

EMERGENCY LOCAL RULES: CIVIL
(Third Amended)

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 22, 2020, subject to the limitations imposed by the Orders. These Rules supersede all prior Emergency and Supplemental Emergency Local Rules – Civil. These Rules shall remain in effect until either rescinded by this Court or by withdrawal or change to the Orders or to the Judicial Council Emergency Rules.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 Civil cases.
2. **Remote Hearings.** Unless otherwise stated in these Rules, or otherwise ordered by the assigned judge, all hearings will be conducted by CourtCall until further notice. **Do not come to Court for your hearing unless you are specifically requested to do so by the Court.**
3. **Filing Holiday Expiration; Filings Due for Hearings Set May 28, 2020 and Thereafter.**
 - a. *Filing Holiday Through and Including May 27, 2020.* Pursuant to the emergency authority granted by the Chief Justice, the Court may declare the period through and including May 27, 2020, as a filing holiday if the court closure substantially interferes with the parties’ ability to file papers. While a drop box for Civil cases is available for filings as provided below, the Court deems there to be substantial interference with parties’ ability to file papers, and so the period through May 27, 2020, is considered a Court holiday for purposes of such filings, **except for hearings occurring on or after May 28, 2020, as described below.**
 - b. *Hearings Between May 18, 2020 and May 27, 2020.* The Court will be hearing calendars starting May 18, 2020 via CourtCall, but as to law and motion matters from May 18, 2020, through and

including May 27, 2020, the Court will only hear cases which are fully-briefed. Cases not fully-briefed due to the previous filing holiday will be continued. Other matters set in this period (e.g., Case Management Conferences) will go forward as scheduled, except Orders of Examination (see subsection d, below).

- c. *No Further Filing Holiday for Hearings May 28, 2020 and Thereafter.* The Civil department will resume a normal hearing schedule on May 28, 2020. **Parties' briefs for these hearings will be due under the normal statutory timeframes. This may mean a party must file a relevant brief before the expiration of the filing holiday set forth in subsection a, above.**
- d. *Orders of Examination.* Because hearings on Orders of Examination cannot be conducted remotely, all such hearings are vacated and are to be reset after the Court reopens to the public.

4. Filing of Papers.

- a. *Acceptance of Filings.* The Court will permit filings each day via drop box, excluding weekends and Court holidays. Two separate drop boxes will be provided at the Main Street entrance to the Wakefield Taylor Building, at 725 Court St., Martinez. **While the clerk's office will be open as of May 26, 2020, there will be long lines and extended wait periods; the Court encourages parties to use the drop boxes.**

One designated drop box will be for Civil *Ex Parte* matters as identified in Local Rule 3.47 and Civil Restraining Orders, which are defined to include the following:

- i. Requests for Civil Harassment Restraining Orders pursuant to CCP §527.6;
- ii. Requests for Workplace Violence Restraining Orders pursuant to CCP §527.8;
- iii. Requests for Elder or Dependent Abuse Restraining Orders pursuant to Welfare and Institutions Code §15657.03;

- iv. Petitions for Gun Violence Restraining Orders pursuant to Penal Code § 18100 et seq.

The second designated drop box will be for all other Civil filings.

b. *Procedure for obtaining Civil Restraining Orders.*

- i. Completed paperwork for all Civil Restraining Orders will be accepted via drop box at the Main Street entrance to the Wakefield Taylor Building, 725 Court St., Martinez, each court day between 9:00 AM and 10:30 AM. Packets including all necessary forms for Civil Harassment Restraining Orders and Elder or Dependent Abuse Restraining Orders are available through these links:

<http://www.cc-courts.org/forms/packets/CV644-CivilHarassmentPacket-A-B-C.pdf>

http://www.cc-courts.org/forms/local/Packet_EA.pdf

- ii. The completed Requests for Restraining Orders will then be reviewed by a judicial officer. If approved, the orders will be issued, filed with the court and a hearing date will be assigned.
- iii. Endorsed filed copies of issued Restraining Orders will be available for pick up at 1:00 PM outside of the Peter Spinetta Family Law Center, 751 Pine St., Martinez, on the same day that they were submitted to the Court. Litigants and attorneys are reminded to stay a safe distance (at least 6 feet) away from each other and court staff at the time of distribution of these Orders.

c. *Procedure for Civil Ex Parte matters.*

- i. Parties may submit *ex parte* matters as they would have prior to the Court's emergency. The prior limitation in these Rules requiring that *ex parte* applications "truly present special issues that require immediate Court attention" shall no longer

apply. When possible, parties shall participate in a meaningful meet and confer process before any ex parte matter is submitted to the Court.

- ii. At the time a party seeking an *Ex Parte* Order gives notice to all parties pursuant to the requirements of Rule 3.1203 of the California Rules of Court, such party shall also notify all parties of the existence and substance of these Emergency Local Rules.
- iii. All moving and opposition papers, along with proposed orders, will be accepted via drop box at the Main Street entrance to the Wakefield Taylor Building, at 725 Court St., Martinez, each court day between 9:00 AM and 10:30 AM. All such submissions shall include any necessary filing fee, as well as copies of any papers submitted and a self-addressed stamped envelope so that an endorsed filed copy can be returned to the parties.
- iv. Hearings will be conducted at 11:00 AM on the same day that the moving papers are submitted to the court. Since the court is closed to the public at this time, all hearings will be conducted by CourtCall.

Prior to May 18, 2020, when scheduling the CourtCall appearance, parties should request to be connected to Department 33, Supervising Civil Judge Steven Austin, for hearing. **Beginning May 18, 2020**, parties should call their assigned department.

Instructions for setting an appearance through CourtCall are found at this link:

<http://www.cc-courts.org/civil/court-call.aspx>

d. *Procedures for Unlawful Detainer matters.*

- i. Under Rule 1(b) of the Judicial Council Emergency Rules, the Court may not issue a summons for new unlawful detainer complaints except if the Court finds, in its discretion and on the record, that the unlawful detainer action is “necessary to protect public health and safety.”
- ii. Under Rule 1(c) of the Judicial Council Emergency Rules, the Court may only enter default judgment in an unlawful detainer action for failure to appear if the action is necessary to protect the public health and safety and the defendant has not appeared in the action within the time provided by law, including by any applicable executive order.
- iii. The submission of any unlawful detainer complaint, default judgment, or other unlawful detainer filing which argues necessity based on protecting public health and safety, including matters involving violence or threats of violence, must be accompanied by: 1) a declaration under oath stating specific facts showing such necessity; and 2) a proposed order permitting the filing on the basis of such necessity.

e. *All other Civil filings.*

- i. Drop Box. All other Civil filings will be accepted via a separate drop box at the Main Street entrance to the Wakefield Taylor Building, 725 Court St., Martinez, each court day between 9:00 AM and 3:00 PM. All such submissions shall include any necessary filing fee, as well as copies of any papers submitted and a self-addressed stamped envelope so that endorsed filed copies can be returned by mail. **While the clerk’s office will be open as of May 26, 2020, there will be long lines and extended wait periods; the Court encourages parties to use the drop box.**

- ii. Court Holiday Period. Please see section 2, above, concerning the court holiday and filing deadlines for particular matters.
- iii. Complex Cases. Filings in Complex cases are subject to subsection (e)(i), except that any filings should be submitted electronically as required by Court rules.

5. Hearings and Trials.

- a. *Hearing and Trial Dates Prior to May 18, 2020*. Unless otherwise ordered by the Court, all hearing dates on any Civil case set to take place from April 8, 2020, through May 18, 2020 (including Case Management Conferences, Orders to Show Cause, Law and Motion, Orders of Examination, Issue Conferences, Settlement Conferences and Court or Jury trials in progress or calendared to begin during this timeframe) are vacated. Although hearings may continue to display as calendared in electronic online case access, no hearings will be conducted during this period.
- b. *Court and Jury Trials Set May 18, 2020 and Thereafter*. All Court or Jury Trials set between May 18, 2020 and June 12, 2020 are vacated and converted to a Trial Setting Conference on the date previously set for trial.
- c. *Trial Deadlines for Vacated Trials*. For those cases with trial dates vacated under Rule 3a or 3b, all deadlines that run from the initial trial date – including the discovery cutoff and expert disclosure deadline – shall run from the reset trial date.
- d. *Rescheduling of Hearings/Parties to Provide Notice*. Civil hearing dates that are vacated pursuant to these Rules and all hearing dates that have been previously vacated due to the Court closure that began on March 16, 2020, will be reset by the Court. Notice of the new hearing date will not be sent out by the Court. Instead, all new hearing dates will be available through the Open Access web portal on the Court's website. Once these new dates are set, the following parties are ordered to serve written or electronic notice to all other parties to an action of the new date for hearing:

- i. On Law and Motion matters, the moving party shall give notice.
 - ii. On all other matters, the Plaintiff or Petitioner shall give notice.
- e. *Small Claims Hearings.* All Small Claims hearings and Small Claims Trial De Novo hearings set to take place prior to July 1, 2020 are vacated. All such hearing dates that are vacated pursuant to these Rules and all hearing dates that have been previously vacated due to the Court closure that began on March 16, 2020, will be reset by the Court. Any new hearing date, time and location will be available through the Open Access web portal on the Court's website. The Court will also send notice of the new hearing date, time and location to the Plaintiff in Small Claims matters, who shall then serve written or electronic notice of the reset hearing to all other parties.

f. *Civil Restraining Order Hearings*

- i. Definitions. For purposes of these Rules, Civil Restraining Orders are defined to include the following:
 - 1. Requests for Civil Harassment Restraining Orders pursuant to CCP §527.6,
 - 2. Requests for Workplace Violence Restraining Orders pursuant to CCP §527.8,
 - 3. Requests for Elder or Dependent Abuse Restraining Orders pursuant to Welfare and Institutions Code §15657.03
 - 4. Petitions for Gun Violence Restraining Orders pursuant to Penal Code § 18100 et seq.
- ii. Vacated Hearing Dates / Protected Party to Provide Notice of Rescheduled Date. All Civil Restraining Order hearings set to take place prior to June 15, 2020 are vacated. All such hearing dates that are vacated pursuant to these Rules and all hearing dates that have

been previously vacated due to the Court closure that began on March 16, 2020, will be reset by the Court. Any new hearing date, time and location will be available through the Open Access web portal on the Court's website. The Court will also send notice of the new hearing date, time and location to the protected party, who shall then serve written or electronic notice of the reset hearing to the restrained party.

iii. Restraining Orders Set for Hearing During Closure Extended 90 Days. Pursuant to the Judicial Council Emergency Rules, any Temporary Restraining Order issued in case types identified in subsection (i) above that was set for a hearing which has been vacated by way of these Rules or due to the Court closure that began on March 16, 2020, shall remain in effect to the time of the reset hearing, not to exceed a period of 90 days from date the Temporary Restraining Order was issued.

g. *Filing Deadlines for Rescheduled Hearings.* For hearings reset by these Rules, the statutory deadlines for papers not yet filed shall be based on the new hearing date.

h. *Tentative Rulings.* The Court's existing tentative ruling procedure remains in effect during the emergency.

6. Remote Appearances and CourtCall; Public Access

a. The Court will require that judicial proceedings be conducted remotely using CourtCall. As permitted by these Rules, the Orders, or the Judicial Council Emergency Rules, remote conduct of a proceeding may include: the electronic exchange and authentication of documentary evidence; e-filing and e-service; the use of remote interpreting; and the use of remote reporting and electronic recording to make the official record of an action or proceeding.

- b. Parties are not required to obtain prior Court permission to appear by CourtCall for any law and motion hearing. Parties are, however, required to notify the Court and all other parties of any telephonic appearance in a law and motion matter no later than 4:00 P.M. the Court day before the appearance.
- c. Parties with fee waivers may participate by informing CourtCall of their fee waiver as provided in Rule 3.670(l) of the California Rules of Court. Be prepared to provide CourtCall with a copy of the fee waiver order.
- d. A dedicated call-in number will be provided on the Court's website to enable the public to hear any matter not otherwise closed to the public. The public line will be muted.

(Emergency Local Rules - Civil, eff. 4/6/20; amended and renamed eff. 4/24/20; amended eff. 5/1/20; amended eff. 5/22/2020.)