

**SANTA CLARA COUNTY SUPERIOR COURT
FAMILY DIVISION**

LONG CAUSE HEARINGS AND TRIAL PROCEDURES

Parties must comply with the Code of Civil Procedure, California Rules of Court and the Santa Clara County Superior Court Local Rules of Court governing long cause hearings and trials. Nothing in these procedures is intended to supersede or conflict with existing Rules of Court or statutory authority.

Parties must **meet and confer** before, and during, the hearing or trial to resolve or narrow disputed issues, and to streamline the presentation of evidence. Parties must discuss the expected testimony of each witness, and the admissibility of each proposed exhibit. Parties should specifically confer on their willingness to stipulate to the admission of expert witness hearsay statements pursuant to *People v. Sanchez* (2016) 63 Cal.4th 665.) **Parties do not have to meet and confer if both parties are self-represented and there is a restraining order with temporary orders preventing contact.**

Parties must notify the court **promptly** of any complete or partial settlement, revised time estimates, scheduling issues, or any other matters that may affect the hearing or trial. Failure to complete a trial within the time estimate may result in a **mistrial**.

All participants (the parties, attorneys, and witnesses) must appear **in person** for trials and evidentiary hearings unless otherwise ordered by the court. Absent a good cause finding, an expert witness may appear remotely. (Cal. Code of Civ. Proc. Section 367.75, subd., (c).)

Parties must send copies of all **trial exhibits** to the other party at least five court days before trial.

I. Pre-Trial Submissions

Represented parties must electronically file all trial materials. Self-represented parties may file trial materials either in hard copy with the clerk's office or electronically. Required trial materials include: (1) trial briefs; (2) exhibit lists (not the actual exhibits); (3) witness lists; (4) objections to any proposed witnesses and exhibits; (5) a list of deposition transcripts that might be lodged; (6) stipulations; and (7) any *in limine* (pre-trial) motions and responses. Trial briefs must be filed, served, and then lodged with the trial department at least five court days before the trial. (Cal. R. Ct. 5.394.) Parties may elect to have their Settlement Conference Statement serve as their trial brief provided that it includes the information detailed above. In addition, parties must send their **Exhibit List** in **Word** format to the trial department. A suggested template for the Exhibit List may be found at the end of this document.

The email address for each family court department is DepartmentXX@scscourt.org, where XX is the department number. All parties and/or attorneys must be copied on all communications to the court. Any correspondence which does not include all parties will be deleted without review

by the Department. Substantive discussions about the case or requests to manage any procedural aspect of the trial must not be sent to the department email.

II. Exhibits

Parties must provide trial exhibits to the other side at least five court days before trial or hearing. They must also meet and confer before the hearing to discuss exhibits, including stipulations for admissibility and objections, unless a protective order bars such communications. Email exchanges do not satisfy the requirement that the parties meet and confer prior to hearing. The court urges the parties to meet by videoconference or telephone. The requirement to meet and confer does not apply to domestic violence restraining order hearings or trials.

All exhibits must be pre-marked. Petitioner's exhibits should be numbered beginning with the number 1. Respondent's exhibits should be lettered beginning with the letter A. Parties must also provide an exhibit list showing the document number or letter, its title, and a brief description of the document.

Before 12:00 p.m. on the **court** day before trial, the parties or their attorneys must deliver trial exhibits to the courtroom. The court must have two copies of all exhibits from each party: one copy for the judicial officer and one for the courtroom clerk. Exhibits may be provided in binder form, on a USB drive, or via a file-sharing link sent to the courtroom email address unless otherwise specified by a judicial officer. **“Zip files” must not be submitted to the department email because they will be quarantined by our digital security protocols.**

If provided electronically/digitally, each exhibit must be in a separate document and the document title must include the exhibit number/letter and a brief description. (i.e. “Ex A Pet IncomeExpenseDec”) Some judicial officers prefer digital exhibits instead of binders, please confirm at the time of trial setting. **Digital exhibits such as audio or video files must be provided to the department via USB/flash drive.**

Each party is responsible for providing their own witnesses their own exhibits as well as the exhibits received from the other party.

Whether provided electronically or on paper, all exhibits are deemed “returned to the parties” at the conclusion of the trial and must be maintained by the parties until the time for filing a notice appeal has expired or, if a notice of appeal has been filed, until the appellate proceedings have concluded.

If exhibits are not timely provided to the Court, opposing attorneys, and/or witnesses, the Court may bar use of any such exhibits.

Parties wishing to use documents for impeachment or refreshing recollection should have the documents readily available.

Exhibits in a language other than English must be translated and certified under oath.

III. Interpreters

Parties calling any witness needing an interpreter must make the necessary arrangements and pay any required fee. More information can be found on the court's website.

IV. Court Reporters

Official court reporters are **not** provided except when mandated by statute (e.g., contempt trials). If an official court reporter is mandated, a **per diem fee** is due and payable at the end of the first day, and at the commencement of each day thereafter. (Govt. Code § 68086.) The amount is divided equally among all sides. The half day fee is \$350.00. The full day fee is \$700.00.

A party has the right to arrange, at the party's own expense, for the services of a court reporter if the services of an official court reporter are not available. Please see our court's website for more information, including the necessary forms, [here](#).

REMOTE PROCEEDINGS

The following procedures apply to all remote proceedings in Family Court. Nothing in this document is intended to supersede existing, current local and state rules.¹ For more detailed information regarding Remote Appearances, see Local Rules, General Court and Administration Rules, Rule 9, "Remote Proceedings" found [here](#). If the court authorizes a remote appearance, the parties should comply with Section 7 of the Santa Clara County Bar Association Code of Professionalism "Using Technology in Legal Matters."²

I. Remote Appearances

All represented parties, their attorneys, and witnesses may appear remotely subject to the court's discretion in accordance with current statutory authority. If proceedings are conducted remotely, in whole or in part, minors must not observe or participate in the proceedings without permission from the court. The court always retains jurisdiction to require an in-person appearance from any party consistent with Code of Civil Procedure 367.75 and Local Rules, General Court and Administration Rule 9. If the court authorizes a remote proceeding, **all parties** must agree to appear remotely. The court disfavors hybrid proceedings where some parties are in court and some parties are in person.

II. Remote Hearing Platform

The court's current remote hearing platform is Microsoft Teams. Information about downloading

¹ Parties are referred to Code of Civil Procedure section 367.75 and California Rules of Court 3.672.

² Download the .pdf version of the Code [here](#).

and using Microsoft Teams is available on the court’s website. Parties must not record or photograph the proceedings without a court order. Doing so is a violation of various statutes and rules and may be referred for prosecution. (See Pen. Code § 632, Cal. R. Ct. 1.150.) Links for video hearings are published on the court’s website [here](#).

III. Requirements During Hearings

Participants must test their video equipment prior to every appearance. Participants must be familiar with logging in, muting their microphone, and turning their video on and off.

Participants must avoid using their computer’s built-in microphone. Instead, participants are expected to use a wired headset or a separate stand-alone microphone, preferably with noise cancellation abilities.

If possible, participants should use a hard-wired internet connection, not a Wi-Fi connection, and should use a laptop or desktop computer instead of a phone. If a party’s internet connection is poor, the court reserves the right to continue the matter.

All participants must enter their own first and last names on Microsoft Teams and their own name must appear in their video frame. Participants who do not use their own name will not be admitted into the Teams session.

Participants must be muted whenever they are not speaking. They must avoid distractions and testify from a quiet location. Participants should speak slowly and clearly and pause between questions and answer.

Court proceedings must be formal and dignified, even when parties appear remotely. Parties must be respectful of the court, courtroom staff, and other parties. Do not interrupt. Dress appropriately.

SAMPLE EXHIBIT LIST

Proponent of Exhibit (Pet. vs. Resp.)	Letter/Number	Short Description	Stipulated or Objection	Date Marked (for Court use)	Date Admitted (for Court use)