential address; and

4. The payor must notify DCSS in writing within 48 hours of any change of address, income, or employment;

B. Stipulations. All stipulations reached in matters involving DCSS must be reviewed and signed by a DCSS attorney before being submitted to the court. If DCSS does not sign the stipulation, one of the parties may

place the issue before the court on an ex parte basis.
(Adopted 1/1/2005; Renum. 1/1/2006; Rev. & Renum. 1/1/2008; Renum. 1/1/2012)

Rule 5.9.7

Written Authorization for Inspection of Paternity File

A. In addition to the statutory requirements for inspection of a paternity file pursuant to Family Code section 7643, the court recommends that any written authorization also include ALL of the following specific information:

1. Case number;
2. Name and signature of the party or attorney authorizing the inspection;
3. Name and signature of the “agent” authorized to inspect and/or copy the documents in the file.
4. The relationship of the “agent” to the party or attorney authorizing the inspection;
5. A designated time frame or duration for the authorization; and
6. Any limitations on inspection and/or copying

B. The original of the written authorization shall be filed stamped and placed in the court file.

C. All requests to inspect and/or copy documents from a paternity file without written or statutory authorization will require a court order.

(Adopted 1/1/2010; Renum. 1/1/2012)

Rule 5.9.8

Custody/Visitation/Domestic Violence Matters in FSD Cases.

A. Location of Custody, Visitation and Domestic Violence Hearings. Two Family Court Departments have been designated as departments to hear all custody, visitation and domestic violence issues between parties that have a DF case indicating DCSS involvement in the case. Parties may use this DF case to litigate custody, visitation and domestic violence issues when this court is the proper venue and it has jurisdiction over all parties. Proceedings on custody, visitation and/or domestic violence in DF cases shall be filed and heard in the following court division and department:

1. All DF cases that have not been transferred to North County, whether the parties live in the central, east or south part of the county, will be heard in Department 45 at 220 West Broadway, San Diego, CA 92101.

2. All DF cases that have been transferred to North County will be heard in Department 35 of the North County Branch, located at 325 South Melrose, Vista, CA 92081.

B. Uniform Parentage Act cases with DCSS involvement. In addition to the above, any action filed as a UPA case with a case designation of D, DS or ED and in which DCSS is or has been involved in child support enforcement, will be heard in Department 45. Upon a finding of good cause, the court may, on its own motion, consolidate the UPA case with the DF case, making the DF case the lead.

C. Domestic violence cases with DCSS involvement. In addition to the above, any action filed as a DV case with a case designation of DV, DVS, or EV and in which DCSS is or has been involved in child support enforcement and where there is no dissolution, either pending or post-judgment, will be heard in Department 45. Upon a finding of good cause, the court may, on its own motion, consolidate the DV case with the DF case, making the DF case the lead.

D. Paternity Judgments. Prior to the court hearing issues regarding custody and visitation in any of the above cases, there must be a paternity judgment.

E. Custody and visitation motions. If a party files a motion addressing only issues of custody and visitation, at the time of filing the court will set three dates:

1. A court date before the child recommended custody counseling appointment;
2. A child custody recommending counseling appointment with FCS at the location in which the parties have previously been seen, or if it is their first counseling appointment, at the court location most convenient to the parties, which includes the Sixth Avenue Family Court, or the East, South or North branch locations; and
3. A court date after the child custody recommending counseling appointment.

F. Custody and visitation motions that include child support issues. If a party files a motion regarding issues of custody, visitation and child support, the matter will be handled as follows:

1. If DCSS is presently enforcing child support in the case, the custody and visitation motion will be heard in Central Division, Department 45 or in North County Division, Department 35, as set forth above. A separate hearing for child support will be set in the Central Division, Departments 42, 43 or 44 or in the North County Division, Department 34.

2. The court will make reasonable attempts to set the child support hearing on the same day as the custody and visitation hearing.

3. If DCSS is no longer enforcing child support in the case, issues regarding child support modification will be heard in the same department and at the same time the custody and visitation issues are being heard.

4. The motion must be served on all parties, including DCSS if applicable, and as provided for by law. A motion served on DCSS, or presumptive service by DCSS, is not considered valid service on the non-moving party for purposes of custody and visitation issues.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. & Renum. 1/1/2008; Renum. 1/1/2010; Rev. 1/1/2011; Rev. & Renum. 1/1/2012)

CHAPTER 10 VISITATION/CHILD CUSTODY RECOMMENDING COUNSELING AND EVALUATIONS; VISITATION MONITORS

Rule 5.10.1

Child Custody Recommending Counseling Required

Before a hearing on any disputed issue of custody or visitation, the parties are required to attend and participate in child custody recommending counseling either with a counselor at FCS of the Superior Court or with a private mediator/child custody recommending counselor at the parties' own expense. The locations and telephone numbers of FCS are online. The purpose of visitation/child custody recommending counseling at FCS or private mediation/child custody recommending counseling is to reduce the conflict which may exist between the parties and to develop a custody and time-sharing agreement which is in the child(ren)'s best interest.

(Rev. 1/1/2011; Rev. 1/1/2012)

Rule 5.10.2

Non-Confidentiality; Recommendation

Unless otherwise stipulated by the parties or ordered by the court, FCS child custody recommending counseling and private mediation/child custody recommending counseling in San Diego County is understood to be a non-confidential process which means that the information provided to the counselor is not confidential. If the parties do not reach an agreement, the counselor will submit a recommendation to the court.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Renum. & Rev. 1/1/2011; Rev. 1/1/2012)

Rule 5.10.3

FCS Child Recommending Counseling

A. Child Custody Recommending Counseling at FCS

Disputed custody or visitation matters must have a child custody recommending counseling appointment at FCS except in cases where the parties stipulate to private mediation/child custody recommending counseling. Absent a showing of good cause, the court will not set a new FCS appointment until at least six months have passed since the last such FCS date. Parties may appear before the court ex parte to make such a request.

B. Initiating FCS Counseling; Orders Pending Counseling

1. The moving party must file a completed Family Court Services Screening Form (SDSC FCS-46) with the moving papers if custody/visitation is at issue. At that time, both a hearing date and an FCS appointment date will be set and noted on the moving papers. The moving party/attorney shall notify the opposing party/attorney in writing of the date of the FCS appointment as soon as possible but no later than 16 court days before the counseling session plus 5 calendar days if notice is sent by mail.

2. If unanticipated child custody/visitation issues are raised for the first time at any hearing, the court may make a temporary custody/visitation order and may order the parties to participate in an FCS counseling session. The parties must meet with an FCS counselor before the court will make final custody/visitation orders on disputed custody/visitation issues.

C. Resolution; Cancellation, Rescheduling; Sanctions.

1. Resolution. Parties are encouraged to try to resolve child custody/visitation disputes before the FCS appointment. If the disputed custody/visitation issue is resolved prior to the FCS date, the moving party or their attorney must promptly notify the other party or their attorney and call FCS to cancel the appointment or risk a monetary sanction being imposed on one or both of the parties.

2. Cancellation.

a. Parties may cancel FCS appointment if the custody/visitation issue is dismissed or the parties choose to participate in private mediation/child custody recommending counseling prior to the FCS date.

The requesting party must notify FCS of the cancellation at least 2 court days prior to the FCS appointment date.

b. If the moving party has been unable to timely serve notice of the FCS appointment on the other party, the moving party must cancel the FCS appointment at least 2 court days prior to the FCS date.

3. Rescheduling. Parties may reschedule the FCS appointment one time by stipulation by notifying FCS at least 2 court days prior to the FCS date. All subsequent requests to reschedule an FCS appointment require a court order, a copy of which must be provided to FCS by the requesting party or their attorney.

4. Sanctions. Failure to cancel or reschedule an FCS appointment at least 2 court days before the FCS appointment or failure to attend and participate in the FCS counseling session may subject the offending party to monetary sanctions of up to \$1,500 pursuant to Code of Civil Procedure section 177.5.

D. FCS Data Sheet

1. At or before the FCS appointment, each party must submit a completed FCS Data Sheet (form SDCS FCS-02) to the FCS office. No attachments are permitted to the FCS Data Sheet.

2. Parties appearing by telephone for an FCS appointment must mail a completed FCS Data Sheet to the FCS office at least 5 calendar days before the FCS appointment date.

E. Materials for FCS Review

1. No writings or other materials may be submitted to FCS for the counselor's review absent court order.

2. Documents Requested by FCS. FCS may request the parties to submit documents for consideration. Copies of the documents must be provided to the other party/attorney concurrently with the submission to FCS.

F. Attendance at FCS Counseling. Other than a statutorily authorized support person, only the parties may attend the counseling session. The attorneys do not participate in the FCS counseling session. If the counselor wants to interview the child or other person(s), the counselor will arrange for such interviews.

G. Telephone Conference. If an in-person meeting with a counselor at FCS is not feasible, such as when one party resides outside the County of San Diego, the FCS session will be conducted by telephone with that party. The party appearing by telephone must call FCS to obtain an FCS Data Sheet or access it online for submission to FCS in accordance with subsection D above. The party appearing by telephone shall call FCS at the time designated for the FCS appointment.

H. Agreements. 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. If the parties reach an agreement and either of the parties is represented by an attorney, the represented party will have the opportunity to have his or her attorney review the agreement before signing it and having it filed with the court.

I. Unresolved Issues. If the parties are unable to resolve issues of custody or visitation, the FCS counselor will submit a written recommendation to the parties, their attorneys and the court before the custody hearing. If the FCS recommendation is not available at least 10 calendar days before the hearing, the court will generally grant a continuance upon a party's request.

J. Cross Examination of FCS Counselor. A party has the right to cross-examine the FCS counselor at trial or at a special set hearing. FCS counselors are employees of the Superior Court. A party desiring the testimony of a FCS counselor at trial or special set hearing should first contact FCS to determine availability on the desired date. A subpoena must then be served on FCS at least 10 days in advance of the hearing with fees deposited as required by Government Code sections 68097, 68097.1, and 68097.2. If, at the time of trial or hearing, the FCS counselor is no longer an employee of 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. The court will not authorize depositions of counselors absent a showing of extraordinary good cause, such as prolonged unavailability of the counselor on or about the time of trial. Certain privileges attach to FCS files. Judicial officers will not order the release of any FCS documents without a prior in-camera review. A party desiring an in-camera review shall serve a subpoena duces tecum upon FCS for the file/documents at least 15 days before the trial or special set hearing, and if an objection is received, must schedule a motion to compel or Order to Show Cause to obtain the in camera review.

K. Communication with FCS. Communications between FCS counselors, parties, attorneys, including minors' counsel, are governed by Family Code sections 216 and 1818.

L. Request for Change of FCS Counselor.

1. Perceived Bias. Should a party believe that a particular counselor is biased in a way that affects the fair and equal treatment, the party may bring this matter to the attention of the Manager of FCS for consideration of this perception and assignment to a different counselor.

2. Procedure. A peremptory challenge of a counselor is not allowed. However, a party may request a change of counselor by following these rules.

a. During Counseling. A party must request a change of counselor as soon as sufficient

basis for a change is known. No request to change a counselor will be granted unless there is a demonstrable showing of bias or prejudice against one of the parties or their attorney such that an independent, fair, and impartial recommendation cannot be made to the court.

b. Subsequent Court Proceedings. If either party files a subsequent court proceeding requiring an FCS appointment, either party may, at the time of the assignment, request a different counselor, without a showing of good cause.

(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)

Rule 5.10.4

Private Mediation/Child Custody Recommending Counseling

A. Initiating the Counseling. The parties may stipulate that the issues of custody and visitation be referred for private mediation/child custody recommending counseling at their own expense prior to an FCS child custody recommending counseling session or in addition to other recommendations made by FCS or an evaluator.

B. Scope of the Counseling. A formal order must be prepared setting forth the scope of the private mediation; identifying the private mediator; setting forth the payment plan for the private mediator's services; setting forth whether the private mediation is confidential or non-confidential, child custody recommending counseling; and such other matters as the court deems appropriate. Conformed copies of the order must be provided to the private mediator and all parties/attorneys.

C. Qualifications. Private mediators must meet the qualifications, training and continuing education requirements of Family Code sections 1815 and 1816, and will be required to acknowledge that they are so qualified and trained.

D. Writings and Other Materials for Review; Notice. Submission, service and/or review of writings and materials in a private mediation shall be decided between the private mediator and the parties and/or their attorneys.

E. Agreements. If the parties reach an agreement during private mediation, the mediator will prepare a report setting forth the terms of the agreement. If the private mediation was non-confidential, either party or the private mediator may file the child custody recommending report with the court.

F. Unresolved Issues.

1. Confidential Private Mediation. If the parties are unable to resolve issues of custody or visitation through private mediation and the parties stipulated to participate in confidential private mediation, the parties must participate in non-confidential private mediation/child custody recommending counseling or schedule and participate in FCS Child Custody Recommending Counseling before the matter is heard by the court.

2. Non-confidential Private Mediation. If the parties are unable to resolve issues of custody or visitation through non-confidential private mediation, the mediator will submit a written report with a recommendation and reasons for the recommendation to the parties, their attorneys and the court before the custody hearing. If the report is not available at least 10 calendar days before the hearing, the court may grant a continuance upon request of a party. The written recommendation and report of the private mediator will be admitted without further foundation.

G. Cross-Examination of the Private Mediator. A party has the right to cross-examine a non-confidential private mediator at trial or special set hearing. Either party may call the private mediator, upon reasonable notice, to examine the mediator on the report and/or the recommendations at the special set hearing/trial.

H. Communication with the Private Mediator. Communications between private mediators, parties, and attorneys, including minors' counsel, shall be 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)

Rule 5.10.5

Child Custody Evaluations

The court will order child custody evaluations in accordance with Family Code sections 3111, 3118; Evidence Code section 730; Code of Civil Procedure section 2032.010 et seq.; and California Rules of Court, rules 5.220 and 5.225. All child custody evaluators must comply with the qualifications, training, continuing education, experience and ethics requirements in California Rules of Court, rules 5.220, 5.225, 5.250, 5.230, Family Code sections 3110.5, 3111, 1816, 3118 and Evidence Code section 730.

A. Order Appointing Evaluator.

1. The court shall issue orders appointing a child custody evaluator using form FL-327 (Order Appointing Child Custody Evaluator). This form may be supplemented by and/or attached to a separate stipulation prepared by the parties.

2. The content of the order and/or stipulation, including the purpose and scope, must comply with the requirements of California Rules of Court, rule 5.220.

3. The court must determine and allocate any fees and costs of the evaluation in the order and/or stipulation.

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

B. Qualifications. All private evaluators must complete and timely file a qualifications declaration in each case in accordance with California Rules of Court, rule 5.225(k)(1)(B). The parties are responsible for ensuring the timely filing of a private evaluator's qualifications declaration.

C. Finding a Qualified Private Child Custody Evaluator. The public may find a private, mental health professional who is qualified to be a court-appointed child custody evaluator by the San Diego court by contacting the court's Family Court Services for a list of the required qualifications as set forth in the California Family Code and California Rules of Court. The list is also available on the Court's website. This 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. 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 within ten days of the appointment. The court does not maintain a list of qualified evaluators nor does it endorse any mental health professional. The parties are responsible for ensuring a private child custody evaluator meets all the legal qualifications.

D. Peremptory Challenges and Challenges for Cause.

1. There shall be no peremptory challenges allowed for a court-connected evaluator.

2. There shall be no peremptory challenges allowed for a private evaluator appointed by the court.

3. 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.

E. 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 ten 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.

F. Complaints. Any party's complaint about an evaluator's performance must be in writing and addressed to the Supervising Judge of the Family Court. Complaints shall be as specific as possible in describing what the evaluator did or did not do. The Supervising Judge or their designees will investigate, evaluate and respond to the complaint in due course.

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.

H. Confidentiality of Reports. See rule 5.10.6 below.

(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)

Rule 5.10.6

Confidentiality of Evaluation Reports and Recommendations

All court-ordered child custody evaluation reports filed with the court and served on the parties must be done so in strict compliance with Family Code section 3111, subsection (e) and California Rules of Court, rule 5.220(i).

(Adopted 1/1/2008; Renum. & Rev. 1/1/2011; Rev. 1/1/2012)

Rule 5.10.7

Visitation Monitors

A. Purpose. The purpose of a visitation monitor is to provide a safe and nurturing environment for children, during a parent's visitation, where there is need for reunification, alleged/adjudicated emotional, physical or sexual abuse of the child by a parent, or threat of abduction.

B. List. A list of visitation monitors is available through the San Diego Superior Court - Programs Resource List (PRL) online. The individuals/entities have identified themselves to the San Diego Superior Court as visitation monitors. The visitation monitors are not affiliated with the court, and each visitation monitor is independently responsible for compliance with any and all applicable legal requirements. The court does not endorse, evaluate, supervise, or monitor the visitation monitors.

C. Requirements. Providers of supervised visitation, whether the provider is a friend, relative, paid independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation center or agency are required to follow the legal requirements and obligations set forth in California Rules of Court, Judicial Administrative Standard 5.20. Informational materials about the role of a provider, the terms and conditions

of supervised visitation, and the legal responsibilities and obligations of a provider are available at all FCS locations.

D. Non-Professional Visitation Monitors. A non-professional visitation monitor is defined as any person who is not paid for providing supervised visitation services. Prior to supervising any visitation, the non-professional visitation monitor must complete and file with the court a Non-Professional Visitation Monitor Declaration available on the court's website.

E. Grievance. A party/attorney may file a grievance against the PRL visitation monitor. The grievance must be submitted in writing to the Supervising Judge of the Family Court. The Supervising Judge will forward the grievance to the Presiding Judge of the San Diego Superior Court or his or her designee for review.

F. Removal from List. Removal from the PRL list may be made without cause, notice, or explanation. If practical, written notification of removal will be provided.

(Adopted 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010; Renum. 1/1/2011; Rev. 1/1/2012)

Rule 5.10.8

Children's Participation in Family Court

A. The court will consider a child's wishes and determine the manner and extent of a child's participation and testimony in family court proceedings in accordance with California Rules of Court, rule 5.250.

B. Court-connected or appointed professionals dealing with children shall comply with their responsibilities in accordance with California Rules of Court, rule 5.250.

(Adopted 1/1/2012)

CHAPTER 11 JUDGMENTS AND ORDERS

Rule 5.11.1

Judgments: Default or Uncontested

Dissolution or Legal Separation. Procedures and forms for a default or uncontested judgment shall be governed by California Rules of Court, rules 5.401 through 5.411. Parties are encouraged to review the judgment checklist of either the Judicial Council or the court, each of which can be found online.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2010; Rev. 1/1/2011; Rev. 1/1/2012)

Rule 5.11.2

Preparation of Orders, Judgments and Stipulations

A. Preparation of Findings and Orders After Hearing

1. Procedure. Preparation and submission of an order after hearing shall be governed by California Rules of Court, rule 5.125.

2. Format

a. The order should be prepared using Form FL-340, (Findings and Order After Hearing) and any necessary attachments. The Agreement or Recommendation portion of a FCS Report may be attached as an exhibit to an order when the court has adopted the listed provisions as its order. No other portion of the FCS report shall be attached to the order.

b. The cover sheet of the order should be printed on brown paper for ease of identification.

c. The order shall be prepared so that at least two lines of text appear on the page which will have the judge's signature and no text may appear after the judge's signature.

B. Preparation of Judgments After Trial

1. Procedure

a. Counsel may stipulate as to who will prepare the judgment or the court will order one of the parties to do so. If both parties are self-represented, the court may request that the Family Law Facilitator's Office prepare the order and submit it directly to the court.

b. Preparation of a judgment shall follow the same procedures as preparation of an order after hearing set forth in subsection A. above.

2. Format

a. The judgment should be prepared using Form FL-180 (Judgment (Family Law)) and any necessary attachments.

b. The cover sheet of the judgment should be printed on pink paper for ease of identification.

C. Preparation of Stipulated Order and Judgments

1. Orders. A stipulation and order must be prepared so that at least two lines of text appear on the page which will have the judge's signature and no text may appear after the judge's signature. The Agreement or Recommendation portion of a FCS Report may be attached as an exhibit to an order when the court has adopted the listed provisions as its order. No other portion of the FCS report shall be attached to the order.

2. Judgments. If the judgment arose as the result of a settlement and the parties cannot agree on the language, either party may file a motion under Code of Civil Procedure section 664.6 to have the settlement agreement entered as a judgment. Judgments pursuant to a settlement agreement are not subject to the procedures set forth in subsection B. above.

(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)

Rule 5.11.3
(Del. 1/1/2012)

CHAPTER 12
CHILD AND SPOUSAL SUPPORT

Rule 5.12.1

Child Support Guideline

A. All requests for child, spousal or domestic partner support shall comply with California Rules of Court, rule 5.260.

B. Stipulated Child Support.

1. Mandatory Language. Any written stipulation for the payment of child support must include the requisite declaration pursuant to Family Code section 4065(a).

2. Stay of Service of Wage Assignment Order. Any written stipulation providing for the stay of service of the wage assignment based on an alternative arrangement until the stay is terminated shall cite to Family Code sections 5260 and 5261.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2010; Rev. 1/1/2012)

Rule 5.12.2

Spousal Support Guideline

San Diego County has declined to adopt any specific spousal support guideline. The Court will consider all relevant factors in setting temporary spousal support including guideline calculations based upon any formulae adopted in other counties of this state.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2010)

CHAPTER 13
MINOR'S COUNSEL

Rule 5.13.1

Establishing Minor's Counsel

A. Appointment of Counsel for Children. When appropriate, the court may appoint qualified, private counsel to represent the best interests of the minor child(ren) in a custody or visitation dispute in accordance with Family Code section 3150 and California Rules of Court, rules 5.240-5.242. The child(ren)'s attorney may be referred to as "minor's counsel." Failure to timely file the required form Declaration of Counsel for a Child Regarding Qualifications by minor's counsel may result in a forfeiture of fees and costs incurred prior to the filing date.

B. Duties of the Parties.

1. After the appointment of minor's counsel, the court will determine minor's counsel's rate of compensation and the parties' financial ability to pay all or a portion of the minor's counsel's fees and expenses in accordance with Family Code section 3153 and the California Rules of Court, rules 5.240-5.242 and make orders accordingly.

2. Upon the appointment of minor's counsel, the parties must provide minor's counsel with copies of all substantive pleadings, declarations and exhibits filed or lodged in the case, the name, address and telephone number of each professional who has provided services to the children, and a list of the parties' contentions bearing on custody and visitation. The court will order the parties to provide the information and sign releases to permit all professionals who are or have been involved with the parties and/or the child(ren) to provide information as

requested by minor's counsel.

3. It is the obligation of all parties and attorneys involved in the case to know and comply with the statutes and California Rules of Courts regarding minor's counsel.

C. Rights and Responsibilities of Minor's Counsel. Upon appointment, minor's counsel will be vested with all rights, responsibilities and duties set forth in Family Code sections 3151, 3151.5 and 3152, and California Rules of Court, rules 5.240 through 5.250

D. Review Hearings. The court will generally hold a review hearing every 90 days to consider both the continued appointment of minor's counsel and the parties' ability to pay. Minor's counsel shall submit a declaration and order for payment of fees on 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.

E. Complaint Procedure. A party may submit complaints regarding minor's counsel in writing, addressed to the Family Court Supervising Judge. The written complaint shall include the case name, number, the name of the judicial officer assigned to the case, and the name of the minor's counsel. The complaint shall be as specific as possible regarding the alleged inadequacies or behaviors which give rise to the complaint. The Supervising Judge shall have 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 County Bar Association. If referred to the Chairperson, the Chairperson will attempt to resolve the complaint informally. If the Chairperson is able to resolve the complaint informally, he or she will notify the Supervising Judge. If the Chairperson is not able to resolve the complaint informally, he or she will convene a Review Panel to investigate the complaint. The Review Panel shall be comprised of two volunteer attorneys who have no connection to the underlying case and at least one of whom is qualified to be appointed as minor's counsel and the Supervising Judge or his or her designee. The Review Panel shall investigate the complaint and make a written report with recommendations to the Supervising Judge within 60 days of the date the Review Panel is convened. The Supervising Judge will then take whatever steps he or she deems appropriate with respect to the complaint.

(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)

CHAPTER 14 MISCELLANEOUS

Rule 5.14.1

Attorneys Seeking to be Relieved as Attorney of Record.

A. Absent a properly executed substitution of attorney form, attorneys will only be relieved as attorney of record pursuant to a noticed motion and court order in accordance with Code of Civil Procedure, section 284(2) and California Rules of Court, rule 3.1362, using the mandatory Judicial Council forms.

B. The entry of a status-only judgment may not be a basis for withdrawal pursuant to Code of Civil Procedure section 285.1.

C. Before an attorney may substitute out of the case or be relieved as counsel of record, all orders after hearing must be signed by 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)

Rule 5.14.2

Reserved for Future Use

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009; Renum. 1/1/2010; Rev. 1/1/2011; Del. 1/1/2012)

Rule 5.14.3

Writs of Execution

A. Writs of execution on judgments or orders in a fixed amount, or based on judgments or orders providing for installment payments, do not require a judicial officer's signature or notice to the opposing party before presentation to the records division of the clerk's office for approval and issuance.

B. A supporting declaration must be submitted to the clerk. The declaration must allege, under penalty of perjury, the date and amount of the judgment or order, the date and amount of any payments thereon and the current, unpaid balance. For writs based on installment judgments or orders, the declaration must clearly set forth in columns the date and amount of each payment as it came due, the date and amount of any payments received and a running total of the amount owing. The supporting declaration for either type of judgment or order must also state that no other writ on this judgment or order is outstanding in the same county and that the arrearages have accrued within the past 10 years, unless the arrearages relate to child support, spousal support or family support in which case

Family Code section 4502 will govern.

C. The writ may include the fee paid for issuance of the writ. If attorneys' fees are requested, a hearing is required, and a current Income and Expense Declaration must be filed with the application. If the moving party is requesting interest on the arrearages or costs not awarded in the original order, a declaration setting forth the calculation of the amount of interest on the arrearages or a cost bill must be filed.
(Adopted 1/1/2005; Renum. 1/1/2006; Renum. 1/1/2010; Rev. 1/1/2012)

Rule 5.14.4

Elisors

A. An application for appointment of an elisor must be made by a request for order. The application and proposed order must designate "The Clerk of the Court or the Clerk's Designee" as the elisor and not a specific court employee. The declaration supporting the application must include specific facts establishing the necessity for the appointment of an elisor.

B. If the court grants the RFO, the party must contact the business office to make an appointment for the actual signing of the document(s) to ensure the availability of an authorized elisor. If the elisor is signing documents requiring notarization, the party must arrange for a notary to be present when the elisor signs the document(s).
(Adopted 1/1/2005; Renum. 1/1/2006; Rev. & Renum. 1/1/2010; Rev. 1/1/2012)

Rule 5.14.5

Reserved for Future Use

(Del. 1/1/2012)

Rule 5.14.6

Reserved for Future Use

(Del. 1/1/2012)

Rule 5.14.7

Reserved for Future Use

(Del. 1/1/2012)

Rule 5.14.8

Family Law Facilitator's Duties

The services provided by the Family Law Facilitator are pursuant to Family Code sections 10004 and 10005.
(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Renum 1/1/2010)

Rule 5.14.9

Communication between Court Divisions

The San Diego Superior Court has developed and adopted communication procedures among its court divisions issuing criminal protective orders and orders involving child custody and visitation that meet the minimum elements set forth in California Rules of Court, Rule 5.450(c), including:

A. A procedure requiring courts issuing any orders involving child custody or visitation to make reasonable efforts to determine whether there exists a criminal court protective order that involves any party to the action; and

B. A procedure requiring courts issuing criminal court protective orders to make reasonable efforts to determine whether there exist any child custody or visitation orders that involve any party to the action.

C. A procedure by which the court that has issued a criminal court protective order may, after consultation with a court that has issued a subsequent child custody or visitation order, modify the criminal court protective order to allow or restrict contact between the person restrained by the order and his or her children.

D. The requirements of Penal Code section 136.2(f)(1) and (2).

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

Rule 5.14.10

Appointment of Counsel under Servicemembers Civil Relief Act

See San Diego Superior Court Local Rules, Division One, rule 1.4.4.

(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)

Rules 5.14.11

Limited Scope Representation

Definitions and procedures for limited scope representation shall be governed by California Rules of Court, rule 5.245.
(Adopted 1/1/2012)