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MAY 06 2020

Clerk of the Court
Superior Court of CA County of Santa Clara
BY David K. Walker DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA**

**GENERAL ORDER RE: COVID-19 EMERGENCY ORDER REGARDING COMPLEX
CIVIL ACTIONS**

On March 30, 2020 the Chief Justice of California issued an order, which states in pertinent part:

“I find good cause to...support courts in making use of available technology, when possible, to conduct judicial proceedings and court operations remotely, suspend any rule in the California Rules of Court to the extent such rule would prevent a court from using technology to conduct judicial proceedings and court operations remotely, in order to protect the health and safety of the public, court personnel, judicial officers, litigants, and witnesses. This is consistent with the Governor’s order, which also provides for the suspension of related statutes that impose limitations on the subject of these emergency orders.”

Emergency rule 3, adopted by the Judicial Council of California effective April 6, 2020, states in pertinent part:

“Notwithstanding any other law, in order to protect the health and safety of the public, including court users, both in custody and out of custody defendants, witnesses, court personnel, judicial officers, and others, courts must conduct judicial proceedings and court operations as follows:

1 (1) Courts may require that judicial proceedings and court operations be conducted
2 remotely.

3 (2) * * *

4 (3) Conducting proceedings remotely includes, but is not limited to, the use of video,
5 audio, and telephonic means for remote appearances; the electronic exchange and authentication
6 of documentary evidence; e-filing and e-service; the use of remote interpreting; and the use of
7 remote reporting and electronic recording to make the official record of an action or proceeding.”

8 Given that County health officials have deemed professional legal services “essential
9 businesses” and the operation of the court an “essential service” to be conducted consistent with
10 “social distancing protocols”;

11 IT IS HEREBY ORDERED that the following applies to all complex civil actions:

12 **1. Sunset of Order and Procedures.** This Order and the procedures set forth herein
13 shall apply and be followed until ten (10) calendar days after the Governor declares that the state
14 of emergency related to the COVID-19 pandemic is lifted, or until amended or lifted by further
15 order of this Court.

16 **2. Electronic Service.** Pursuant to Code of Civil Procedure Section 1010.6(c),
17 California Rules of Court, rule 2.253(c) and rule 2.251(c), and Emergency rule 12, all parties
18 represented by counsel and all self-represented parties who have consented in writing to
19 electronic service shall serve all documents electronically and shall accept service of documents
20 electronically, in conformity with Code of Civil Procedure Section 1010.6 and the California
21 Rules of Court, except when personal service is required by statute. Counsel for the parties shall
22 meet and confer, agree upon, and keep updated, an e-service list for each civil action. The
23 parties are reminded that electronic service of documents may extend time periods for response
24 by two (2) court days, pursuant to Code of Civil Procedure Section 1010.6(a)(4)(B).

25 **3. Electronic Filing.** As previously established by Local Rules, pursuant to
26 California Rules of Court, rule 2.253(b), all parties shall file all documents electronically.

27 **4. Judicial Holiday Extensions Only For Filings.** Pursuant to authority granted by
28 the Chief Justice, the Presiding Judge of this Court has issued orders providing that the dates

1 from March 17, 2020 to May 29, 2020, are “holidays” for “purposes of computing time for filing
2 papers with the Court under Code of Civil Procedure Sections 12 and 12a” As specifically
3 stated in the Order, such emergency “holidays” only pertain to the deadlines for *filing* papers
4 with the Court, and do not pertain to dates and deadlines regarding service of papers between the
5 parties, such as discovery requests and discovery responses.

6 **5. Discovery.** All discovery requests and responses (C.C.P. § 2019.010), including
7 but not limited to notice of deposition, special interrogatories, form interrogatories, requests for
8 production of documents, and requests for admissions, shall be served electronically by all
9 represented by counsel and all self-represented parties who have consented in writing to
10 electronic service. Production of documents shall be provided in electronic form unless the
11 parties agree otherwise in writing. If not previously established, counsel for the parties shall
12 meet and confer regarding possible establishment of a joint electronic document depository for
13 the uploading and downloading of electronic document productions.

14 **6. Depositions.** Code of Civil Procedure Section 2025.310 provides that all persons,
15 except the deponent and the court reporter, may attend a deposition remotely. Emergency rule 11
16 (a) states: “Notwithstanding any other law, including Code of Civil Procedure section
17 2025.310(a) and (b), and rule 3.1010(c) and (d), a party or non-party deponent, at their election
18 or the election of the deposing party, is not required to be present with the deposition officer at
19 the time of the deposition.”

20 **a.** All notices of deposition, including by subpoena duces tecum, of any party or
21 non-party, shall be served upon all parties electronically.

22 **b.** Unless otherwise stipulated in writing by the parties, or unless technologically
23 infeasible, any or all of an oral deposition may be conducted remotely, in that the deponent, the
24 court reporter, any interpreter, the video operator, the attorney for any party, or any party, may
25 “attend” the deposition remotely by appropriate audio-video conference method – which method
26 shall be selected and identified by the noticing party. The deponent and his/her attorney may
27 choose to be in the same location for the deposition, if they conduct themselves consistent with
28 “social distancing protocols”, but the deponent is not required to wear any face covering while

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

5 c. All communications with the deponent during the deposition shall be on the
6 record, other than communications between the deponent and his/her attorney of record during
7 breaks. During the deposition there shall not be direct or indirect electronic communications
8 with the deponent, including but not limited to text, email, chat, instant message, etc.

9 d. If the notice of deposition or subpoena includes a request for production of
10 documents at any oral deposition, such documents shall be produced electronically by the
11 deponent to counsel for all parties at least three (3) business days before the deposition date,
12 unless otherwise agreed by counsel for the parties and for the deponent in writing.

13 **7. Remote Appearances.** All appearances for informal discovery conferences, case
14 management conferences, law and motion and other hearings shall be conducted remotely on a
15 media platform the Court will designate when it schedules a hearing.

16 **8. Informal Discovery Conferences.**

17 a. Pursuant to Code of Civil Procedure Section 2016.080 and the Court’s Complex
18 Guidelines, no party may move to compel discovery, or file any other discovery motion,
19 including any motion for non-remote deposition, until the parties have had an informal discovery
20 conference with the Court. Counsel must have exhausted all meet and confer obligations before
21 the informal discovery conference. To request an informal discovery conference, counsel should
22 contact the Complex Coordinator by email, which must be contemporaneously copied to counsel
23 for all parties to the action. Pursuant to Code of Civil Procedure Section 2016.080(c)(2), the
24 time for bringing any motion to compel is tolled starting on the date a party makes the email
25 request for an informal discovery conference to the Court.

26 b. If the discovery dispute is not resolved following the discovery conference, any
27 party may proceed to file a motion. Any such motion must be filed within ten (10) court days of
28 the conference, or within the 45-day statutory time, whichever date is later, unless otherwise

1 specifically ordered by the Court.

2 c. The procedures outlined above apply to parties. With regard to discovery
3 disputes with non-parties, the non-parties may elect to participate in this procedure, but are not
4 required to do so.

5 **9. Case Management Conferences.** Any party who believes their case warrants a
6 case management conference earlier than currently set is encouraged to contact the Complex
7 Coordinator by email to secure an earlier case management conference, including any disputes
8 regarding briefing schedules or deadlines due to emergency court “holidays.”

9 **10. Law and Motion in Complex Civil Cases.** No supplemental briefing will be
10 allowed, except as specifically ordered by the Court, on motions originally set for hearing
11 between March 17, 2020 and May 29, 2020, which have been fully briefed and continued to a
12 new date. In all other matters previously filed but not fully briefed, counsel shall meet and confer
13 and agree on a stipulation and proposed order for a new briefing schedule that provides that all
14 papers on the motion are filed at least 14 calendar days in advance of the continued hearing date.

15 **11. Trials.** All trials, and related Mandatory Settlement Conferences and Pre-trial
16 Conferences, originally scheduled between March 17, 2020 and July 30, 2020 are hereby vacated
17 and will be re-scheduled to a Trial Setting Conference.


18 **12. Pre-trial Deadlines.** In any case in which the trial originally scheduled between
19 March 17, 2020 and July 30, 2020 was continued or vacated, all pre-trial deadlines will track the
20 new trial date, absent a showing of good cause.

21 **13. Five-Year Dismissal (C.C.P. § 583.310).** In any case in which the initial
22 complaint was filed on or before May 1, 2016, the parties are ordered to meet and confer on the
23 subject of the date on which the five-year period in Code of Civil Procedure Section 583.310
24 ends, including consideration of any stays, whether directly ordered or automatic. If the parties
25 agree on that date, they shall submit a stipulation and proposed order setting forth the agreed-
26 upon date. If the parties cannot agree on that date, they shall file within thirty (30) days of the
27 date of this order a joint statement of no greater than five (5) pages setting forth each party’s
28 position as to the relevant date and the reasons therefor.

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

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11 THIS ORDER IS EFFECTIVE IMMEDIATELY.

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13 Dated: May 6, 2020

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15 Presiding Judge Deborah A. Ryan
16 Santa Clara County Superior Court
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