

## **EMERGENCY LOCAL RULES: COMPLEX CIVIL**

The Court adopts the following as Emergency Local Rules (“Rules”) intended to address the impact of the COVID-19 pandemic, under the authority granted the Court by the March 23, 2020, and March 30, 2020, Orders of the Chief Justice of the California Supreme Court, as Chair of the Judicial Council (“Orders”) and by the Emergency Rules in Response to the COVID-19 Pandemic issued by the Judicial Council on April 6, 2020 (“Judicial Council Emergency Rules”) and as amended thereafter. These Rules are effective May 11, 2020, subject to the limitations imposed by the Orders. These Rules shall remain in effect until either rescinded by this Court or by withdrawal or change to the Orders or to the Judicial Council Emergency Rules.

1. **Application.** These rules shall apply only to Complex Civil cases.
2. **Electronic Service; E-Service List.**
  - a. Pursuant to Code of Civil Procedure Section 1010.6(c), California Rules of Court, rule 2.253(c) and rule 2.251(c), and Judicial Council Emergency Rule 12, all parties shall serve all documents electronically, and accept service of documents electronically from all other parties represented by counsel and all self-represented parties who have consented in writing to electronic service, in conformity with Code of Civil Procedure Section 1010.6 and the California Rules of Court, except when personal service is required by statute.
  - b. Counsel for the parties shall meet and confer, agree upon, and keep updated, an e-service list for each civil action.
  - c. The parties are reminded that electronic service of documents may extend time periods for response by two (2) court days, pursuant to Code of Civil Procedure Section 1010.6(a)(4)(B).
3. **Electronic Filing.** Electronic filing shall continue as ordinarily required in the Complex Litigation Department, i.e., by specific order typically ordered at the first Case Management Conference.

4. **Judicial Holiday Extensions Only For Filings.** Pursuant to authority granted by the Chief Justice, the Presiding Judge of this Court has issued orders providing that the dates from March 16, 2020 to May 27, 2020, are “holidays” for “purposes of computing time for filing papers with the Court under Code of Civil Procedure Sections 12 and 12a . . . .” As specifically stated in the Order, such emergency “holidays” only pertain to the deadlines for *filing* papers with the Court, and do not pertain to dates and deadlines regarding service of papers between the parties, such as discovery requests and discovery responses.
  
5. **Discovery.**
  - a. *Written Discovery.* All discovery requests and responses (C.C.P. § 2019.010), including but not limited to notice of deposition, special interrogatories, form interrogatories, requests for production of documents, and requests for admissions, shall be served electronically by all represented by counsel and all self-represented parties who have consented in writing to electronic service.
  
  - b. *Document Production.* Production of documents shall be provided in electronic form unless the parties agree otherwise in writing. If not previously established, counsel for the parties shall meet and confer regarding possible establishment of a joint electronic document depository for the uploading and downloading of electronic document productions.
  
  - c. *Depositions.* Code of Civil Procedure Section 2025.310 provides that all persons, except the deponent and the court reporter, may attend a deposition remotely. Judicial Council Emergency Rule 12 11 (a) states: “Notwithstanding any other law, including Code of Civil Procedure section 2025.310(a) and (b), and rule 3.1010(c) and (d), a party or non-party deponent, at their election or the election of the deposing party, is not required to be present with the deposition officer at the time of the deposition.”
    - i. All notices of deposition, including by subpoena duces tecum, of any party or non-party shall be served electronically by all represented by counsel and all self-represented parties who have consented in writing to electronic service.

- ii. Unless otherwise stipulated in writing by the parties, or unless technologically infeasible, any or all of an oral deposition may be conducted remotely, in that the deponent, the court reporter, any interpreter, the video operator, the attorney for any party, or any party, may “attend” the deposition remotely by appropriate audio-video conference method – which method shall be selected and identified by the noticing party. 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 the deponent is not required to wear any mask while giving deposition testimony. 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”.
- iii. 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 electronic communications with the deponent, including but not limited to text, email, chat, instant message, etc.
- iv. 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. *Informal Discovery Conferences*

- i. Pursuant to Code of Civil Procedure Section 2016.080 and the Court’s Complex Guidelines, no party may move to compel discovery, or file any other discovery motion, including any motion for non-remote deposition, 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.

- ii. To request an informal discovery conference, counsel should contact the Department 39 Clerk by telephone with all counsel represented or by facsimile, which must be contemporaneously copied to counsel for all parties to the action. 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.
  - iii. If the discovery dispute is not resolved following the discovery conference, any party may proceed to file a motion. Any such motion must be filed within ten (10) court days of the conference, or within the 45-day statutory time, whichever date is later, unless otherwise specifically ordered by the Court.
  - iv. The procedures outlined above 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.
6. **Remote Appearances.** All appearances for informal discovery conferences, case management conferences, law and motion and other hearings shall be conducted remotely on a media platform the Court will designate when it schedules a hearing.
7. **Case Management Conferences.** Any party who believes their case warrants a case management conference earlier than currently set is encouraged to contact the Department 39 Clerk by telephone to secure an earlier case management conference, including any disputes regarding briefing schedules or deadlines due to emergency court “holidays.”
8. **Law and Motion in Complex Civil Cases.**
  - a. No supplemental briefing will be allowed, except as specifically ordered by the Court, on motions originally set for hearing between March 16, 2020 and May 18, 2020, which have been fully briefed and continued to a new date.

- b. In all other matters previously filed but not fully briefed, counsel shall meet and confer and agree on a stipulation and proposed order for a new briefing schedule that provides that all papers on the motion are filed at least 14 calendar days in advance of the continued hearing date.
  
- 9. **Trials.** All trials, and related Mandatory Settlement Conferences and Pre-trial Conferences, originally scheduled between March 16, 2020 and June 12, 2020 are hereby vacated and will be re-scheduled to Trial Setting Conferences.
  
- 10. **Pre-trial Deadlines; Meet-and-Confer.**
  - a. In any case in which the trial originally scheduled between March 16, 2020 and June 12, 2020 was continued or vacated, the parties are ordered to meet and confer on whether any deadlines, time limits or cut-offs imposed based on the date the trial was originally set to proceed should be re-opened, extended or otherwise altered in anticipation of the new date set or to be set for that trial. Such deadlines include, but are not limited to, discovery cut-offs and briefing.
  
  - b. If agreement is reached, the parties shall submit a stipulation and proposed order. If the parties do not agree, they shall request a Case Management Conference at which the Court will resolve the outstanding issues.
  
- 11. **Five-Year Dismissal (C.C.P. § 583.310); Meet-and-Confer.**
  - a. In any case in which the initial complaint was filed on or before May 1, 2016, the parties are ordered to meet and confer on the subject of the date on which the five-year period in Code of Civil Procedure Section 583.310 ends, including consideration of any stays, whether directly ordered or automatic.
  
  - b. If the parties agree on that date, they shall submit a stipulation and proposed order setting forth the agreed-upon date.

- c. If the parties cannot agree on that date, they shall file within thirty (30) days of the date of this order a joint statement of no greater than five (5) pages setting forth each party's position as to the relevant date and the reasons therefor.

12. **Three-Year Limitation for New Trial (C.C.P. § 583.320); Meet-and-Confer.**

- a. In any case where a mistrial was granted or new trial granted prior to May 1, 2018, and no new trial date is presently set, the parties are ordered to meet and confer on the subject of the date on which the three-year period in Code of Civil Procedure Section 583.320 ends, including consideration of any stays, whether directly ordered or automatic.
- b. If the parties agree on that date, they shall submit a stipulation and proposed order setting forth the agreed-upon date.
- c. If the parties cannot agree on that date, they shall file within thirty (30) days of the date of this order a joint statement of no greater than five (5) pages setting forth each party's position as to the relevant date and the reasons therefor.

*(Emergency Local Rules – Complex Civil, eff. 5/11/20.)*