

EMERGENCY LOCAL RULES
SAN MATEO COUNTY SUPERIOR COURT

DIVISION II – COURT MANAGEMENT – SUPERIOR COURT

Emergency Local Rule 2-100. **Emergency Local Rules Adopted During Covid-19 Pandemic.**

In a Statewide Order dated March 23, 2020, Hon. Tani Cantil-Sakauye, Chief Justice of California and Chair of the Judicial Council, authorized all Superior Courts “to adopt any proposed rules or rule amendment that is intended to address the impact of the COVID-19 pandemic to take effect immediately, without advance circulation for 45 days of public comment.”

Pursuant to that authority, the Court has adopted a number of Emergency Local Rules, all of which are specifically enumerated on the Court’s website at <http://www.sanmateocourt.org>. To the extent that any of the Emergency Local Rules conflict or are inconsistent with any other of the Court’s non-emergency Local Rules, the Emergency Local Rules shall control.

Emergency Rule 2-100 adopted effective May 11, 2020.

Emergency Local Rule 2-101. **Mandatory Electronic Filing.**

a. Effective June 1, 2020, Local Rule 2.1.5(a) regarding permissive electronic filing is repealed.

b. Effective June 1, 2020, Local Rule 2.1.7(a) regarding mandatory electronic filing is amended as follows:

2.1.7(a) (1) Except for self-represented litigants, all parties are required to electronically file documents in all actions or proceedings brought under the Family Code, and all actions or proceedings to which the Probate Code applies, pursuant to CRC Rule 7.802.

(2) Except for self-represented litigants, all parties are required to electronically file documents in all Civil Limited cases and in all Civil Unlimited cases.

(3) Pursuant to Code of Civil Procedure Section 1010.6(c), all parties are required to electronically file documents in all civil class actions, civil coordinated actions, civil actions provisionally complex under CRC Rule 3.400(c), and civil actions deemed complex pursuant to CRC Rule 3.403.

(4) Except for self-represented litigants, all parties are required to electronically file documents in all actions under the jurisdiction of the Small Claims Court, pursuant to Code of Civil Procedure Section 116.110 et seq.

(5) Except for self-represented litigants, all parties are required to electronically file documents in all Unlawful Detainer actions brought under Code of Civil Procedure Sections 1159 through 1179a.

(6) Except for self-represented litigants, all parties are required to electronically file all documents, subsequent to the filing of the Complaint, in all felony, misdemeanor, and infraction Criminal actions, except for Traffic Court cases.

c. This Emergency Local Rule 2-101 shall expire on July 1, 2020, at which time the previously approved amendments to Local Rules 2.1.5 and 2.1.7 regarding permissive and mandatory electronic filing will take effect.

Emergency Rule 2-101 adopted effective May 11, 2020.

DIVISION III – CIVIL LAW AND MOTION

Emergency Local Rule 3-100. **Remote Court Appearances.**

All appearances for hearings on contested matters in the Civil Law & Motion Department shall be conducted remotely on CourtCall. All appearances for Informal Discovery Conferences, Case Management Conferences, Complex Civil hearings and conferences, and Mandatory Settlement Conferences shall be conducted remotely on a media platform designated by the Court. Parties, counsel, and non-parties shall not appear physically in person for hearings and conference on general civil pretrial matters, unless otherwise ordered by the Court.

Emergency Rule 3-100 adopted effective May 11, 2020.

Emergency Local Rule 3-101. **Suspension of Ex Parte Appearances.**

Local Rule 3.19(B)(1) is temporarily suspended. Until further notice and order of the Court, there will be no ex parte application hearings or appearances in the Civil Law & Motion Department.

Emergency Rule 3-101 adopted effective May 11, 2020.

Emergency Local Rule 3-102. **Civil Law & Motion Department Phased Reopening.**

a. As to all motions previously calendared for hearing in the Civil Law & Motion Department between March 16, 2020 and May 5, 2020, to the extent possible, the Court will post tentative rulings on May 18, 2020, including rulings finding that a motion is moot or procedurally defective. If there is no contest to the tentative ruling, the Court will adopt the tentative as its order effective May 22, 2020. Any party who wishes to contest the tentative ruling issued May 18, 2020 must meet and confer with opposing counsel for the party or parties subject to the motion, regarding dates when involved counsel are *not available* for hearing on the motion during the month of June 2020, and a joint estimate of the time needed for oral argument on the contested motion. No later than 4:00 p.m. on Thursday, May 21, 2020, a party choosing to contest a tentative ruling (posted May 18, 2020) must email notice of the party's intent to contest to all counsel of record, self-represented parties, and the Court at LawAndMotion@sanmateocourt.org. The contesting party must state in the subject line of the email the case name and case number. In the text of the email, the contesting party must state the specific motion, the party contesting, the *joint* time estimate of counsel for oral argument, and the dates when involved counsel *are not* available for hearing during the month of June 2020. [Law & Motion hearings will continue to be held at 1:30 p.m.] If the tentative ruling is timely contested, the Court will email the parties notifying them of the date and time that oral argument will take place via CourtCall.

b. As to all motions previously calendared for hearing in the Civil Law & Motion Department between March 16, 2020 and May 29, 2020, as to which motion the moving papers and the opposition papers have been previously filed (i.e., filed before

issuance of this Order) *but* the reply papers have not been filed– and for which no tentative ruling was posted on May 18, 2020 – any Reply papers on the pending motion shall be filed and served on or before May 29, 2020. As to such motions, the Court will post tentative rulings on June 5, 2020. If there is no contest to the tentative ruling, the Court will adopt the tentative as its order effective June 12, 2020. Any party who wishes to contest the tentative ruling issued June 5, 2020 must meet and confer with opposing counsel for the party or parties subject to the motion, regarding dates when involved counsel are *not available* for hearing on the motion during the months of June and July 2020, and a joint estimate of the time needed for oral argument on the contested motion. No later than 4:00 p.m. on Wednesday, June 10, 2020, a party choosing to contest a tentative ruling (posted June 5, 2020) must email notice of the party’s intent to contest to all counsel of record, self-represented parties, and the Court at LawAndMotion@sanmateocourt.org. The contesting party must state in the subject line of the email the case name and case number. In the text of the email, the contesting party must state the specific motion, the party contesting, the *joint* time estimate of counsel for oral argument, and the dates when involved counsel *are not* available for hearing during the months of June and July 2020. [Law & Motion hearings will continue to be held at 1:30 p.m.] If the tentative ruling is timely contested, the Court will email the parties notifying them of the date and time that oral argument will take place via CourtCall.

c. As to all motions previously calendared for hearing in the Civil Law & Motion Department between March 16, 2020 and May 29, 2020, as to which motion only the moving papers have been previously filed (i.e., filed before issuance of this

Order) *but* the opposition and reply papers have not been filed— and for which no tentative ruling was posted on May 18, 2020 – the Opposition on the pending motion shall be filed and served on or before May 29, 2020, and the Reply shall be filed and served on or before June 5, 2020. As to such motions, the Court will post tentative rulings on June 23, 2020. If there is no contest to the tentative ruling, the Court will adopt the tentative as its order effective June 26, 2020. Any party who wishes to contest the tentative ruling issued June 23, 2020 must meet and confer with opposing counsel for the party or parties subject to the motion, regarding dates when involved counsel are *not available* for hearing on the motion during the remainder of the month of June and the month of July 2020, and a joint estimate of the time needed for oral argument on the contested motion. No later than 4:00 p.m. on Friday, June 26, 2020, a party choosing to contest a tentative ruling (posted June 23, 2020) must email notice of the party’s intent to contest to all counsel of record, self-represented parties, and the Court at LawAndMotion@sanmateocourt.org. The contesting party must state in the subject line of the email the case name and case number. In the text of the email, the contesting party must state the specific motion, the party contesting, the *joint* time estimate of counsel for oral argument, and the dates when involved counsel *are not* available for hearing during the remainder of the month of June and the month of July 2020. [Law & Motion hearings will continue to be held at 1:30 p.m.] If the tentative ruling is timely contested, the Court will email the parties notifying them of the date and time that oral argument will take place via CourtCall.

Emergency Rule 3-102 adopted effective May 11, 2020.

Emergency Local Rule 3-103. **Informal Discovery Conferences Required Prior to Filing Discovery Motions.**

a. In regard to matters which are not assigned to a particular department or judge, and may be calendared in the Civil Law & Motion Department, pursuant to Code of Civil Procedure Section 2016.080(a), no party may file any motion to compel or other motion brought pursuant to the Civil Discovery Act, Code of Civil Procedure Sections 2016.010 *et seq.*, until the parties have had an Informal Discovery Conference with the Court. Counsel must have exhausted all meet and confer obligations before the Informal Discovery Conference. To request an Informal Discovery Conference, counsel should contact the Court by email at LawAndMotion@sanmateocourt.org, which email must be contemporaneously copied to counsel for all parties to the action and any self-represented parties. Pursuant to Code of Civil Procedure Section 2016.080(c)(2), the time for bringing any motion to compel is tolled starting on the date a party makes the email request for an Informal Discovery Conference to the Court. All requests for Informal Discovery Conference must be made well prior to the expiration of the statutory time to bring a motion to compel or other discovery motion.

b. Within five (5) calendar days of the initial email request to the Court for an Informal Discovery Request, the disputing parties shall, jointly or separately, email correspondence to the Court at LawAndMotion@sanmateocourt.org, and contemporaneously to all parties, an electronic letter of no more than five (5) pages, without attachments, summarizing the discovery dispute(s).

c. All communications to the LawAndMotion@sanmateocourt.org email address MUST include in the header “subject line” the Case Number and Name of Case (e.g., 19CIV06543 *Smith v. Jones*).

d. The parties involved in the discovery dispute shall *not* file any “meet and confer” declarations pursuant to Code of Civil Procedure Sections 2016.040 or 2016.080(b) prior to the Informal Discovery Conference. The dispute will be addressed by the e-correspondence method/procedure set forth herein.

e. If the discovery dispute is not resolved following the Informal Discovery Conference, any party may proceed to file and calendar a discovery motion in the Civil Law & Motion Department.

f. The procedures stated herein apply to parties. With regard to discovery disputes with non-parties, the non-parties may elect to participate in this procedure, but are not required to do so.

Emergency Rule 3-103 adopted effective May 11, 2020.

Emergency Local Rule 3-104. **Remote Depositions.**

a. Pursuant to Code of Civil Procedure Section 2025.310 and Emergency Rule 11 of the Judicial Council of California, this Emergency Local Rule 3-101 applies to all Civil Limited cases, all Civil Unlimited cases, and all Complex Civil cases including all civil class actions, civil coordinated actions, civil actions provisionally complex under CRC Rule 3.400(c), and civil actions deemed complex pursuant to CRC Rule 3.403.

b. Unless otherwise stipulated in writing by counsel for the parties and for the deponent, or unless technologically infeasible, oral depositions shall be conducted remotely, in that the deponent, the court reporter, each attorney for any party, and any party, shall “attend” the deposition remotely by appropriate audio-video conference method – which method shall be selected and identified by the noticing party. If needed, any interpreter shall appear remotely. If the deposition is noticed for video recording, the video operator shall perform such services remotely. All communications with the deponent during the deposition shall be on the record, other than communications between the deponent and his/her attorney of record during breaks. During the deposition there shall not be direct or indirect communications with the deponent off the record, including but not limited to text, email, chat, instant message, etc. The deponent and his/her attorney may choose to be in the same location for the deposition, if they conduct themselves consistent with “social distancing protocols”, but not requiring the deponent to wear any mask while giving deposition testimony.

c. If the notice of deposition or subpoena includes a request for production of documents at any oral deposition, such documents shall be produced electronically by the deponent to counsel for all parties at least three (3) business days before the

deposition date, unless otherwise agreed by counsel for the parties and for the deponent in writing.

d. As professional legal services have been deemed “essential businesses” and the operation of the court an “essential service”, it is the Court’s expectation that the deponent and his/her attorney can prepare for the deposition consistent with “social distancing protocols”.

Emergency Rule 3-104 adopted effective May 11, 2020.

DIVISION IV – PROBATE DEPARTMENT

Emergency Local Rule 4-100. Ex Parte Applications.

Local Rule 4.7 is hereby temporarily amended in that ex parte applications will now be heard between 10:00 a.m. and 11:00 a.m. each day by the Probate Department.

Emergency Local Rule 4-100 adopted effective May 11, 2020; amended effective October 1, 2020.

DIVISION V – FAMILY LAW DEPARTMENT AND FAMILY COURT SERVICES

Emergency Local Rule 5-100. **Optional Confidential Mediation Regarding Custody and Parenting Plans.**

a. Pursuant to Family Code Section 3178, to the extent possible during the Covid-19 State of Emergency, the Court offers confidential mediation sessions, regarding child custody, parenting time, and visitation, to parties who have submitted a Request for Order regarding custody or parenting time, but who have not been able to receive a hearing date regarding their matter. The mediator will not make a recommendation to the Court, but shall report whether a full or partial agreement was reached.

b. These confidential mediation sessions shall be purely voluntary. Both parties must agree to participate before the mediation will be scheduled.

c. These mediation services are offered as a temporary measure to facilitate parenting agreements; and these services may be suspended or limited based upon changes in the availability of hearing dates and/or staff availability.

d. Mediation proceedings are confidential pursuant to Family Code Section 3177. A party may not subpoena or take the deposition of a mediator who conducts a confidential mediation. The mediator who conducts a confidential mediation shall not also be assigned as the Child Custody Recommending Counselor if the parties are subsequently referred to Family Court Services for child custody recommending counseling.

e. This Emergency Local Rule 5-100 does *not* modify or supersede the existing requirements regarding mandatory counseling set forth in Local Rule 5.13.

Emergency Rule 5-100 adopted effective May 11, 2020.