

**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. Calendaring. 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)