



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on September 24, 2019

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### Title

Family Law: Changes to Continuance Rules and Forms

### Rules, Forms, Standards, or Statutes Affected

Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; adopt form FL-309; approve forms FL-304-INFO, FL-308, and FL-310; revise forms FL-303 and FL-306; revoke and replace form FL-307

### Recommended by

Family and Juvenile Law Advisory Committee

Hon. Jerilyn L. Borack, Cochair

Hon. Mark A. Juhas, Cochair

### Agenda Item Type

Action Required

### Effective Date

July 1, 2020

### Date of Report

September 3, 2019

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## Executive Summary

The Family and Juvenile Law Advisory Committee recommends changes to four rules of court and three forms, and the adoption of one new rule of court and one new form; and the approval of three new forms, including an information sheet to implement new procedures for rescheduling a hearing in family court. The new procedures would (1) respond to the concerns raised by court professionals following the publication of an amended rule and revised forms relating to continuing hearings in family court, and (2) specify when a party can and cannot file a request to reschedule a hearing without first notifying and serving the other party.

## Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective July 1, 2020:

1. Adopt rule 5.95 of the California Rules of Court, “Request to reschedule hearing”;

2. Amend rule 5.2 to include a new item 11 to provide that “reschedule the hearing” means the same as “continue the hearing” and to include a definition that both refer to “moving a hearing to another date and time”;
3. Amend rule 5.94 by revoking subdivision (f), “Procedures to request continued hearing date,” and changing the rule title to *Order shortening time; other filing requirements; failure to serve request for order* to reflect the change; replacing the word “continue” with “reschedule” in subdivision (e); and adding “as described in rule 5.95” at the end;
4. Amend rules 5.151 to incorporate the term “reschedule” and refer to new rule 5.95.
5. Amend rule 5.165(a) by eliminating “in writing” and adding “fax transmission,” “electronic means,” or “overnight carrier” as delivery options;
6. Adopt mandatory form *Order on Request to Reschedule Hearing* (form FL-309) to implement new rule 5.95;
7. Approve optional forms *How to Reschedule a Hearing in Family Court* (form FL 304-INFO), *Agreement and Order to Reschedule Hearing* (form FL-308), and *Responsive Declaration to Request to Reschedule Hearing* (form FL-310) to implement new rule 5.95;
8. Revise *Declaration Regarding Notice and Service of Request for Temporary Emergency (Ex Parte) Orders* (form FL-303) and *Request to Reschedule Hearing* (form FL-306) to incorporate the term “reschedule” and refer to new rule 5.95; and
9. Revoke and replace form FL-307 from *Order on Request to Continue Hearing* to *Request to Reschedule Hearing Involving Temporary Emergency (Ex Parte) Orders* to implement new rule 5.95.

The text of the amended and new rules and the new and revised forms are attached at pages 12–33.

### **Relevant Previous Council Action**

Effective January 1, 2014, the Judicial Council revised and renumbered form FL-306/JV-251, separating it into two forms, FL-306 and JV-251, to clarify what orders are appropriate in family and juvenile law proceedings. Effective July 1, 2016, the council approved form FL-303 to help fill a need for a standard form that can be accepted for filing in family courts across the state. Also effective July 1, 2016, the council revised form FL-306, changing its title from “*Application for Order and Reissuance of Request for Order and Temporary Emergency (Ex Parte) Orders*” to “*Request and Order to Continue Hearing and Extend Temporary Emergency (Ex Parte) Orders*.” The form was also revised to delete references to any filing other than a request for order and temporary emergency (ex parte) orders.

Effective September 1, 2017, the Judicial Council approved amending rule 5.94 to remove “and extend temporary emergency (ex parte) orders” from the title and reflect revised procedures relating to continuances; revised form FL-303 to provide a space for a party to specify the hearing date requested for the no-notice hearing or the date that the party will submit the request for the court to decide based on declarations; and revoked form FL-306 and replaced it with two new forms, *Request to Continue Hearing* (form FL-306) and *Order on Request to Continue Hearing* (form FL-307).

The title of new form FL-306 was changed to harmonize it with other civil forms used to request a continuance to effect service with temporary emergency (ex parte) orders. In addition, form FL-306 was expanded to cover actions filed by the Department of Child Support Services in parentage cases and to allow a party to use the form to ask the court to continue a hearing on a *Request for Order* (RFO) (form FL-300), order to show cause, or other moving papers without temporary emergency orders “to allow for service on the other party before the hearing” (emphasis added).<sup>1</sup>

### **Analysis/Rationale**

The recommended rules and forms for requests to reschedule a hearing in family law, as described above, would help parties more clearly understand the procedures that apply and need to be followed.

Currently, rule 5.94(f) and forms FL-306 and FL-307 cover requests to continue a hearing in limited circumstances. They allow a party to request that the court continue a hearing when the other parties in the case have not been served with notice of the hearing. In this situation, under rule 5.94, the moving party is not required to provide notice to the other party before seeking an order to continue the hearing. Rule 5.94 also allows responding parties who have been served to use form FL-306 to request a continuance of a hearing involving temporary emergency orders, as permitted by Family Code section 245. However, the rule does not address how notice to the other party is to be provided.

When the title of the mandatory form was changed to *Request to Continue Hearing*, effective September 1, 2017, courts observed that parties and attorneys started using form FL-306 to ask to continue a hearing date in all cases, including when the other party had actually been served with notice of the hearing.

Currently, no statewide rules or forms cover procedures for family law continuances other than as provided by rule 5.94(f). The procedure for all other continuances is governed by local court rules. Local procedures generally require that the party asking to continue the hearing provide notice of the request to the other parties and serve copies of the request. This process allows the

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<sup>1</sup> Judicial Council of Cal., Adv. Com. rep., *Family Law: Request to Continue Hearing and Declaration Regarding Notice of Request for Temporary Emergency Orders* (Apr. 28, 2017), p. 3, <https://jcc.legistar.com/View.ashx?M=F&ID=5165106&GUID=7C168ED1-5D9D-47F5-A816-B9A99F2CAB4C>.

other parties the opportunity to be heard on the request to continue the hearing before the court makes an order.

In response to the above concerns, the committee recommends changes to four rules of court and three forms, and the adoption of one new rule of court and one new form; and the approval of three new forms, including an information sheet to implement new procedures for rescheduling a hearing in family court.

## **Rules**

### ***Rule 5.2. Division title; definitions; application of rules and laws***

Rule 5.2 would be amended to include a new item 11 to provide that “reschedule the hearing” means the same as “continue the hearing.” The change reflects the committee’s recommendation to use the term “reschedule” to replace “continue” or “continuance” throughout the rules and forms in this proposal. This change would respond to comments from court professionals and organizations that assist self-represented litigants that the term “continue” is often misunderstood and should be clarified so that a party understands that the hearing will not proceed as scheduled but will be reset to a future date.

### ***Rule 5.94. Order shortening time; other filing requirements; request to continue hearing***

The committee recommends extensive changes to the rescheduling procedures in rule 5.94(f). For this reason, the committee recommends striking subdivision (f) and placing the rescheduling rules under new rule 5.95. To reflect the change, the title of rule 5.94 would be changed to *Order shortening time; other filing requirements; failure to serve request for order*.

### ***Rule 5.95. Request to reschedule hearing***

Recommended new rule 5.95 organizes the requirements for rescheduling a hearing under subdivisions that highlight the reason for the request. For example, subdivisions (b) through (e) would be titled as follows:

- Reschedule a hearing because the other party was not served;
- Written agreements (stipulations) to reschedule a hearing;
- Reschedule a hearing after the other party was served with the request for order or other moving papers; and
- Reschedule a hearing to attend mediation or child custody recommending counseling.

Reorganizing the rules for rescheduling a hearing under a separate rule will help the parties better understand the procedures that apply in each situation, along with the relevant forms associated with those procedures.

A significant recommended change to the rescheduling rule is reflected in rule 5.95. Under subdivision (b)(2)(B), the rule would allow the court to delegate to the court clerk the authority to reschedule a hearing on the party’s written request if the initial RFO did not involve temporary emergency orders or if the party asking to reschedule does not request a change to any temporary emergency (ex parte) orders that were initially granted. If temporary emergency orders are

involved, the expiration date of the temporary emergency (ex parte) orders would be extended to the date of the new hearing. This change would increase court efficiencies by eliminating the requirement for judicial officers to review the request and sign the order to reschedule a hearing.

The recommended rules and forms also promote judicial efficiency by continuing to provide clear guidelines to submit a request to reschedule a hearing, allowing sufficient notice for the court to adjust courtroom calendars and prevent any unnecessary preparation and review of those case files. Current rule 5.94(f)(5)(A)(i) provides that the party asking for the continuance should submit the *Request to Continue Hearing* (form FL-306) to the court no later than five court days before the hearing date set on the RFO, order to show cause, or other moving papers. The committee sought comment about whether this provision should be included in recommended new rule 5.95.

Recommended rule 5.95(d) clarifies that a party may not file a request to reschedule a hearing without first notifying and serving the other party with the request. In addition, the rule requires that the party file with the request to reschedule the hearing a declaration demonstrating when and how notice and service were completed.

Further, recommended rule 5.95 specifies that the process for notice and service on the other party would follow the same procedure for when a party requests temporary emergency (ex parte) orders under rules 5.151 through 5.169. For example, the party would have to obtain a court date describing when the party will submit the request to reschedule papers to the court (or when the court will have a hearing on the request to reschedule). Then the party would have to notify the other party by 10 a.m. the day before the date obtained from the court and serve the papers on the other party.

The recommended amendments also prompt the parties to refer to their court's local rules and procedures when proceeding under rule 5.95(d). This prompt acknowledges that courts differ in how these filings are processed. For example, as previously noted, some courts set a hearing on the request to reschedule and others process the request based on pleadings without a hearing.

### ***Rules 5.151 and 5.165***

These rules would be amended to incorporate the term “reschedule” and refer to new rule 5.95. In addition, subdivision (a) of rule 5.165 (Requirements for notice) would be amended to provide:

#### **(a) Method of notice**

Notice of appearance at a hearing to request emergency orders may be given personally or by telephone, in writing, voicemail, fax transmission, electronic means (if permitted), overnight mail, or other overnight carrier.

As illustrated above, the rule would be amended to clarify that “in writing” means that notice may be given by voicemail, fax transmission, or overnight mail or other overnight carrier. These proposed amendments would align the rule to the current methods of notice listed in form FL-303. In addition, the committee proposes adding “electronic means” to these methods, which could include notice to the other party by e-mail.

## **Revised forms**

### ***Request to Continue Hearing (form FL-306)***

The committee recommends changing this form as follows:

- The title would be changed to *Request to Reschedule Hearing*;
- All references to “continue” or “continuance” would be replaced with “reschedule,” as previously noted;
- The content would be distributed under these headings: “Case Information,” “Request,” “Reason for Rescheduling,” “Special Procedures May Apply,” and “Proposed Order Required;”
- The form would include a reference to a new information sheet about how to reschedule a hearing in family court; and
- The form would allow the party to request that the court reschedule the hearing after a certain date and specify dates that the party is not available.

### ***Order on Request to Continue Hearing (form FL-307)***

This form would be renumbered from FL-307 to FL-309. The form number FL-307 would be reassigned to a proposed new form, *Request to Reschedule Hearing Involving Temporary Emergency (Ex Parte) Order*, as described below. The renumbered order form would be revised to include a space for the court to order the parties to attend child custody mediation or child custody recommending counseling.

### ***Declaration Regarding Notice and Service of Request for Temporary Emergency (Ex Parte) Orders (form FL-303)***

Item 2 of this form would be revised to provide check boxes for a party to check if the party seeks to reschedule a hearing with or without temporary emergency (ex parte) orders. Item 3a(2) would be reformatted and a new check box added for a party to specify if notice was given electronically to the other party. Item 4 would be revised to add check boxes for the forms a party would need to have served on the other party before filing the request to reschedule.

## **New forms**

### ***How to Reschedule a Hearing in Family Court (form FL-304-INFO)***

The recommended new form would provide general information to the parties involved in a proceeding to reschedule a hearing. The form would reflect the requirements of recommended new rule 5.95, provide references to specific rules of court and how to find the rules, and include references to resources for parties who have questions about the process or wish to seek legal advice.

***Request to Reschedule Hearing Involving Temporary Emergency (Ex Parte) Orders (form FL-307)***

The committee recommends a new form to reschedule a hearing when the court has issued temporary emergency (ex parte) orders with a *Request for Order* (form FL-300). The form includes procedures specific to actions involving temporary emergency orders. For example, Family Code section 245 specifies that a party responding to temporary emergency orders for property restraint (under Family Code sections 2045 or 4620) is entitled to continue the hearing one time as a matter of course. The entitlement is limited to these types of cases and the form would clarify this point in “Reason for Rescheduling.” Specifically, item 7c would provide:

The hearing needs to be rescheduled because: [¶] ... [¶] as the responding party to a request for temporary emergency (ex parte) orders for property restraint, I am entitled as a matter of course to have the court reschedule the hearing one time for a reasonable period to respond to the request. (*This reason is only available if you checked item 5b.*)

The form would also specify that if the court grants the request to reschedule the hearing, the expiration date of the emergency orders would be extended to the end of the new hearing. Having this separate form would eliminate confusion for parties whose case does not involve emergency orders.

***Agreement and Order to Reschedule Hearing (form FL-308)***

This recommended optional form would provide parties with a form to serve as their stipulation if the court does not provide a local form for agreements. As with *Order on Request to Reschedule Hearing* (form FL-309), the court order section of form FL-308 would include a space for the court to order the parties to attend child custody mediation or recommending counseling. It would be limited to cases in which a party is only seeking to reschedule the hearing to a new date or, if applicable, extend the expiration date of a temporary emergency (ex parte) order. Parties who want to agree to reschedule the hearing as well as modify temporary emergency (ex parte) orders would be required to draft their own agreement for the court to sign.

***Responsive Declaration to Request to Reschedule Hearing (form FL-310)***

This recommended optional form would help implement the new procedures specified in rule 5.95 and the information sheet. The availability of this form would likely encourage the other party to file and serve a response, thereby providing information for the judicial officer to consider before making an order on the request to reschedule the hearing.

**Policy implications**

As mentioned above, the committee’s proposal seeks to address a demonstrated need that exists for statewide consistency and clarity for requests to reschedule hearings in family law proceedings, and the recommendations are expected to result in a greater understanding of a complicated process by the public, particularly for self-represented litigants, and an increase in judicial efficiency for the courts.

## **Comments**

The proposal circulated for public comment from April 10 to June 10, 2019, as part of the spring 2019 invitation-to-comment cycle to the standard mailing list for family and juvenile law proposals. Fourteen organizations and individuals, as well as the Joint Rules Subcommittee of the Trial Court Presiding Judges and Court Executives Advisory Committees, provided comment: three agreed with the proposal, six agreed with modifications, one disagreed, and four did not indicate a position but provided comments. Generally, all but one commenter agreed that the proposal appropriately addressed the stated purpose. Concerns raised by one commenter disagreeing with the entirety of the proposal, are addressed in the Alternatives Considered section below. Several comments suggested straightforward changes, including simple changes to language and to correct for typographical errors. A chart with the full text of the comments received and the recommended committee responses is attached at pages 34 to 77.

### ***Rule 5.2***

One commenter suggested defining what “reschedule” and “continue” means, in addition to stating that the two terms should be used interchangeably. In response to the comment, the committee has included recommended language to rule 5.2 further clarifying that either word “refers to moving a hearing to another date and time.”

### ***Rule 5.94***

One commenter suggested adding to rule 5.94(e)(2) a cross-reference to direct the reader to rule 5.95 for requests to reschedule a hearing. In response to the comment, the committee has included the recommended cross-reference to rule 5.94.

### ***Rule 5.95***

*Submission of request to reschedule at least five court days before the hearing.* Every commenter responding to this request for specific comment, except one, stated that the recommended rules and forms should include guidance to parties that a request to reschedule should be submitted to the court at least five court days before the hearing date. In response to the overwhelming majority of commenters, the committee recommends including language stating that parties should submit the forms to the court no later than five court days before the hearing date throughout the rules and forms in this proposal.

*New “Application” section.* One commenter suggested adding an application or purpose section—similar to that in rule 5.151(b)—at the beginning of rule 5.95. The committee agrees with the commenter and recommends including an “Application” section because, in addition to stating the rule’s purpose, the new recommended language also clarifies that rule 5.95 does not apply to Domestic Violence Prevention Act cases.

*Specific comment requested on rule 5.95(a) option 1 or option 2.* The committee asked for specific comment on whether rule 5.95(a), now reordered to subdivision (b), should end with one of two options:



If a Request for Order (form FL-300) (with or without temporary emergency (ex parte) orders, order to show cause, or other moving paper is not served on the other party and the requesting party still wishes to proceed with the hearing,...

[*Option 1*] the party must ask the court to reschedule the hearing date.

[*Option 2*] the party must ask the court to reschedule the hearing date by the deadline described in rule 5.92 or as ordered by the court.

As noted by one commenter, rule 5.92, which is referenced by option 2, provides no guidance for deadlines pertaining to requests to reschedule as implied by the language contained in option 2. Rule 5.92 instead applies to deadlines for the initial *Request for Order* (form FL-300), order to show cause, or other moving paper. Thus, rule 5.95(b) was revised to make clear that the deadline for service described in rule 5.92 pertains to the underlying motion and not to requests to reschedule. Accordingly, in new recommended rule 5.95(b), option 1, and not option 2, was used to end the paragraph with "...the party must ask the court to reschedule the hearing date."

### ***Rule 5.165***

One commenter suggested that "(if permitted)" be added to rule 5.165 to be consistent with the options listed on the recommended revisions to *Declaration Regarding Notice and Service of Request for Temporary Emergency (Ex Parte) Orders* (form FL-303). The committee has added the recommended language to the rule.

### ***Proposed new form FL-306/FL-307/FL-308-INFO***

One commenter remarked that the number of the proposed form was "unnecessarily long." The committee agreed and renumbered the INFO sheet to form FL-304-INFO. As with rule 5.95, the overwhelming majority of commenters stated that guidance to submit the forms at least five court days before the hearing should be provided in item 10 on forms FL-306 and FL-307, as well as on new form FL-304-INFO.

### ***Form FL-309 as a mandatory form***

The invitation to comment categorized *Order on Request to Reschedule Hearing* (FL-309) as a mandatory form. However, as many commenters indicated, references throughout the rules and forms to form FL-309 used permissive language such as "may be used" when describing use of the form. The committee has revised all language referring to form FL-309 throughout the proposal to clarify that it is a mandatory and not an optional form.

### ***Implementation date***

Multiple commenters from the superior courts requested a longer implementation period than three months. Because a specific date for implementation of this proposal is not mandated by law or otherwise urgent, staff recommends that the effective date be changed from January 1 to July 1, 2020, to allow more time for courts to prepare as requested. However, if subsequent legislatively mandated rules or forms in family law require an effective date of September 1, 2020, then the effective date of this proposal may be postponed until then for more efficient implementation processes by the courts.

### **Alternatives considered**

The Family and Juvenile Law Advisory Committee considered whether to circulate the proposal in the winter 2018 comment cycle or the spring 2019 cycle. The committee opted for spring 2019 to allow time for committee members to undertake a comprehensive review of rule 5.94 and its associated forms before responding to the concerns raised by court professionals following the September 1, 2017, publication of the amended rule and revised forms. The committee also considered proposing interim technical changes to the forms used to continue a hearing in family court but did not pursue this option, because doing so would have required courts to incur additional costs to produce copies over three consecutive forms publication cycles. Instead, the committee directed staff to provide technical assistance to the courts for form FL-306 and concurrently work with committee members to draft a proposal to circulate for comment in the spring 2019 cycle.

One commenter argued that no changes should be made to the rules and forms related to continuances in family law proceedings, or even revoking the current forms. The commenter raised concerns that the proposal would make the procedures for rescheduling a hearing a more convoluted, confusing process than it currently is, would therefor negatively impact self-represented litigants and create more workload issues for the courts. The committee considered making no changes to the current rules and forms for requests to reschedule a hearing in family law proceedings. However, based on comments received, both in the previous and current invitation-to-comment periods, the committee has recognized a demonstrated need to create a more consistent and clear process—particularly for self-represented litigants—than currently exists, by establishing uniform statewide rules and forms for all requests to reschedule a hearing in family law.

As mentioned above, there are no statewide rules or forms for requests to reschedule a hearing in family law, other than under the limited circumstances outlined in rule 5.94(f) and form FL-306. Courts have reported that this has resulted in parties and attorneys attempting to improperly use current form FL-306 for all requests to reschedule a hearing in family law cases. In addition, the current statewide rules and forms offer no guidance on providing notice and serving the other party with a request to reschedule a hearing, which has also contributed to much confusion, especially for self-represented litigants, and concerns regarding due process. To minimize the burden on implementation and changes to local court business processes, the committee has also aligned the recommended procedures for requests to reschedule a court hearing with existing ex parte rules in family law. The committee expects that the recommended rules and forms contained in this proposal will ultimately lead to less confusion and more clarity for self-represented litigants, than the current process for rescheduling family law hearings, and result in a long term net increase in efficiency for judicial officers, court calendars, and court operations.

### **Fiscal and Operational Impacts**

The committee anticipates that this proposal will result in costs incurred by the courts to revise forms and add them to their case management systems, train court staff about the new and amended rules and the new and revised forms, and possibly revise local court rules and forms so

they are consistent with the changes adopted by the Judicial Council. However, the committee expects that the changes will save resources for the courts in the long term by clarifying procedures.

### **Attachments and Links**

1. Cal. Rules of Court, rules 5.2, 5.94, 5.95, 5.151, and 5.165, at pages 12–20
2. Forms FL-303, FL-304-INFO, FL-306, FL-307, FL-308, FL-309, and FL-310, at pages 21–33
3. Chart of comments, at pages 34–77

Rule 5.95 of the California Rules of Court are adopted and rules 5.2, 5.94, 5.151, and 5.165 are amended, effective July 1, 2020, to read:

**Rule 5.2. Division title; definitions; application of rules and laws**

(a) \* \* \*

**(b) Definitions and use of terms**

As used in this division, unless the context or subject matter otherwise requires, the following definitions apply:

(1)–(10) \* \* \*

(11) “Reschedule the hearing” means the same as “continue the hearing” under the Family Code and refers to moving a hearing to another date and time.

(c)–(g) \* \* \*

**Rule 5.94. Order shortening time; other filing requirements; ~~request to continue hearing~~ failure to serve request for order**

(a)–(d) \* \* \*

**(e) Failure to ~~timely~~ serve request for order**

The *Request for Order* (form FL-300) or other moving papers such as an order to show cause, along with any temporary emergency (ex parte) orders, will expire on the date and time of the scheduled hearing if the requesting party fails to:

(1) Have the other party ~~timely~~ served before the hearing with the *Request for Order* (form FL-300) or other moving papers, such as an order to show cause; supporting documents; and any temporary emergency (ex parte) orders; or

(2) Obtain a court order to ~~continue~~ reschedule the hearing, as described in rule 5.95.

**(f) ~~Procedures to request continued hearing date~~**

(1) ~~If a *Request for Order* (form FL-300), order to show cause, or other moving paper is not timely served on the other party before the date of the hearing, and the party requesting the order wishes to proceed with the request, he or she must ask the court to continue the hearing date.~~

- 1  
2       (2) ~~On a showing of good cause or on its own motion, the court may:~~  
3  
4           (A) ~~Continue the hearing and set a new date; and~~  
5  
6           (B) ~~Modify or terminate any temporary emergency (ex parte) orders~~  
7               ~~initially granted with the *Request for Order*, order to show cause, or~~  
8               ~~other moving paper.~~  
9  
10       (3) ~~If the court grants a continuance and makes no change to the temporary~~  
11       ~~emergency (ex parte) orders, those orders are extended until the time of the~~  
12       ~~continued hearing or to another date specified by the court.~~  
13  
14       (4) ~~The party served with a *Request for Order* (form FL-300), order to show~~  
15       ~~cause, or other moving paper that includes temporary emergency (ex parte)~~  
16       ~~orders:~~  
17  
18           (A) ~~Is entitled to one continuance as a matter of course for a reasonable~~  
19           ~~period of time to respond. A second or subsequent request by the~~  
20           ~~responding party to continue the hearing must be supported by facts~~  
21           ~~showing good cause for the continuance;~~  
22  
23           (B) ~~May ask the court to continue the hearing by using *Request to Continue*~~  
24           ~~*Hearing* (form FL-306); and~~  
25  
26           (C) ~~Must file and serve a *Responsive Declaration to Request for Order*~~  
27           ~~(form FL-320) before the date of the new hearing, as required by law or~~  
28           ~~described in *Order on Request to Continue Hearing* (form FL-307).~~  
29  
30       (5) ~~The following procedures apply to either party's request to continue the~~  
31       ~~hearing:~~  
32  
33           (A) ~~The party asking for the continuance must complete and submit an~~  
34           ~~original *Request to Continue Hearing* (form FL-306) with two copies~~  
35           ~~for the court to review, as follows:~~  
36  
37               (i) ~~The form should be submitted to the court no later than five court~~  
38               ~~days before the hearing date set on the *Request for Order*, order~~  
39               ~~to show cause, or other moving papers.~~  
40  
41               (ii) ~~The party may present the form to the court on the date of the~~  
42               ~~hearing.~~  
43

- (iii) The party who, on the date of the hearing, makes an oral request to the court to continue the hearing, is not required to complete form FL-306, but must complete and submit an *Order on Request to Continue Hearing* (form FL-307) if the court grants the request.
- (B) Along with form FL-306, the party asking for the continuance must submit to the court an *Order on Request to Continue Hearing* (form FL-307) with the caption and initial items completed as described on the form.
- (C) After the court signs and files form FL-307, a filed copy must be served on the other party as follows, unless the court orders otherwise:
- (i) If the continuance is granted, an *Order on Request to Continue Hearing* (form FL-307) must be attached as the cover page and served, along with the *Request for Order* (form FL-300) or other moving papers such as an order to show cause and any temporary emergency (ex parte) orders and supporting documents.
- (ii) If the court grants the responding party's request for a continuance, and the party who asked for the order was absent when the continuance was granted, then an *Order on Request to Continue Hearing* (form FL-307) must be attached as the cover page to any documents the court orders served on that party.
- (iii) Service must be in the manner required by rule 5.92 or as ordered by the court.
- (D) If the *Order on Request to Continue Hearing* (form FL-307), *Request for Order* (FL-300) or order to show cause, original or modified temporary emergency (ex parte) order, and supporting documents are not timely served on the other party, and the requesting party wishes to proceed with the hearing, he or she must repeat the procedures in this rule unless the opposing party agrees to waive notice and proceed with the hearing.

1 **Rule 5.95. Request to reschedule hearing**

2  
3 **(a) Application**

4  
5 The rules in this chapter govern requests to reschedule a hearing in family law  
6 cases, unless otherwise provided by statute or rule. Unless specifically stated, these  
7 rules do not apply to ex parte applications for domestic violence restraining orders  
8 under the Domestic Violence Prevention Act.  
9

10 **(b) Reschedule a hearing because the other party was not served**

11  
12 If a *Request for Order* (form FL-300) (with or without temporary emergency [ex  
13 parte] orders), order to show cause, or other moving paper is not served on the  
14 other party as described in rule 5.92 or as ordered by the court and the requesting  
15 party still wishes to proceed with the hearing, the party must ask the court to  
16 reschedule the hearing date.  
17

18 (1) To request that the court reschedule the hearing to serve papers on the other  
19 party, the party must take one of the following actions:  
20

21 (A) *Before the date of the hearing*

22  
23 (i) The party must complete and file with the court a written  
24 request and a proposed order. The following forms may be  
25 used for this purpose: *Request to Reschedule Hearing* (form  
26 FL-306) or *Request to Reschedule Hearing Involving*  
27 *Temporary Emergency (Ex Parte) Orders* (form FL-307),  
28 whichever form is appropriate for the case, and *Order on*  
29 *Request to Reschedule Hearing* (form FL-309); and  
30

31 (ii) The party should submit the request to the court no later than  
32 five court days before the hearing set on the *Request for Order*  
33 (form FL-300), order to show cause, or other moving paper.  
34

35 (B) *On the date of the hearing*

36  
37 The party may appear and orally ask the court to reschedule the  
38 hearing. The party is not required to file a written request but must  
39 complete and submit a proposed *Order on Request to Reschedule*  
40 *Hearing* (form FL-309).  
41

42 (2) The court may do any of the following:  
43

- 1           (A) Grant or deny the request to reschedule the hearing.
- 2
- 3           (B) Delegate to the court clerk the authority to reschedule the hearing if:
- 4
- 5               (i) The request to reschedule the hearing is required to allow more
- 6               time to serve the other party with notice of the hearing; and
- 7
- 8               (ii) The party asking to reschedule the hearing does not request a
- 9               change to any temporary emergency (ex parte) orders issued with
- 10              the Request for Order (form FL-300).
- 11
- 12       (3) If the court reschedules the hearing:
- 13
- 14           (A) The court, on a showing of good cause, may modify or terminate any
- 15           temporary emergency (ex parte) orders initially granted with the
- 16           Request for Order (form FL-300), order to show cause, or other moving
- 17           papers.
- 18
- 19           (B) The requesting party must serve the Order on Request to Reschedule
- 20           Hearing (form FL-309) on the other party in the case, along with the
- 21           Request for Order (form FL-300) or other moving papers such as an
- 22           order to show cause, any temporary emergency (ex parte) orders, and
- 23           supporting documents.
- 24
- 25           (C) If the other party has not been served with the papers in (B) after the
- 26           court granted the request to reschedule, the party must repeat the
- 27           procedures in this rule, unless the court orders otherwise.
- 28
- 29       (c) **Written agreements (stipulations) to reschedule a hearing**
- 30
- 31       The court may reschedule the hearing date of a Request for Order (FL-300), order
- 32       to show cause, or other moving paper based on a written agreement (stipulation)
- 33       between the parties and/or their attorneys.
- 34
- 35       (1) The parties may complete Agreement and Order to Reschedule Hearing
- 36       (form FL-308) for this purpose.
- 37
- 38       (2) The parties may agree to reschedule the hearing to a date that must be
- 39       provided by the court clerk. Parties should follow the court's local rules and
- 40       procedures for obtaining a new hearing date.
- 41
- 42       (3) Any temporary emergency orders will remain in effect until after the end of
- 43       the new hearing date, unless modified by the court.



1  
2       (4) The parties should submit the agreement to the court no later than five days  
3       before the hearing set on the *Request for Order* (form FL-300), order to show  
4       cause, or other moving paper.

5  
6       (5) The court must approve and sign the agreement to make it a court order.

7  
8       (6) The court may limit the number of times that parties can agree to reschedule  
9       a hearing.

10  
11       (d) **Reschedule a hearing after the other party was served with the request for**  
12       **order or other moving papers**

13  
14       The procedures in this section apply when a *Request for Order* (form FL-300),  
15       order to show cause, or other moving paper was served on the other party as  
16       described in rule 5.92 or as ordered by the court and either party seeks to  
17       reschedule the hearing date, and the parties are unable to reach an agreement about  
18       rescheduling the hearing.

19  
20       (1) To reschedule a hearing, either party must submit a written request to  
21       reschedule before the hearing date as described below in (A) or appear in  
22       court on the date of the hearing and orally ask the court to reschedule, as  
23       described below in (B):

24  
25       (A) *Before the date of the hearing*

26  
27               (i) The party asking to reschedule the hearing must complete a  
28               written request and a proposed order. The following forms may  
29               be used for this purpose: *Request to Reschedule Hearing* (form  
30               FL-306) or *Request to Reschedule Hearing Involving Temporary*  
31               *Emergency (Ex Parte) Orders* (form FL-307), whichever form is  
32               appropriate for the case, and *Order on Request to Reschedule*  
33               *Hearing* (form FL-309).

34  
35               (ii) The party must first notify and serve the other party. Notice and  
36               service to the other party of the documents in (i) must be  
37               completed as required by rules 5.151 through 5.169.

38  
39               (iii) The party must file or submit to the court the forms in (i), along  
40               with a declaration describing how the other party was notified of  
41               the request to reschedule and served the documents. *Declaration*  
42               *Regarding Notice and Service of Request for Temporary*  
43               *Emergency (Ex Parte) Orders* (form FL-303), a local form, or a

1 declaration that contains the same information as form FL-303  
2 may be used for this purpose.

3  
4 (iv) The party should submit the forms in (iii) to the court no later  
5 than five court days before the hearing date set on the *Request for*  
6 *Order* (form FL-300), order to show cause, or other moving  
7 paper.

8  
9 (v) The party responding to a written request to reschedule may file  
10 and serve a responsive declaration to the request to reschedule  
11 before the court considers the written request. *Responsive*  
12 *Declaration to Request to Reschedule Hearing* (form FL-310)  
13 may be used for this purpose.

14  
15 (B) On the date of the hearing

16  
17 The party asking to reschedule the hearing may appear in court and  
18 orally request to reschedule the hearing. The party is not required to  
19 file a written request but must complete and submit a proposed *Order*  
20 *on Request to Reschedule Hearing* (form FL-309).

21  
22 (2) The court may do any of the following:

23  
24 (A) Grant the request to reschedule the hearing on a showing of good cause  
25 or as required by law.

26  
27 (B) Deny the request to reschedule absent a showing of good cause.

28  
29 (C) Modify or terminate any temporary emergency (ex parte) orders  
30 initially granted with the *Request for Order* (form FL-300), order to  
31 show cause, or other moving paper.

32  
33 (e) **Reschedule a hearing to attend mediation or child custody recommending**  
34 **counseling**

35  
36 (1) When parties need to reschedule a hearing relating to child custody and  
37 visitation (parenting time) because they have been unable to attend the family  
38 court services appointment, they should follow their local court rules and  
39 procedures for requesting and obtaining an order to reschedule the hearing.

40  
41 (2) If the local court has no local rules and procedures for rescheduling hearings  
42 under (1), the parties may:

1           (A) Complete and file a written agreement (stipulation) for the court to sign  
2           as described in (c) of this rule; or

3  
4           (B) Follow the procedures in (d) to ask for a court order to reschedule the  
5           hearing.

6  
7  
8   **Rule 5.151. Request for temporary emergency (ex parte) orders; application;**  
9   **required documents**

10  
11 (a) \* \* \*

12  
13 (b) **Purpose**

14  
15       The purpose of a request for emergency orders is to address matters that cannot be  
16       heard on the court's regular hearing calendar. In this type of proceeding, notice to  
17       the other party is shorter than in other proceedings. Notice to the other party can  
18       also be waived under exceptional and other circumstances as provided in these  
19       rules. The process is used to request that the court:

20  
21       (1)–(2) \* \* \*

22  
23       (3)   Make orders about procedural matters, including the following:

24  
25           (A)   Setting a date for a hearing on the matter that is sooner than that of a  
26           regular hearing (granting an order shortening time for hearing);

27  
28           (B)   Shortening or extending the time required for the moving party to serve  
29           the other party with the notice of the hearing and supporting papers  
30           (grant an order shortening time for service); and

31  
32           (C)   ~~Continuing~~ Rescheduling a hearing or trial.

33  
34 (c) **Required documents**

35  
36       (1)   Request for order

37  
38       A request for emergency orders must be in writing and must include all of the  
39       following completed documents:

40  
41       ~~(1)(A)~~   Request for Order (form FL-300) that identifies the relief  
42       requested.

1           ~~(2)~~(B)       When relevant to the relief requested, a current *Income and*  
2                   *Expense Declaration* (form FL-150) or *Financial Statement*  
3                   *(Simplified)* (form FL-155) and *Property Declaration* (form FL-160).  
4

5           ~~(3)~~(C)       *Temporary Emergency (Ex Parte) Orders* (form FL-305) to serve  
6                   as the proposed temporary order.  
7

8           ~~(4)~~(D)       A written declaration regarding notice of application for  
9                   emergency orders based on personal knowledge. *Declaration*  
10                  *Regarding Notice and Service of Request for Temporary Emergency*  
11                  *(Ex Parte) Orders* (form FL-303), a local court form, or a declaration  
12                  that contains the same information as form FL-303 may be used for this  
13                  purpose.  
14

15          ~~(5)~~(E)       A memorandum of points and authorities only if required by the  
16                   court.  
17

18          (2)   *Request to reschedule hearing*  
19

20                  A request to reschedule a hearing must comply with the requirements of rule  
21                  5.95.  
22

23   (d)–(e)       \* \* \*

24  
25   **Rule 5.165. Requirements for notice**  
26

27   (a)   **Method of notice**  
28

29                  Notice of appearance at a hearing to request emergency orders may be given  
30                  personally or by telephone, in writing, voicemail, fax transmission, electronic  
31                  means (if permitted), overnight mail, or other overnight carrier.  
32

33   (b)–(c)       \* \* \*

PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>           Draft not approved by the Judicial Council v11. 09052019 gst
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	
<b>DECLARATION REGARDING NOTICE AND SERVICE OF REQUEST FOR TEMPORARY EMERGENCY (EX PARTE) ORDERS</b>	CASE NUMBER:

**NOTICE:** Do not use this form to ask for domestic violence restraining orders. Before completing this form, read your court's local procedures for requesting temporary emergency orders and obtaining the information needed to complete item 2 of this form. Courts may grant temporary emergency orders with or without an emergency hearing. Find local rules at [courts.ca.gov/3027.htm](http://courts.ca.gov/3027.htm).

1. I am (*specify*) ☐ attorney for ☐ petitioner ☐ respondent ☐ other parent/party  
☐ not a party in the case (*name and title/relationship to party*):
2. I ☐ did ☐ did not give notice (*select all that apply*)  
☐ that there will be an emergency court hearing ☐ that papers will be submitted to the court on the request  
☐ for temporary emergency (ex parte) orders  
☐ to reschedule a hearing ☐ to reschedule a hearing involving temporary emergency (ex parte) orders

on the date, time, and location indicated below:

Date:	Time:	Dept.:	Room:
Address of court: <input type="checkbox"/> same as noted above <input type="checkbox"/> other ( <i>specify</i> ):			

3. **NOTICE** (*If you gave notice, complete item 3a. If you did not give notice, complete item 3b or 3c.*)

a. ☐ I gave notice as described in items (1) through (5) below:

(1) I gave notice to (*select all that apply*)

- |  |   |
|--|---|
| <input type="checkbox"/> petitioner.         | <input type="checkbox"/> petitioner's attorney.           |
| <input type="checkbox"/> respondent.         | <input type="checkbox"/> respondent's attorney.           |
| <input type="checkbox"/> other parent/party. | <input type="checkbox"/> other parent's/party's attorney. |
| <input type="checkbox"/> child's attorney.   | <input type="checkbox"/> other ( <i>specify</i> ):        |

(2) I gave notice on (*date*): at: ☐ a.m. ☐ p.m.  
☐ personally at (*location*): , California.

- ☐ by telephone using telephone no.:  
☐ by fax using fax no.:  
☐ by voicemail using voicemail no.:  
☐ by electronic means (*if permitted*) (*specify electronic service address of person*):  
☐ by overnight mail or other overnight carrier (*specify address of delivery*):

(3) I gave notice (*select one*)

- ☐ by 10 a.m. the court day before this emergency hearing.  
☐ after 10 a.m. the court day before this emergency hearing because of the following exceptional circumstances (*specify*):

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
---	--------------

(4) I notified the person in 3a(1) that the following temporary emergency orders are being requested (*specify*):

(5) The person in 3a(1) responded as follows: ☐ Attachment 3a(5)

(6) I ☐ do ☐ do not believe that the person in 3a(1) will oppose the request for temporary emergency orders.

b. ☐ **Request for waiver of notice.** Due to exceptional circumstances, I did not give notice about the request for temporary emergency orders. I ask that the court waive notice to the other party to help prevent (*specify*)

(1) ☐ immediate danger or irreparable harm to myself (or my client) or to the children in the case.

(2) ☐ an immediate risk that the children in the case will be removed from the state of California.

(3) ☐ immediate loss or damage to property subject to disposition in the case.

(4) ☐ other exceptional circumstances (*specify*):

Facts showing exceptional circumstances in support of the request to waive notice include (*specify*): ☐ Attachment 3b

c. ☐ **Unable to provide notice.** I did not give notice about the request for temporary emergency orders. I used my best efforts to tell the opposing party when and where this hearing would take place but was unable to do so. The efforts I made to inform the other person were (*specify below*): ☐ Attachment 3c

#### 4. ☐ **SERVICE OF DOCUMENTS**

a. The following documents were served on

☐ petitioner ☐ petitioner's attorney ☐ other parent/party ☐ other parent's/party's attorney  
☐ respondent ☐ respondent's attorney ☐ child's attorney ☐ other (*specify*):

before the request was filed with the court:

(1) ☐ A copy of *Request for Order* (form FL-300) for temporary emergency orders, and *Temporary Emergency (Ex Parte) Orders* (form FL-305).

(2) ☐ A copy of a request to reschedule hearing and *Order on Request to Reschedule Hearing* (form FL-309). Form FL-306 may be used for the request.

(3) ☐ A copy of a request to reschedule hearing involving temporary emergency (ex parte) orders and *Order on Request to Reschedule Hearing* (form FL-309). Form FL-307 may be used for the request.

(4) ☐ Other documents (*specify*):

b. **Documents were served on (date):**

at: ☐ a.m. ☐ p.m.

☐ personally at (location):

, California.

☐ by fax on using fax no.:

☐ by electronic means (*if permitted*) (*specify electronic service address of person served*):

☐ by overnight mail or other overnight carrier (*specify address of delivery*):

c. **Documents were not served on the opposing party** due to the exceptional circumstances specified in

☐ 3b, above. ☐ 3c, above. ☐ Attachment 4c.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE)

**FL-304-INFO****How to Reschedule a Hearing in Family Court****1 General Information**

This form provides information about how to obtain a court order to reschedule a hearing in family court. This information sheet may not cover everything you need to know about rescheduling a hearing in your court. To learn more:

- ▶ Find a lawyer through your local bar association, the State Bar of California at [www.calbar.ca.gov](http://www.calbar.ca.gov), or the Lawyer Referral Service at 1-866-442-2529. For free and low-cost legal help (if you qualify), go to [www.lawhelpca.org](http://www.lawhelpca.org).
- ▶ Contact the family law facilitator or self-help center for information and assistance, and referrals to local legal services providers. Go to [www.courts.ca.gov/selfhelp-courtresources.htm](http://www.courts.ca.gov/selfhelp-courtresources.htm).
- ▶ Read California Rules of Court, rules 5.92 through 5.95, for the procedures to reschedule a hearing.
- ▶ Read rules 5.151 through 5.169 for the procedures to notify and serve the other party with a request to reschedule.


You can find these rules at any courthouse or county law library or online at [www.courts.ca.gov/rules](http://www.courts.ca.gov/rules).

**2 Written agreement (stipulation) to reschedule a hearing (form FL-308)**


The judge in your family court case may order that the hearing date be rescheduled based on an agreement (stipulation) between the parties or their attorneys.

You may use *Agreement and Order to Reschedule Hearing* (form FL-308) if you do not want to change temporary emergency orders. You may use a local form approved by the court, or write your own agreement.

You must follow your court's local procedures to obtain the new hearing date from the court clerk.

-  If the court has issued temporary emergency orders and those orders are in effect, the parties could further agree that those emergency orders will remain in effect until the end of the new hearing. A draft of a new temporary order with new end dates may have to be given to the court for the judge to sign with your agreement.

When the parties have signed the agreement, you can present it to the court on the day of the hearing, but it is best if you can file it at least five days before that date, so the judge doesn't have to read your file multiple times.


-  **Remember**, the agreement is not an order until it is signed by a judge.

Some courts may limit the number of times the parties can agree to rescheduling a hearing. Check your local court rules before submitting your written agreement. For information about how to write up your agreement, get it approved by the court, and filed in your case, see [www.courts.ca.gov/selfhelp-agreeFL](http://www.courts.ca.gov/selfhelp-agreeFL), speak with an attorney, or get help at your court's self-help center or the Family Law Facilitator.

If you and the other party do not have an agreement, the party who wants to reschedule the hearing must file papers, such as form FL-306 or form FL-307, to ask for a court order.

**3 When to use *Request to Reschedule Hearing* (form FL-306)**

You may use this form to ask to reschedule the hearing if the request for order or order to show cause you want to reschedule:

- ▶ Does *not* include temporary emergency (ex parte) orders;
- ▶ Was not served on the other parties; or
- ▶ Was served, but there is a good reason why the hearing should be changed to a new date. See  for other requirements.

Form FL-306 may also be used to reschedule a hearing to be able to meet with a child custody mediator or recommending counselor before the hearing.

If this situation applies to you, ask your mediator or child custody recommending counselor for information.

Most courts have local procedures and forms for rescheduling a hearing but will accept form FL-306 or your agreement to reschedule the hearing.

Do not use form FL-306 to ask to change the date of a domestic violence restraining order hearing. For more information, read *How to Ask for a New Hearing Date* (form DV-115-INFO).

**4 When to use *Request to Reschedule Hearing Involving Temporary Emergency (Ex Parte) Orders* (form FL-307)**

You may use form FL-307 to ask to reschedule the hearing if the request for order or order to show cause you want to reschedule:

- ▶ Includes temporary emergency (ex parte) orders.
- ▶ Was not served on the other parties.
- ▶ Includes property restraint orders and you are the responding party.
- ▶ Was served but there is a good reason why the hearing should be changed to a new date. See **6** for other requirements.

Form FL-307 may also be used to reschedule a hearing to be able to meet with a child custody mediator or recommending counselor before the hearing.

If this situation applies to you, ask your mediator or child custody recommending counselor for information. Most courts have local procedures and forms for rescheduling, but will accept form FL-307 or your agreement to reschedule the hearing.

Do not use form FL-307 to ask to change the date of a domestic violence restraining order hearing. For more information, read *How to Ask for a New Hearing Date* (form DV-115-INFO).

**5 What if I need to reschedule a hearing because the *Request for Order* or an order to show cause was not served on the other party?**

You should complete and file with the court a written request to reschedule the hearing and a proposed order at least five court days before the hearing, unless you have a very good reason to submit them later.


Another option is to appear in court on the date of the hearing and ask the court to reschedule the hearing. In this case, the party is not required to file a written request but must complete and submit a proposed order to the court. *Order on Request to Reschedule Hearing* (form FL-309) must be used for this purpose.

**6 What if I need to reschedule the hearing for a good reason after the *Request for Order* or an order to show cause was served?**

- ▶ **Complete a written request and a proposed order.**  
You may use form FL-306 or FL-307, whichever form applies to your case, and must use *Order on Request to Reschedule Hearing* (form FL-309).

- ▶ **Follow your court's local rules.**

To get a date for the court to consider your request to reschedule the hearing, find your court's local rules online at [www.courts.ca.gov/3027.htm](http://www.courts.ca.gov/3027.htm) and follow them.


 Some courts will set a court hearing for the judge to consider the request to reschedule. Other courts do not have a hearing, but will make an order based on the papers submitted to the court clerk. Before you complete any forms, it is important that you know how your court handles requests to reschedule a hearing.

- ▶ **Notify and serve the other party.**

The other party must be given notice of the request to reschedule the hearing and given a copy of the documents at the first reasonable opportunity before the court can consider the request. You may also include a blank *Responsive Declaration to Request to Reschedule Hearing* (form FL-310).


- ▶ **Submit the written request and order to the court.**

You should complete and file with the court a written request to reschedule the hearing and a proposed order at least five court days before the hearing, unless you have a very good reason to submit them later.

 When you submit the request and order, you must also submit to the court proof that the party was notified and served with the documents. You may use *Declaration Regarding Notice and Service of Request for Temporary Emergency (Ex Parte) Orders* (form FL-303), a local court form, or a declaration that contains the same information as form FL-303.



- ▶ ***Follow your court's procedure for obtaining the court order on your written request.***

 If for some reason, you do not receive a response to your request to reschedule from the court before the hearing, you should still attend the hearing, or the court may make a decision without you.

- ▶ ***Make an oral request on the date of the hearing.***

Another option is to appear in court on the date of the hearing and ask the court to reschedule the hearing. In this case, the party is not required to file a written request but must complete and submit a proposed order to the court. *Order on Request to Reschedule Hearing* (form FL-309) must be used for this purpose.

## **7 What do I do after the court makes the order?**

You must have the other party served with the order and other documents. For example:

- ▶ An *Order on Request to Reschedule Hearing* (form FL-309);
- ▶ A filed *Request for Order* (form FL-300) or other moving papers;
- ▶ Any temporary emergency (ex parte) orders; and
- ▶ Other papers that the court requires you to serve.

Prepare for your hearing. Find more information online at [www.courts.ca.gov/1094.htm](http://www.courts.ca.gov/1094.htm).

PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:  STATE:      ZIP CODE: FAX NO.:
<b>FOR COURT USE ONLY</b>	
<b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>  <b>v9 090519    gst</b>	
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	
<b>REQUEST TO RESCHEDULE HEARING</b>	
CASE NUMBER:	

Notice: Read *How to Reschedule a Hearing in Family Court* (form FL-304-INFO) before you complete this form.

Notice: Do not use this form to ask to change the date of a domestic violence restraining order hearing. For more information, read [form DV-115-INFO](#), *How to Ask for a New Hearing Date*.

**CASE INFORMATION**

1. Name of person asking to reschedule the hearing (*specify*):
  - a. ☐ I am the party who filed the *Request for Order* (form FL-300), order to show cause, or other moving paper in item 2.
  - b. ☐ I am the party who is responding to the *Request for Order* (form FL-300), order to show cause, or other moving paper in item 2.
2. I ask that the court reschedule the hearing date for the (*select one*)
  - a. ☐ *Request for Order*.
  - b. ☐ *Order to Show Cause* for ☐ contempt. ☐ seek work.
  - c. ☐ other (*specify*):
3. The item in 2 was filed on (*date*):
4. The hearing is currently set for (*date*):
5. The court did not issue temporary emergency (ex parte) orders with the item in 2.

**REQUEST**

6. I request that the hearing be rescheduled as follows:
  - a. ☐ After (*specify date*):
  - b. ☐ On a date I am available, which does not include (*specify dates*):
  - c. ☐ Other (*specify*):

**REASON FOR RESCHEDULING**

7. The hearing needs to be rescheduled because (*select all that apply*)
  - a. ☐ the papers were not served before the hearing date.
  - b. ☐ the parties need to attend child custody mediation or child custody recommending counseling before the hearing.
  - c. ☐ other good cause as stated ☐ below: ☐ on Attachment 7c.

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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**SPECIAL PROCEDURES MAY APPLY**

The procedures in items 8 and 9 apply only if the documents in item 2 were served on the parties.

8. Unless the court determines that there are exceptional circumstances, the other parties must first be
  - a. notified that you are going to ask the court to reschedule the hearing; and
  - b. served with copies of the request to reschedule at the first reasonable opportunity.
9. You must then submit to the court a proof of the notice and service in items 8a and 8b, along with the request to reschedule. You may use *Declaration Regarding Notice and Service of Request for Temporary Emergency (Ex Parte) Orders* (form FL-303) to comply with the proof of notice and service.
10. You should submit the documents in item 9 to the court no later than five court days before the hearing date set on the *Request for Order* (form FL-300), order to show cause, or other moving paper, unless you have a very good reason to submit them later.

**PROPOSED ORDER REQUIRED**

11. I have submitted a proposed *Order on Request to Reschedule Hearing* (form FL-309).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_  
 (TYPE OR PRINT NAME)



\_\_\_\_\_  
 SIGNATURE

PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY   <b>DRAFT</b> Not approved by the Judicial Council  v12 090519 gt  CASE NUMBER:
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	
<b>REQUEST TO RESCHEDULE HEARING INVOLVING TEMPORARY EMERGENCY (EX PARTE) ORDERS</b>	

Notice: Read *How to Reschedule a Hearing in Family Court* (form FL-304-INFO) before you complete this form.

Notice: Do not use this form to ask to change the date of a domestic violence restraining order hearing. For more information, read [form DV-115-INFO](#), *How to Ask for a New Hearing Date*.

### CASE INFORMATION

- Name of person asking to reschedule the hearing (*specify*):
  - ☐ I am the party who filed the *Request for Order* (form FL-300), order to show cause, or other moving paper in item 2.
  - ☐ I am the party who is responding to the *Request for Order* (form FL-300), order to show cause, or other moving paper in item 2.
- I ask that the court reschedule the hearing date for the (*select one*)
  - ☐ *Request for Order*.
  - ☐ *Order to Show Cause* for ☐ contempt. ☐ seek work.
  - ☐ other (*specify*):
- The item in 2 was filed on (*date*):
- The hearing is currently set for (*date*):
- The court issued temporary emergency (ex parte) orders with item 2 relating to (*specify*)
  - ☐ child custody or visitation (parenting time).
  - ☐ property restraint orders under Family Code section 2045 or 4620.
  - ☐ other (*specify*):

**Notice: If the court grants the request to reschedule the hearing, the expiration date of any temporary emergency (ex parte) orders will be extended to the end of the new hearing, unless otherwise ordered by the court.**

### REQUEST

- I request that the hearing be rescheduled as follows:
  - ☐ After (*specify date*):
  - ☐ On a date I am available, which does not include (*specify dates*):
  - ☐ Other (*specify*):

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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**REASON FOR RESCHEDULING**

7. The hearing needs to be rescheduled because *(select all that apply)*
- a. ☐ the papers were not served before the hearing date.
  - b. ☐ the parties need to attend child custody mediation or child custody recommending counseling before the hearing.
  - c. ☐ as the responding party to a request for temporary emergency (ex parte) orders for property restraint, I am entitled as a matter of course to have the court reschedule the hearing one time for a reasonable period to respond to the request.  
*(This reason is available only if you checked item 5b above.)*
  - d. ☐ other good cause as stated ☐ below: ☐ in Attachment 7d.

**SPECIAL PROCEDURES MAY APPLY**

The procedures in items 8 and 9 apply only if the documents in item 2 were served on the parties.

8. Unless the court determines that there are exceptional circumstances, the other parties must first be
- a. notified that you are going to ask the court to reschedule the hearing; and
  - b. served with copies of the request to reschedule at the first reasonable opportunity.
9. You must then submit to the court a proof of the notice and service in 8a and 8b, along with the request to reschedule. You may use *Declaration Regarding Notice and Service of Request for Temporary Emergency (Ex Parte) Orders* (form FL-303) to comply with the proof of notice and service.
10. You should submit the documents in item 9 to the court no later than five court days before the hearing date set on the *Request for Order* (form FL-300), order to show cause, or other moving paper, unless you have a very good reason to submit them later.

**PROPOSED ORDER REQUIRED**

11. I have submitted a proposed *Order on Request to Reschedule Hearing* (form FL-309).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)



\_\_\_\_\_  
SIGNATURE

PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:  STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY  <b>DRAFT</b> Not approved by the Judicial Council  v12 090519 gt
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:		
<b>AGREEMENT AND ORDER TO RESCHEDULE HEARING</b>		CASE NUMBER:

The parties signing below agree to the following:

1. The hearing currently scheduled for (date): \_\_\_\_\_ will be rescheduled.
2. The name of the party who filed the *Request for Order*, order to show cause, or other moving paper is:
3. The agreement ☐ includes ☐ does not include extending temporary emergency (ex parte) orders previously issued.
4. ☐ The rescheduled hearing date will be set ☐ on ☐ after (specify date): \_\_\_\_\_
5. Each party declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.  
☐ See Attachment 5 for additional signatures.

Date: _____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF PETITIONER)
Date: _____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF RESPONDENT)
Date: _____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF ATTORNEY FOR PETITIONER)
Date: _____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF ATTORNEY FOR RESPONDENT)
Date: _____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF OTHER PARENT/PARTY)
Date: _____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF ATTORNEY FOR (SPECIFY): _____)

### THE COURT ORDERS

*The court will complete the rest of this form*

6. The court hearing is rescheduled to the date, time, and location shown below:

New Hearing Date:	Time:	Dept.:	Room:
Address of court: <input type="checkbox"/> Same as noted above <input type="checkbox"/> Other (specify): _____			
<input type="checkbox"/> The parties must attend an appointment for child custody mediation or recommending counseling as follows (specify date, time, and location): _____			

7. Temporary emergency (ex parte) orders (select a or b):

- ☐ There are no temporary emergency (ex parte) orders.
- ☐ The temporary emergency (ex parte) orders previously issued remain in effect until
  - (1) ☐ the end of the new hearing in item 6.
  - (2) ☐ (date): \_\_\_\_\_

Date: \_\_\_\_\_

▶ \_\_\_\_\_  
JUDICIAL OFFICER

PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>  <div style="font-size: 24pt; font-weight: bold;">DRAFT</div> <div style="font-size: 24pt; font-weight: bold;">Not approved by the Judicial Council</div> <div style="font-size: 24pt; font-weight: bold;">v11 090519 gt</div>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	
<b>ORDER ON REQUEST TO RESCHEDULE HEARING</b>	CASE NUMBER:

**Party must complete items 1, 2, 3, and 4.**

1. The hearing is currently scheduled for (date):
2. Name of party who filed the *Request for Order*, order to show cause, or other moving paper is (specify):
3. Name of party asking to reschedule the hearing is (specify):
4. The request ☐ includes ☐ does not include temporary emergency (ex parte) orders previously issued.

**The court will complete the rest of this form.**

5. ☐ **Order denying request to reschedule hearing**

The request to reschedule the hearing is DENIED for the reasons specified ☐ below: ☐ on Attachment 5.

6. ☐ **Order granting request to reschedule hearing and notice of new hearing**

- a. The court hearing is rescheduled to the date, time, and location shown below:

New Hearing Date:	Time:	Dept.:	Room:
Address of court: <input type="checkbox"/> Same as noted above <input type="checkbox"/> Other (specify):			
<input type="checkbox"/> The parties must attend an appointment for child custody mediation or recommending counseling as follows (specify date, time, and location):			

- b. ☐ By granting the request, any temporary emergency (ex parte) orders previously issued remain in effect until

(1) ☐ the end of the new hearing in item 6a.

(2) ☐ (date):

7. **Reason for rescheduling**

- a. The hearing needs to be rescheduled because

(1) ☐ the papers were not served before the current hearing date.

(2) ☐ the parties were referred to child custody recommending counseling before the hearing.

(3) ☐ this is the responding party's first request to reschedule in a case involving property restraint emergency orders.

(4) ☐ other good cause as stated ☐ below: ☐ on Attachment 7a(4).

- b. ☐ The court in its discretion finds good cause and reschedules the hearing.

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	CASE NUMBER:
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**8. Temporary emergency (ex parte) orders**

- a. ☐ The temporary emergency (ex parte) orders are MODIFIED as of this date. The new orders are stated in the attached
- (1) ☐ *Request for Order* (form FL-300).
  - (2) ☐ *Temporary Emergency (Ex Parte) Orders* (form FL-305)
  - (3) ☐ *Order to Show Cause* for ☐ contempt. ☐ seek work. ☐ other (*specify*):
  - (4) ☐ other (*specify*):
- b. ☐ The temporary emergency (ex parte) orders are TERMINATED for the reasons stated ☐ on Attachment 8b.  
☐ in this section:

**9. Service of order**

- a. ☐ No further service is required. Both parties were present at the hearing when the court made this order.
- b. ☐ The documents listed in item 10 must be served
- (1) ☐ as required by rule 5.92
  - (2) ☐ by (*date*):
- on (*select all that apply*)
- (1) ☐ petitioner/plaintiff.
  - (2) ☐ respondent/defendant.
  - (3) ☐ other parent/party.
  - (4) ☐ other (*specify*):
- c. ☐ All documents must be served as follows:
- (1) ☐ Personally served
  - (2) ☐ Served by mail
  - (3) ☐ Other (*specify*):
- d. ☐ Other orders regarding service (*specify*):

**10. Documents for service**

A filed copy of this order (form FL-309) must be served along with the following papers:

- a. ☐ A copy of the previously filed *Request for Order* (form FL-300), order to show cause, or other moving paper.
- b. ☐ A copy of the extended or modified *Temporary Emergency (Ex Parte) Orders* (form FL-305).
- c. ☐ Other (*specify*):

11. ☐ A *Responsive Declaration to Request for Order* (form FL-320) may be filed and served

- a. ☐ as required by rule 5.92.
- b. ☐ by (*date*):

12. ☐ Other orders:

Date:



JUDICIAL OFFICER



PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY   <b>DRAFT</b> Not approved by the Judicial Council  v11 090519 gt  CASE NUMBER:
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	
<b>RESPONSIVE DECLARATION TO REQUEST TO RESCHEDULE HEARING</b>	

Notice: Read *How to Reschedule a Hearing in Family Court* (form FL-304-INFO) before you complete this form.

### INFORMATION ABOUT THE HEARING

1. The person asking to reschedule the hearing is (name):
2. The hearing is currently set for (date):
3. The request to reschedule ☐ includes ☐ does not include temporary emergency (ex parte) orders previously issued.

### RESPONSE TO REQUEST TO RESCHEDULE HEARING

4. I (select a or b)
  - a. ☐ consent to an order to reschedule the hearing.  
☐ request that the hearing date be rescheduled as follows:
    - (1) ☐ After (specify date):
    - (2) ☐ On a date I am available, which does not include (specify dates):
    - (3) ☐ Other (specify):
  - b. ☐ do not consent to an order to reschedule the hearing for the following reasons (specify):

☐ Attachment 4b

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

SIGNATURE

**SPR19-27**

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

All comments are verbatim unless indicated by an asterisk (\*).

<b>List of All Commenters, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	California Department of Child Support Services By: Kristen Donadee Chief Counsel and Deputy Director	NI	See comments on specific provisions below.	
2.	California Lawyers Association, by the Executive Committee of the Family Law Section (FLEXCOM)	A	FLEXCOM agrees with this proposal.	No response required.
3.	Julie Camacho Court Manager Ventura Superior Court	NI	<p>Agree with the proposed revisions, which will help to clarify the continuance process, with the following modifications:</p> <ol style="list-style-type: none"> <li>1. FL-309 Order on Request to Rescheduled Hearing – recommend modifying Item number 9 to add an additional box stating “Documents listed in Item 10 to be served per code” - if the court delegates to the court clerk the authority to reschedule a hearing, it would be within the clerk’s ministerial duties to check this box and would not require the clerk to enter dates that documents must be served by as this could appear to the public as orders beyond the clerk’s authority. This would also make the process more efficient for Judicial Officers who have been writing this statement on the form each time it is presented.</li> </ol>	The committee agrees with the commenter and recommends adding another option under item 9(b) to include the language, “as required by rule 5.92.”

# Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**SPR19-27**

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

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List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			<p>2. The same medication to Item number 11 and only require a date be entered if the court is shortening time to file a responsive declaration.</p> <p>See comments on specific provisions below.</p>	The committee agrees with the commenter and recommends adding another option referencing rule 5.92 to item 11 as well.
4.	Candice Garcia-Rodrigo Superior Court of Riverside	AM	<p>There should be a deadline to Request to Reschedule a Hearing when the other side has been served and has responded.</p> <p>See comments on specific provisions below.</p>	In response to a majority of commenters, the committee recommends language in the proposed rules and forms stating that the <i>Request to Reschedule</i> should be submitted at least 5 court days before the hearing date
5.	Harriett Buhai Center for Family Law by: Rebecca L. Fischer Staff Attorney	AM	<p>The Harriett Buhai Center for Family Law wholeheartedly supports modifying the rules and forms to address family law continuances.</p> <p>Does the proposal appropriately address the stated process? In general, yes.</p> <p>See comments on specific provisions below.</p>	No response required.
6.	Judy Louie Director/Family Law Facilitator ACCESS Center Superior Court of San Francisco	NI	<ul style="list-style-type: none"> <li>The info sheet is very helpful. The flowchart would be good info to pass along to SRLs.</li> <li>Agree with the change of the word “continuance” to the word “reschedule”. SRLs understand the word “reschedule”. Also nice to have ability to be scheduled for mediation</li> </ul>	<p>No response required.</p> <p>No response required.</p>

# Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**SPR19-27**

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			<p>before the next hearing date.</p> <ul style="list-style-type: none"> <li>• Agree that giving authority to clerks to reschedule would increase court efficiency but the purpose would only be served with adequate training re when to and not to reschedule.</li> <li>• Notice requirement similar to ex parte “notice form” requirements. Consistence is great,</li> <li>• Method of Notice including “electronic means” would not only be convenient but also serve those situations as any contact may not be best for parties.</li> <li>• Perhaps, information re one free reschedule as matter of course with ex parte order for property restraint.</li> </ul> <p>See comments on specific provisions below.</p>	<p>No response required.</p> <p>No response required.</p> <p>No response required.</p> <p>The committee considered the commenter’s suggestion but has determined that the description included in item 7(c) of form FL-307 (<i>Request to Reschedule Hearing Involving Temporary Emergency (ex parte) Orders</i>) provides sufficient explanation. In addition, the committee anticipates that Self-Help Center staff will be available to provide further clarification and guidance, if needed.</p>
7.	Orange County Bar Association By: Deirdre Kelly, President	AM	See comments on specific provisions below.	
8.	Superior Court of Los Angeles	AM	<b>Does the proposal appropriately address the</b>	

# Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**SPR19-27**

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

All comments are verbatim unless indicated by an asterisk (\*).

<b>List of All Commenters, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p><b>stated purpose?</b></p> <p>Yes, the proposal addresses the stated purpose.</p> <p><b>Are other changes to the rules and forms needed for the proposal to address the stated purpose?</b></p> <p>Yes. See the proposed modifications above.</p> <p>See comments on specific provisions below.</p> <p><b>The advisory committee [or other proponent] also seeks comments from courts on the following cost and implementation matters:</b></p> <p><b>Would the proposal provide cost savings? If so please quantify.</b></p> <p>Yes, for the litigants/counsel in reduced court hearings.</p> <p><b>What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management</b></p>	<p>No response required.</p> <p>No response required.</p> <p>No response required.</p>

# Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**SPR19-27**

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

All comments are verbatim unless indicated by an asterisk (\*).

<b>List of All Commenters, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p><b>systems.</b></p> <p>Implementation requirements will include changing existing forms and adding new forms to the Case Management System. It will also require a new procedure and the changes and additions to event codes and fees associated with these forms. Clerical staff and judicial assistants will need training.</p> <p><b>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</b></p> <p>Three months should be sufficient.</p> <p><b>How well would this proposal work in courts of different sizes?</b></p> <p>It should work well in courts of different sizes.</p>	<p>No response required.</p> <p>No response required.</p> <p>No response required.</p>
9.	Superior Court of Orange Family Law Division	NI	<p>Revise rule 5.95(c) and forms FL-306 and FL-307 to indicate a deadline for self-represented litigants to file a request and serve the other party.</p> <p><i>Would the proposal provide a cost savings?</i></p> <p>No, there will not be a cost savings.</p>	<p>In response to a majority of commenters, the committee recommends language in the proposed rules and forms stating that the request to reschedule should be submitted at least 5 court days before the hearing date. As already indicated in proposed rule 5.95, notice and service of a request to reschedule should be done according to existing rules 5.165-5.169.</p> <p>No response required.</p>

# Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**SPR19-27**

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

All comments are verbatim unless indicated by an asterisk (\*).

<b>List of All Commenters, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p><i>What would the implementation requirements be for courts?</i></p> <p>Judges and staff would be informed of the changes. Updates to procedures and the case management system may be needed.</p> <p><i>Would 3 months from the Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i></p> <p>Yes, 3 months would be sufficient time to implement the changes.</p>	<p>No response required.</p> <p>No response required.</p>
10.	Superior Court of Riverside by: Susan Ryan Chief Deputy of Legal Services	NI	<p>Does the proposal address the stated purpose? Yes.</p> <p>Are other changes to the rules and forms needed for the proposal to address the stated purpose? No.</p> <p>See comments on specific provisions below.</p> <p>Would the proposal provide costs savings? No.</p> <p>What would the implementation requirements be for courts? Clerk's office and courtroom staff would need to be informed of the revised forms replacing "continuance" with "reschedule" (approximately 1 hour). Procedures would need to be modified to reflect</p>	<p>No response required.</p> <p>No response required.</p>

# Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**SPR19-27**

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

All comments are verbatim unless indicated by an asterisk (\*).

<b>List of All Commenters, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>“request to reschedule”. Codes would need to be created/modified in the case management system for processing the documents and hearings.</p> <p>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes</p> <p>How well would this proposal work in courts of different sizes? The same updates to procedures, codes and dissemination of information would likely need to occur in any size court. The proposals should work well for courts of any size.</p>	<p>No response required.</p> <p>No response required.</p>
11.	Superior Court of San Bernardino by: Court Executive Office	A	<p>Does the proposal appropriately address the stated purpose? Yes</p> <p>Are other changes to the rules and forms needed for the proposal to address the stated purpose? Yes</p> <p>See comments on specific provisions below.</p> <p>The advisory committee [or other proponent] also seeks comments from courts on the following cost and implementation matters:</p> <p>Would the proposal provide cost savings? If so</p>	No response required.

# Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.



**SPR19-27**

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

All comments are verbatim unless indicated by an asterisk (\*).

<b>List of All Commenters, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>please quantify.</p> <p>What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems. There is a significant impact. We would be required to update our procedures and develop a process that would work efficiently for all of our family law divisions. This would also require training for business office staff, resource center staff and judicial officers. In addition we would need to create codes for our case management system.</p> <p>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? I believe four to six months would be more manageable.</p> <p>How well would this proposal work in courts of different sizes? I believe courts with a smaller volume of cases would not be as impacted as larger courts, just be the sheer number of filings.</p>	<p>No response required.</p> <p>The committee has recommended postponing implementation to an effective date of July 1, 2020.</p> <p>No response required.</p>
12.	Superior Court of San Diego by: Mike Roddy Executive Officer	AM	<p>Q: Does the proposal appropriately address the stated purpose?</p> <p>Yes.</p>	No response required.

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**SPR19-27**

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			<p>Q: Are other changes to the rules and forms needed for the proposal to address the stated purpose? See general comments.</p> <p>Q: Would the proposal provide cost savings? If so, please quantify. No.</p> <p>Q: What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems. Notifying staff, revising internal procedures, updating forms packets, and updating/adding filings in case management system.</p> <p>Q: Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes, at least three months but preferably longer or an effective date during July instead of January because July effective dates usually do not coincide with other statutory, rule, form, internal court changes and major holidays as much as they do during January.</p> <p>Q: How well would this proposal work in courts</p>	<p>No response required.</p> <p>No response required.</p> <p>The committee has recommended postponing implementation to an effective date of July 1, 2020.</p>

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			<p>of different sizes? It appears that the proposal would work for courts of all sizes.</p> <p>See comments on specific provisions below.</p>	No response required.
13.	TCPJAC/CEAC Joint Rules Subcommittee (JRS), Judicial Council of California	AM	<p><b>JRS Position:</b> Agree with proposed changes if modified.</p> <p>The JRS notes the following impact to court operations:</p> <ul style="list-style-type: none"> <li>Proposed date for implementation is not feasible or is problematic.</li> </ul> <p>This proposal would appear to be workable in courts of different sizes.</p> <p><b>Suggested modification(s):</b> Given the potential for a number of new Rules of Court being implemented on the same timeline; it would be advisable to give trial courts more time to implement a rule change that affects due process rights in both limited civil and misdemeanor appeals.</p> <p>See comments on specific provisions below.</p>	The committee has recommended postponing implementation to an effective date of July 1, 2020.

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14.	Hon. Rebecca Wightman, Commissioner Superior Court of San Francisco, Dept. 416	N	<p>DO NOT AGREE. These comments are not on behalf of any organization, but are from a judicial officer who has spent decades in family law dealing primarily with pro per litigants. When I first read this proposal, the first question that came to mind was: How did we get to this point – where what was originally supposed to address a few limited situations (the 2017 changes) has now grown to, in my view, a convoluted and confusing set of new forms and rules, that create an even greater workload on both the clerks and the bench, in a time when staffing and resources are still limited? This newest proposal, especially with regard to the situation where an RFO has already been served, is exacerbating the problems caused by the changes made in 2017. Combined, these changes – at least with regard to the situations where an RFO has already been served – have now created a new and unnecessary parallel system for attorneys and litigants to bring requests to reschedule to an area to what was previously an established ex parte process designed primarily for emergencies (including continuances), orders shortening time, and reissuances.</p> <p>What appears to have started out in 2017 as a well-meaning task to try to simplify processes and address the few limited situations where a continuance was statutorily allowed for a respondent once a certain type of request was</p>	<p>Following the revisions to form FL-306 in 2017, many courts reported that both attorneys and self-represented litigants were attempting to use the form for all requests to reschedule, including when the other party had already been served. Currently, if a party needs to request a rescheduling of a court date for good cause, after service has been completed, and there is no agreement reached with the other party, they would generally be required to complete and file a <i>Request for Order</i> (form FL-300). For self-represented litigants, filling out a multi-purpose form, such as the FL-300, simply for a request to reschedule is a very complicated, confusing, and cumbersome process.</p> <p>By separating out all requests to reschedule into a separate form set, the committee believes that the new proposed rules and forms will be a much more clear and simple process than the current alternatives available, especially with regard to self-represented litigants.</p>

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			<p>served, has unfortunately morphed into another proposal that makes it even more confusing to navigate, and raises concerns on various levels -</p> <ul style="list-style-type: none"> <li>- procedurally, operationally, ethically and due-process wise. Sometimes, when one tries to address all of the various situations that may occur, the proposed solutions get harder to navigate and cause more work for everyone. One look no farther than the chart provided at the end of the report – where the “B” category (p.3 of 4 of chart) is difficult for me – trained in the law – to follow, let alone a pro per. The more rules and forms produced in this area, the more confusing it gets. Until the unfortunate change in 2017, the Ex Parte rules were intended for situations that occurred on a temporary emergency basis. Now, however, and with the proposed changes, essentially all manner of requests to continue for RFOs already served are pushed into a one-day notice time frame. <p>I strongly urge that consideration be given to starting over, and only addressing the following situations when it comes to continuances (i.e. adhere to the process that existed even before the changes to the ex parte process started in 2017 but add the limited situation of any statutorily required continuance): (1) where RFO not served, (2) where parties agree to a continuance, (3) where a statutory right to a continuance is allowed, and (4) where there are</p> </li></ul>	
				<p>Based on the majority of comments received, both in previous years and the current comment period, the committee has recognized that there is a demonstrated need to have statewide uniform rules and forms to cover all requests to reschedule a hearing to address the various types of requests to reschedule that inevitably arise every day in the courtroom and at the clerks office.</p>

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			<p>exigent, i.e. emergency circumstances. Once an RFO has been served and the hearing date set, then to the extent a court wishes to allow for other continuances by local rule (such as mediation has not been completed), then it should be up to the individual courts.</p> <p>Otherwise, once an RFO has been with a fixed hearing date has been set and served, a party should be filing a noticed motion, and if necessary, seek an order shortening time for hearing it if it is so important to move that set date.</p> <p>(1) RFO not served: this situation is easily addressed, and there used to be a wonderful reissuance form that worked quite well, and was used by many courts to provide a new hearing date (reissue a new date or “continue”), which new date was prominently displayed and which had to be attached to the front of the original RFO when being served. (And if I recall correctly, the problems first started when that form was revised to include an “other” box.) Perhaps this old form could be revived and modified to accommodate any RFO not served, i.e. with or without temporary emergency (ex parte) orders, and the court could decide whether to reissue with or without extending such orders. The draft Form FL-306 tries to do too much (making it confusing), and by combining its use for situations in which the RFO was not served, along with RFOs that were</p>	

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			<p>served but where no temporary emergency (ex parte) orders were made, and adding “other” boxes for free form information to be given to the court, you create a potential ethical problem (discussed below). I also do not understand why there are multiple boxes in #6, as the court should only be interested in the dates one is not available (and even those would not be binding), and the “after” box may encourage an unintended push to delay more than is needed.</p> <p>(2) Agreement to Continue: this situation is also easily addressed, however I would point out that the draft Form FL-308 makes and instructions infer it will get completed and filed by the court – i.e. the court will in fact make an order if it is submitted (and the chart says so too) – but that is not necessarily true if the court does not agree with the “agreement” of the parties – essentially a denial – in which case it becomes very important that this document NOT get accidentally filed when not signed – as it can inadvertently cause problems on a court’s case management system given its title.</p> <p>Limited Circumstances or Emergency Once an RFO has been served: Under the FL code, there are only a few instances where a continuance is allowed as a matter of right (JC staff is aware of these). And if a limited form is needed there, then create one for those few limited circumstances. Otherwise, at least in the</p>	<p>The committee is recommending the option for an “After” box in situations that are not necessarily dependent on party or attorney unavailability on certain dates (e.g. parties requesting more time for settlement or mediation).</p> <p>The FL-304-INFO form, <i>How to Reschedule a Hearing in Family Court</i> (formerly FL-306/FL-307/FL-308-INFO), in item 2, specifically instructs the parties to present the signed agreement to the court. However, in response to the commenter’s concern, the committee has added an additional sentence stating that the agreement is not an order until signed by a judicial officer. The committee anticipates that local courts will process the FL-308 the same way all other proposed agreements are currently handled prior to being signed by a judicial officer, to avoid the situation that the commenter has described.</p> <p>The committee has recognized that there is a demonstrated need to have statewide uniform rules and forms to cover all requests to reschedule a hearing. Currently, courts routinely receive requests to reschedule up until the date of hearing, by attorneys and self-represented</p>

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			<p>situations when the RFO has been served with a set date, it should stay set unless it is absolutely necessary (an emergency) to move it. To do otherwise raises various concerns addressed further below.</p> <p>If there is a category of cases, where courts find it helpful to have an optional form developed for use after an RFO has been served, such as those courts whose custody/visitation protocol is more fluid (e.g. orientation and mediation did not occur before the hearing date), which does not happen in all courts as their systems flow differently), perhaps just address that category, although I believe that really should be left to the individual courts – but please do not just open it up to general requests to reschedule after a firm date has been set (anyone who believes they have “good cause”) as that just invites both attorneys and pro per litigants to use the forms more frequently in situations that are not warranted. To respond by saying the judicial officer can always simply deny the request, does not address the extra workload concerns, and other concerns noted below.</p> <p><b>CONCERNS</b> Practical and Procedural concerns:</p> <p>One big reason it is important to keep the date set once an RFO is served, and not allow general requests to reschedule unless it is</p>	<p>litigants, and are already exercising their discretion to approve or deny these requests based on good cause. By providing more clear guidelines for filing the request to reschedule at least 5 court days prior to the hearing and providing designated forms that are used only for this purpose, the committee believes that this proposal will lead to a more predictable, understandable, and efficient process for the courts and the public.</p> <p>The committee has made the request to reschedule forms (FL-306/FL-307) optional to allow courts the flexibility to continue using any local forms and procedures that currently exist for requests to reschedule a hearing.</p> <p>The committee has recognized that there is a demonstrated need to have statewide uniform rules and forms to cover all requests to</p>

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			<p>absolutely necessary to move it is that as a practical matter, the other party (often times a pro per) has relied upon that date to arrange for coverage at and time off of work, child care, etc.. I hear repeatedly in my court that a person is in danger of losing their job if they have to take another day off. And if these new forms are allowed to be filed up to only five days before, or worse, up until the hearing date, there will likely be individuals who end up showing up anyway, only to be told the matter was continued. Once again, to allow the date to be moved for anything other than for exigent, emergency circumstances – for which there is/was an established ex parte process – interjects more work for everyone, and more confusion as to which forms, rules apply. To respond that a court can always deny the request, does not address this reliance issue.</p> <p>Operational and Workload concerns: The proposed system creates another layer of daily work for both the staff and the bench for more situations than was previously allowed under the pre-2017 system.</p> <p>It is more work for the clerks, who will now have to figure out if the litigant is using the correct form(s), track the forms, track timing and track down any opposition, track the bench officer to get it put under his/her nose, so to speak, and process the paperwork. In addition,</p>	<p>reschedule a hearing. Currently, judicial officers routinely receive requests to reschedule up until the date of hearing, by attorneys and self-represented litigants, and are already exercising their discretion to approve or deny these requests based on good cause. By providing more clear guidelines for filing the request to reschedule at least 5 court days prior to the hearing and providing designated forms that are used only for this purpose, the committee believes that this proposal will lead to a more predictable, understandable, and efficient process for the courts and the public.</p> <p>The committee is now recommending a later implementation date of July 1, 2020 to allow courts more time for staff and judicial officer training, as well as updating internal business processes and case management systems. Overall, commenters from the superior courts did not express any concern about additional ongoing workload issues, other than the initial implementation time that would be required.</p>

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			<p>there is a greater danger, with no hearing dates on the request forms submitted and served, coupled with the fact that some courts do not have an immediate turn around time for opening mail and getting it to the right place the same day (e.g. if someone sent response by fed-ex), for the opposition papers not to get to the appropriate clerk in time, and thus the court not having all the proper paperwork to review in a timely fashion.</p> <p>It is more work for the judicial officer, who may have already prepared a tentative ruling, and who now may be faced with reviewing information from a pro per that actually amounts to an ex parte communication (addressed further below under ethical concerns). And when the “good cause” is really non-existent, it intrudes upon the other bench work needing to get done. Since the rules were changed in 2017, I have seen an increase in the attempts by attorneys and pro pers to try to get their hearing dates moved – including one recently where the pro per (who filed the RFO, which was also served) now wanted to move the date because it conflicted with a lab class which they did not want to miss. I had another individual who had been served with an RFO and date certain, who wanted to continue the hearing date to an unspecified date in the future because there was an unrelated matter pending in another court and she did not want to come to</p>	

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			<p>my court until the other matter was resolved. I could go on...and on... and am saddened at the wasted time and paperwork that these requests cause since the rules were first changed in 2017. In addition, from a court perspective, there are many times where the court may wish to make an interim order before allowing a continuance, especially in a Title IV-D court, where often one is dealing with amounts coming out of a person's paycheck, which can be difficult to do on short notice, and requires more careful deliberation.</p> <p>It is more work for the FLFs/Self-Help Centers, who have to spend more time explaining which forms to use and examining (including looking up if the litigant failed to bring their filed RFO) the content of the served RFO to determine what types of temporary or emergency orders were made to figure out which forms to utilize. When it was just the prior ex parte process – again, before changes were made the first time around in 2017 – family law facilitators had a consistent way to explain the process and provide information to the litigant indicating it really needed to be an emergency if the RFO had already been served on the other party.</p> <p>As a practical matter, it is now going to be even harder in my view for a pro per to understand exactly what they need to do – both to initiate and respond, because there are so many</p>	<p>The committee has reviewed comments submitted from a Self-Help Center and several others from superior courts who agree that the proposal meets its stated purpose and would lead to greater consistency and reduced court hearings. In addition, commenters generally agreed that having a 5 court day guideline for submitting a request to reschedule before the hearing was needed.</p>

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			<p>variables and more rules and forms to sort through, as well as the fact that the actual paperwork to be served has no date on it whatsoever. E.g. New Rule 5.95(c)(1)(A)(ii) – where the RFO has already been served and someone wants to request the hearing be “re-scheduled” – tells the individual that they must first notify and serve the other party, and that “Notice...must be completed as required by rules 5.151 through 5.169.”</p> <p>When you go to those rules 5.151(c) refers the individual back to 5.95 for the required documents, and 5.167(a) Method of Notice, states “Notice of appearance at a hearing to request emergency orders may be given [various ways]...” -- yet there is no “appearance at a hearing” when using the new forms, and no clear way for a responding litigant to really know what to do by what time. So, while FL-303 actually has a box with a date on it (which is pretty clear and what folks are used to looking at), ironically THAT document is not the one required to be served; instead a party may only receive the Request to Reschedule (FL 306 or FL 307), which has no dates, and a telephone message would have simply been left saying I’m going to submit my request to the court tomorrow.</p> <p>The new rules being proposed have so many sections and sub-sections and sub-provisions to</p>	

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			<p>those sub-sections that it is extremely difficult to follow and understand. I would recommend a comprehensive review to simplify (back to a clearer version of what existed prior to the changes made in 2017).</p> <p>Ethical concerns: Please refer to CJEO Formal Opinion 2014-004</p> <p>While I understand the local rule in question that was examined in CJEO Formal Opinion 2014-004 - JUDICIAL SCREENING OF EX PARTE APPLICATIONS FOR NON-DOMESTIC-VIOLENCE EMERGENCY FAMILY LAW ORDERS is different, the underpinning concept in the opinion regarding the dangers of information being presented on an ex parte basis – especially where a proposed form allows a litigant to put in any additional information even where the only reason is because the RFO wasn't served – apply here. Pro per litigants are notorious for wanting to “add” information about how bad the other parent is behaving, which would be wholly inappropriate for a judicial officer to review where the RFO has not been served, for example. In addition, the changes in the rules – beginning with the 2017 changes and continuing with the proposed changes – have created a system for the parties to essentially “duke it out” on extremely short notice anytime there is no agreement to reschedule once an RFO has</p>	<p>Based on the committee’s recommendations, any request for rescheduling a hearing must be noticed and served on the other party, unless the requirement is waived by the court for good cause, consistent with existing ex parte rules 5.151 through 5.169. Any additional information included in an “other” box on a form that a requesting party submits to the court therefore, must be provided to the other party before the court decides on the request. Accordingly, the committee does not believe that the proposed forms provide any greater opportunity or encouragement for parties to submit ex parte communication to the court, without first completing notice and service to the other party.</p>

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			<p>been served – and the forms allows parties to write in all kinds of information (in “other” boxes) for any other reasons beyond emergency reasons, which also invites potential ethical issues and due-process issue (the latter being that the responding party is given 24 hours to potentially address all kinds of information put into a request). If the rules and forms not limited and simplified, as well as separated out as noted above, e.g. one category for no timely service (where no extraneous information is being invited) and for true emergencies, the risk is much greater for problems to arise.</p> <p>Due-process concerns</p> <p>By creating forms that do not have specific hearing dates on them indicating exactly when a party will be presenting a request to reschedule – the way ex parte emergency requests were working before the changes were made in 2017 (and where, for example pre-2017 an RFO request for continuance would be set on shortened time, and not necessarily decided on the spot) – I remain concerned that the notice given is too vague for the other side in these situations, as well as the time to adequately respond too short. Telling the party to read the INFO instructions (multiple pages) is only going to create more confusion, as reading those is like reading the instructions to find one’s way</p>	<p>The committee was intent on not creating separate notice and service requirements for requests to reschedule a hearing by aligning the process with existing rules (both statewide and local), and procedures used in courts for all family law ex parte requests contained in rules 5.151 through 5.169.</p> <p>In a review of local rules across the state, the committee noted that the process courts use to decide ex parte requests to reschedule a hearing vary considerably. Once proof of notice and service of the request to reschedule is submitted, some courts set the issue for hearing and others make a decision based on the pleadings alone. To</p>

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			<p>out of a maze.</p> <p>When an RFO has been served, the hearing date has been one that the responding party has been operating under. The proposed rule does not require the filing of the form FL-306 or FL-307- rather the party must “file or submit” it. If it is merely submitted and served without any date on it (hearing date or filing date), how long does a responding party actually have to submit a response before the court reviews/rules on it? Just looking at it from the pro per litigant perspective (as I do know it well from the court side) I honestly got dizzy trying to find the answer – and to simply refer one to the INFO page (e.g. such as what is stated on proposed FL-310, which tells litigants to check the local rules is adding a layer of research required by a responding party that was not there previously. And again, on such a short time frame, where you are creating a system for litigants to simply ask to re-schedule – for what they think is a good reason, but which is not an emergency, you are inviting unnecessary problems with people showing up (only to find out the matter was continued) or not showing up either to the original hearing date and any continued hearing date (because could not take more time off of work, for example).</p> <p>In sum, I believe the expansion of the number of forms and the creation of more rules and</p>	<p>account for these local differences and allow as much flexibility at the superior court level as possible, the committee decided that using existing ex parte rules would require the least amount of change to court operations, procedures, and business processes.</p> <p>To minimize confusion about the proper procedure to use, the committee has recommended instructions on the notice and service requirements in numerous places throughout the proposed rules and forms. Proposed rule 5.95 requires that notice and service of a request to reschedule, when service has been completed, must follow ex parte rules 5.151 through 5.169.</p> <p>In addition to the instruction included in the INFO sheet, as noted by the commenter, the committee has also included specific instructions on notice and service requirements in forms FL-306 and FL-307, under the “Special Procedures May Apply” section so that attorneys and especially, self-represented parties, are more likely to review and understand the correct procedures to follow.</p>

# Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**SPR19-27**

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

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<b>List of All Commenters, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>instructions over the past two cycles of rule and forms changes in this area has exacerbated what has always been a balancing act of stability in hearing dates and the need to address emergencies. The process has become more cumbersome and confusing, and quite frankly, needs to be drastically simplified to addressing only those areas noted above.</p> <p>I was considering trying to take the time to address the specific questions and the items form by form, as well as address the rules and instructions on a more particular level, but I ultimately felt that because this area has already become way too confusing, it would take too much time and I honestly do not think small changes to a line or box would make the process any clearer. I also did not want to indicate in any way that adoption of these additional rules and forms are appropriate. Honestly, the process really needs to be dialed back so that it is not so confusing.</p> <p>Thank you for the opportunity to comment. Rebecca Wightman, Commissioner - San Francisco Superior Court</p>	



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<b>Rule 5.2</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
California Department of Child Support Services By: Kristen Donadee Chief Counsel and Deputy Director	The Department does not oppose replacing references to “continue” with references to “reschedule” throughout the rules. The word “reschedule” is likely to be more widely understood among self-represented litigants than the word “continue.” Nonetheless, with respect to the proposed changes to Rule 5.2(b)(11), the Department believes defining the word that is likely known to self-represented litigants—“reschedule”—using terms that are potentially unfamiliar—“‘continue the hearing’ under the Family Code”—would have an effect opposite to that which is intended. Specifically, defining the familiar using unfamiliar terms may cause self-represented litigants to question whether “reschedule” is a term of art that has a special meaning under the Family Code. This, in turn, may create the confusion the changes to Rule 5.2 intend to alleviate. As such, the Department respectfully requests that the Judicial Council of California (JCC) consider adding language to clarify that “reschedule” and “continue” simply mean to move the hearing to another date and or time.	The committee agrees with the commenter and recommends additional language in rule 5.2(b)(11) further defining the meaning of “reschedule” and “continue.”

**SPR19-27**

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

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<b>Rule 5.94</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
California Department of Child Support Services By: Kristen Donadee Chief Counsel and Deputy Director	The proposed amendment to Rule 5.94 would make this section of the rules easier to navigate from a subject matter perspective by removing the comprehensive set of requirements applicable to rescheduling hearings from 5.94(f) and making it a standalone rule. Also, the proposed amendment to the title of Rule 5.94 is appropriate as it more accurately reflects the topics covered by the rule in light of the addition of Rule 5.95. In all, the Department does not oppose this change.	No response required.
Superior Court of San Diego by: Mike Roddy Executive Officer	Rule 5.94: Section (e)(2): include a cross-reference to 5.95 such as “Obtain a court order to <del>continue</del> reschedule the hearing <u>as described in rule 5.95.</u> ”	The committee agrees with the commenter and has added a cross-reference to rule 5.95.

<b>Rule 5.95</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Julie Camacho Court Manager Ventura Superior Court	<ul style="list-style-type: none"> <li>➤ The opening paragraph in Rule 5.95(a) should end with the language in Option 1. (There is no reference in Rule 5.92 to deadline for rescheduling the hearing.)</li> <li>➤ Yes, Rule 5.95(c)(1)(A)(iv) should maintain the language that is in the current rule at 5.94(f)(5)(A)(i), and yes, It has been extremely helpful to have a deadline for submitting the written request so that litigants submit these requests with enough time for the court receive, rule on and process the request prior to the date of the hearing.</li> </ul>	<p>The committee has revised the opening paragraph to make clear that the deadline described pertains to service of the initial Request for Order, order to show cause or other moving paper and not the Request to Reschedule and now ends with the language in Option 1.</p> <p>In response to a majority of commenters, the committee has included language in the proposed rules and forms stating that the <i>Request to Reschedule</i> should be submitted at least 5 court days before the hearing date.</p>

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**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

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Candice Garcia-Rodrigio Superior Court of Riverside	<p>CRC 5.95 (c) as it currently reads has led to abuse by the attorneys. Many attorneys do not appear on the day of the hearing. Instead, the attorney will send their client or another person to request to continue the hearing on the same date as the hearing without obtaining a stipulation from the other side (or without notifying the other side). The other side will often want to proceed with the hearing, but the requesting attorney may or may not be present. Unless there is an emergency, the rule should require that a Request to Reschedule be filed no later than 5 court days (or even 5 calendar days) prior to the hearing date so the opposing party has an opportunity to object and/or meet and confer prior to the hearing. The attorneys who appear the day of the hearing to request to reschedule (or do not appear, but send someone with the request or fax it), cause a further a delay in the calendar of an already overburdened family law calendar. Additionally, the rule needs to be made clear that it applies to the party and/or his/her attorney. Attorneys abuse this request procedure by sending their clients to make an oral request, rather than appearing on the date of the hearing to show good cause for a continuance. In other words, the attorney will not appear the date of the hearing, but send their client instead to request to reschedule, knowing the judicial officer will be ethically bound to reschedule or wait to track down the attorney before making any orders.</p> <p>Finally, Rule 5.95 does not clearly specify that if the court grants the request to continue that the requesting party must service notice of the continued hearing date. I would suggest adding that into the new rule. The old rule 5.94 contained such language.</p>	<p>The committee understands and appreciates the commenter's concerns regarding oral requests to reschedule being made at the hearing. However, for consistency, the committee intended all requests to reschedule made orally at a hearing to be permissible, although not preferable. For temporary emergency orders involving property restraint and other enumerated restraining orders, under Family Code section 245, this option is statutorily mandated. In any case, the request to reschedule must still be based on a showing of good cause and will be subject to the exercise of judicial discretion.</p> <p>The committee has addressed notice and service requirements of the rescheduled hearing in the <i>Order on Request to Reschedule Hearing</i> (form FL-309), items 9 and 10 and FL-304-INFO sheet (formerly FL-306/FL-307/FL-308-INFO). The committee believes that placing service instructions on the forms, rather than in the rule, increases the likelihood that self-represented litigants will see and better understand what is required.</p>
California Department of Child Support Services	<p><u>Rule 5.95, subd. (a)</u></p> <p>Of the two options provided in the Request for Specific Comments, the Department supports option 1, which allows for the party to request the hearing date to be</p>	<p>The committee has revised the opening paragraph to make clear that the deadline described pertains to service of the initial Request for Order, order to show cause or other moving paper and not the</p>

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**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

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By: Kristen Donadee Chief Counsel and Deputy Director	<p>scheduled without mention of a deadline.</p> <p><u>Rule 5.95, subd. (a)(2)(B)</u></p> <p>The Department supports the language in proposed new Rule 5.95(a)(2)(B) that would allow courts to delegate to clerks the authority to reschedule a hearing under the limited circumstances provided in the rule. As noted in the proposal, the change would promote judicial efficiencies by eliminating the need for judicial officers to review and sign each request, especially since the requests anticipated by this change do not involve a change to the temporary emergency (ex parte) orders issued with the FL-300.</p> <p><u>Rule 5.95, subd. (a)(3)(B)</u></p> <p>This subdivision provides that the subject papers “must be served on the other party in the case[.]” However, the Department notes that it does not identify who—the requesting party or the court—is responsible for such service. This omission may create confusion among self-represented litigants who mistakenly believe the court would be serving the papers following its order. Therefore, the Department respectfully requests that the JCC consider amending proposed new Rule 5.95(a)(3)(B) to expressly reflect that the requesting party is responsible for service of the appropriate documents if the court reschedules the hearing. Not only would this alleviate the afore-mentioned confusion, but it would bring the terms of Rule 5.95(a)(3)(B) in line with those of Rule 5.95(a)(3)(C).</p> <p>Rule 5.95, subd.(c)(1)(A)(iv)</p> <p>The Department agrees with the proposed language and deadline for either party to submit a request to reschedule the hearing. Including bright-lined guidance, even if only intended as a best practice, promotes clarity for all parties concerned and would be especially beneficial to self-represented litigants.</p>	<p>Request to Reschedule and now ends with the language in Option 1.</p> <p>No response required.</p> <p>The committee agrees with the commenter and has added additional language to renumbered subdivision (b)(3)(B) to clarify that the requesting party is responsible for service.</p> <p>In response to a majority of commenters, the committee has included language in the proposed rules and forms stating that the request to reschedule should be submitted at least 5 court days before the hearing date.</p>
Harriett Buhai Center for Family Law by: Rebecca L.	<p>Rule 5.95(a)(2)(B) should make it clear that while the court may delegate the authority to reschedule the hearing to a court clerk, the clerk does not have the authority to deny a request to reschedule the hearing. It would be inappropriate for clerks to deny a litigant's request to continue a hearing where the litigant did not fall within the bounds</p>	<p>Proposed rule 5.95 clearly only allows courts to delegate authority to clerks if the request to reschedule is to serve the other party and does not request any changes to temporary emergency</p>

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Fischer Staff Attorney	of 5.95(a)(2)(B), but may have other good cause to warrant a continuance. The language should be specific that a denial of a request to continue must be made by the court not by a clerk.	orders. Any other unauthorized actions by a clerk, including a denial, not otherwise allowed by statute or rule (e.g. rule 5.92(e)), would be prohibited.
Judy Louie Director/Family Law Facilitator ACCESS Center Superior Court of San Francisco	<ul style="list-style-type: none"><li>• Specific comments re rule 5.95.<ul style="list-style-type: none"><li>○ 5.95(a): option 2 is better because it gives the court the discretion when dealing with SRLs who may have good cause.</li></ul></li><li>• As for rest of the rule 5.95: yes to all for the reasons stated above-for SRLs more info the better and also for consistency.</li></ul>	<p>The committee has revised the opening paragraph to make clear that the deadline described pertains to service of the initial Request for Order, order to show cause or other moving paper and not the Request to Reschedule and now ends with the language in Option 1.</p> <p>No response required.</p>
Orange County Bar Association By: Deirdre Kelly, President	<p>The proposed change to Rule 5.95 (a) contains two options, first option is “the other party must ask the court to reschedule the hearing date.” The second option sets forth the requirement that the party must ask the court to reschedule the hearing date by the deadline described in rule 5.92 or as ordered by the court.</p> <p>Rule 5.92 sets forth the procedural requirements for filing an RFO and refers to CCP 1005 for service requirements. Many litigants in family law are self-represented. The inclusion of 5.92 may cause more confusion to self-represented individuals. The first option sets forth that the party must ask the court to reschedule the hearing date. The first option will be less confusing for self-represented individuals and should be used.</p> <p>Rule 5.95 (c): The form should contain the language that the request to continue should be no later than five court days before the hearing date. This will provide a guideline for attorneys and self-represented individuals and be helpful to the clerks if the suggested guideline is followed.</p> <p>The proposal appropriately addresses the stated purpose, except that the revised Rule 5.94 should expressly state “court” days for when notice of the request for continuance should be given to avoid confusion about when the notice for the continuance should be requested.</p>	<p>The committee has revised the opening paragraph to make clear that the deadline described pertains to service of the initial Request for Order, order to show cause or other moving paper and not the Request to Reschedule and now ends with the language in Option 1.</p>

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**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

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Superior Court of Los Angeles	<p><b>Proposed Modifications</b></p> <p><b><u>Rule 5.95(c)(1)(A)(v)</u></b> – This rule indicates that:</p> <p>“The party responding to a written request to reschedule may file and serve a responsive declaration to the request to reschedule before the court considers the request.” [emphasis added]</p> <p>This suggests that this request must be made at least 5 days prior to the court hearing and that the court must hold these requests until the hearing date to determine if a responsive declaration is filed. This section needs clarification as to when the responsive declaration should be filed.</p> <p><b>Modification:</b> Provide deadline to file the responsive declaration or by the hearing date.</p> <p><b>a. Rule 5.95(a). Please indicate if opening paragraph of rule 5.95(a) should end with the language in Option 1 or Option 2 (below). Please explain your answer.</b></p> <p><b>Rule 5.95(a) would provide: If a Request for Order (form FL-300) (with or without temporary emergency (ex parte) orders, order to show cause, or other moving paper is not served on the other party and the requesting party still wishes to proceed with the hearing,...</b></p> <p><b>[Option 1] the party must ask the court to reschedule the hearing date.</b></p> <p><b>[Option 2] the party must ask the court to reschedule the hearing date by the deadline described in rule 5.92 or as ordered by the court.</b></p> <p>Option 2 is clearer.</p> <p><b>b. Rule 5.95(c)(1)(A)(iv). Should the rule maintain the language that is in the current rule at 5.94(f)(5)(A)(i)?</b></p>	<p>In a review of local rules statewide, many courts either have very specific rules and procedures for responding to a request to reschedule or do not have any local rules or procedures for the filing of a responsive declaration to a request to reschedule at all. To allow for the various local rules and processes already in place, some with varying deadlines, the committee decided to simply provide an optional form (FL-310) for courts to use, if needed, and not state a specific timeline for filing a responsive declaration statewide.</p> <p>The committee has revised the opening paragraph to make clear that the deadline described pertains to service of the initial Request for Order, order to show cause or other moving paper and not the Request to Reschedule and now ends with the language in Option 1.</p>
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**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)  
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# Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

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**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

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	<p>hearing,... [Option 1] the party must ask the court reschedule the hearing date. [Option 2] the party must ask the court to reschedule the hearing date by the deadline described in rule 5.92 or as ordered by the court.</p> <p>Opening paragraph should end with Option 1; Option 2 adds to confusion and 5.94(f)(5)(A)(i) provides for a date to submit the request for continuance.</p> <p>b. Rule 5.95(c)(1)(A)(iv). Should the rule maintain the language that is in the current rule at 5.94(f)(5)(A)(i)? Has it been helpful for the rule to provide a suggestion or best practice with regard to a deadline for submitting a written request to reschedule a hearing? Rule 5.95(c)(1)(A)(iv) would provide: The party should submit the forms in (iii) to the court no later than five court days before the hearing date set on the request for order, order to show cause, or other moving paper.</p> <p>Yes the rule should maintain the language currently stated in 5.94(f)(A)(i), it's been helpful to have the suggested time frame to submit the request for consistency and uniformity throughout our court with multiple family law divisions.</p>	<p>The committee has revised the opening paragraph to make clear that the deadline described pertains to service of the initial Request for Order, order to show cause or other moving paper and not the Request to Reschedule and now ends with the language in Option 1.</p> <p>In response to a majority of commenters, the committee has included the language in the proposed rules and forms stating that the request to reschedule should be submitted at least 5 court days before the hearing date.</p>
Superior Court of San Diego by: Mike Roddy Executive Officer	<p>a. <i>Rule 5.95(a)</i>. Please indicate if opening paragraph of rule 5.95(a) should end with the language in Option 1 or Option 2 (below). Please explain your answer.</p> <p>Option 2. Referring to rule 5.92 provides the requesting</p>	<p>The committee has revised the opening paragraph to make clear that the deadline described pertains to service of the initial Request for Order, order to show cause or other moving paper and not the Request to Reschedule and now ends with the language in Option 1.</p>



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	<p>party with additional information relevant to the request.</p> <p>Rule 5.95(a) would provide: If a Request for Order (form FL-300) (with or without temporary emergency (ex parte) orders, order to show cause, or other moving paper is not served on the other party and the requesting party still wishes to proceed with the hearing,...</p> <p>[Option 1] the party must ask the court reschedule the hearing date.</p> <p>[Option 2] the party must ask the court to reschedule the hearing date by the deadline described in rule 5.92 or as ordered by the court.</p> <p>b. <i>Rule 5.95(c)(1)(A)(iv)</i>. Should the rule maintain the language that is in the current rule at 5.94(f)(5)(A)(i)?</p> <p>Yes, by providing the deadline it encourages parties to submit their requests sooner rather than later. Maintaining the “five court days” timeframe, reduces the likelihood that a judicial officer will needlessly review a matter that may not go forward and preserve judicial resources to review other matters.</p> <p>Has it been helpful for the rule to provide a suggestion or best practice with regard to a deadline for submitting a written request to reschedule a hearing?</p> <p>Yes.</p> <p>Rule 5.95(c)(1)(A)(iv) would provide: The party should submit the forms in (iii) to the court no later than five court days before the hearing date set on the request for order, order to show cause, or other moving paper.</p> <p><b>Rule 5.95:</b> Consider including application or purpose language at the beginning similar to current rule 5.151.</p>	<p>In response a majority of commenters, the committee has included the language in the proposed rules and forms stating that the request to reschedule should be submitted at least 5 court days before the hearing date.</p> <p>No response required.</p>
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	<p>(a)(1)(A): Consider adding to subsection (ii) or creating a subsection (iii) stating that if a response to the request has not been provided by the court, the party should attend the hearing. A litigant may think that they do not need to attend the hearing if they simply submit the request even though they haven't received a response.</p> <p><b>(a)(1)(B):</b> Propose that language be revised to reflect FL-309 is a mandatory form: Appear and orally ask the court to reschedule the hearing. The party is not required to file a written request but must complete and submit a proposed <del>order to the court</del>. <i>Order on Request to Reschedule Hearing</i> (form FL-309) <del>may be used for this purpose</del>.</p> <p><b>(a)(3)(B)</b> Propose that language be revised to reflect FL-309 is a mandatory form: <del>The order (for example, Order on Request to Reschedule Hearing</del> (form FL-309)..."</p> <p><b>(c)(1)(B)</b> Propose that language be revised to reflect FL-309 is a mandatory form: The party wishing to reschedule the hearing may appear in court and orally ask to reschedule the hearing. The party is not required to file a written request but must complete and submit a proposed <del>order to the court</del>. <i>Order on Request to Reschedule Hearing</i> (form FL-309) <del>may be used for this purpose</del>.</p>	<p>The committee agrees with the commenter and has added an "Application" section to rule 5.95 under new subsection (a).</p> <p>The committee agrees with the commenter and has included additional information to the FL-304-INFO form (formerly FL-306/FL-307/FL-308).</p> <p>The committee agrees with the commenter and has revised the language in rule 5.95 to reflect that FL-309 is a mandatory form.</p>
TCPJAC/CEAC Joint Rules Subcommittee	<ul style="list-style-type: none"> <li>Regarding the opening paragraph of rule 5.95(a) which provides language with Option 1 or Option 2, Option 1 is preferable since it is less confusing to require the parties to ask the court to reschedule the hearing date.</li> </ul>	The committee has revised the opening paragraph to make clear that the deadline described pertains to service of the initial Request for Order, order to

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**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

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(JRS), Judicial Council of California	<ul style="list-style-type: none"> <li>The language that is in current rule 5.94(f)(5)(A)(i) should be maintained in the new rule.</li> </ul>	show cause or other moving paper and not the Request to Reschedule and now ends with the language in Option 1.
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<b>Rule 5.151</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
California Department of Child Support Services By: Kristen Donadee Chief Counsel and Deputy Director	The Department supports replacing references to “continuing” with “rescheduling” as provided in the proposed change. The latter term is more widely used and thus less likely to be misunderstood, especially by self-represented litigants. Similarly, the Department supports directing the parties to proposed new Rule 5.95 in order to find the rules applicable to the subject request. All in all, the changes to Rule 5.151 achieve the intended result of the proposal.	No response required.
Superior Court of San Diego by: Mike Roddy Executive Officer	<b>Rule 5.151(b)(3)(C):</b> The rule references rescheduling a trial but Form FL-303 does not list trial as something to reschedule.	The committee considered the commenter’s suggestion, but decided to not make any changes to form FL-303 to add “trial” at this time.

<b>Rule 5.165</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
California Department of Child Support Services By: Kristen Donadee Chief Counsel and Deputy Director	The Department agrees with the proposed changes to this rule. Expressly articulating the various means by which a party can provide notice “in writing” promotes clarity, especially when the notion may not be intuitive to some litigants.	No response required.
Superior Court of San Diego by: Mike Roddy Executive Officer	<b>Rule 5.165:</b> Propose that “if permitted” be added in parentheses following electronic means.	The committee agrees with the commenter and has added “(if permitted)” to rule 5.165.

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	<p>The proposal to clarify “in writing” seems beneficial for the rule and adding “electronic means” seems appropriate.</p> <p>Consider adding a cross-reference to what “electronic service” means as a self-represented litigant may think that means by social media or text.</p>	
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<b>Form FL-303</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Candice Garcia-Rodrigo Superior Court of Riverside	FL-303: There is a typographical error in the caption. It should be "Temporary" not "Temporaray".	The typographical error has been corrected.
Superior Court of San Diego by: Mike Roddy Executive Officer	<b>Form FL-303:</b> <b>Items 4a(2 &amp; 3):</b> As written, the current reference to FL-309 appears to indicate that the form is optional rather than mandatory. “FL-309 may be used...”	The committee agrees with the commenter and has revised the language to reflect that FL-309 is mandatory.

**SPR19-27**

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

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<b>Form FL-306</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Candice Garcia-Rodrigo Superior Court of Riverside	FL-306, #10.: As stated above, I believe the deadline should be mandatory, such that the JC form says "You must..."	The proposal did not recommend making the 5 court day timeline mandatory because the Family Code allows requests to reschedule for cases involving certain emergency orders (e.g. property restraint) to be made orally at a hearing. Also, generally, a request to reschedule can be requested for "good cause" at any time and granted or denied, in the court's discretion.
Harriett Buhai Center for Family Law by: Rebecca L. Fischer Staff Attorney	Form FL-306: Form should not include item 10. This section will be confusing for litigants representing themselves. While the distinction between "must" and "should" is well understood by attorneys, a pro per litigant may lump these categories together and may deem their action barred by item 10 even if good cause exists for filing the request to continue less than 5 court days before the hearing date. The association with items 8 and 9 is strengthened by the items falling under the same heading. In the event this language is included, it should be visually separated from items 8 and 9 and/ or should include language further qualifying that item 10 is best practice, not an absolute requirement.	The committee has opted to include guidance in the proposed rule and forms, to file a request to reschedule at least 5 court days before the hearing. In response to the commenter however, the committee has added additional language in item 10 for "good cause" requests.
Judy Louie Director/Family Law Facilitator ACCESS Center Superior Court of San Francisco	<ul style="list-style-type: none"> <li>Items 10 in forms FL-306 and FL-307: <ul style="list-style-type: none"> <li>Should continue to include a provision that the party submit the request and other docs to the court 5 days before the hearing date as more instruction is better for SRLs.</li> </ul> </li> </ul>	In response to a majority of commenters, the committee has included language in the proposed rules and forms stating that the request to reschedule should be submitted at least 5 court days before the hearing date.

**SPR19-27**

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

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Superior Court of Los Angeles	<p><b>a. Form FL-306. Should item 10 on the form be included to specify that the party should submit the documents in item 9 to the court no later than five court days before the hearing date set on the request for order, order to show cause, or other moving paper? Please explain your answer.</b></p> <p>Yes, the item 10 should be included. It will help with reduction in judicial and calendar preparation and gives time for response.</p>	Same as above response.
Superior Court of Riverside by: Susan Ryan Chief Deputy of Legal Services	<p>a. Form FL-306. Should item 10 on the form be included to specify that the party should submit the documents in item 9 to the court no later than five court days before the hearing date set on the request for order, order to show cause, or other moving paper? Please explain your answer.</p> <p>Yes, item 10 on form FL-306 should specify that the party should submit the documents in item 9 to reiterate the rule for requesting to reschedule a hearing. It provides clear instructions to the court user as to what is needed to file their request properly.</p>	Same as above response. .
Superior Court of San Bernardino by: Court Executive Office	Form FL-306. Should item 10 on the form be included to specify that the party should submit the documents in item 9 to the court no later than five court days before the hearing date set on the request for order, order to show cause, or other moving paper? Please explain your answer. Yes, this provides information that is stated in the court rule that is helpful to the filing party.	Same as above response.
Superior Court of San Diego by: Mike Roddy	a. Form FL-306. Should item 10 on the form be included to specify that the party should submit the documents in item	

## SPR19-27

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

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Executive Officer	<p>9 to the court no later than five court days before the hearing date set on the request for order, order to show cause, or other moving paper? Please explain your answer.</p> <p>Yes, by providing the deadline it encourages parties to submit their requests sooner rather than later. Maintaining the “five court days” timeframe, reduces the likelihood that a judicial officer will needlessly review a matter that may not go forward and preserve judicial resources to review other matters.</p> <p><b>Form FL-306:</b> <b>Item 11:</b> As written, the current reference to FL-309 appears to indicate that the form is optional rather than mandatory. “FL-309 may be used...”</p> <p>All proposals seem beneficial, particularly the option to specify dates for the rescheduled hearing.</p> <p>It may be helpful to clarify that a rescheduled hearing would not modify the period of retroactivity to a date later than that upon which the initial RFO was filed (see FC §§ 4009 and 3653). However, based upon the language of the statutes, this might be completely unnecessary.</p>	<p>Same as above response.</p> <p>The committee agrees with the commenter and has clarified the sentence so that FL-309 is understood as a mandatory form.</p>
TCPJAC/CEAC Joint Rules Subcommittee (JRS), Judicial Council of California	Regarding Form FL-306 and FL-307, Item 10 on these forms should be included to specify that the party should submit the documents in item 9 to the court no later than five court days before the hearing date to avoid last minute filings that are more problematic than helpful.	In response to a majority of commenters, the committee has included recommended language in the proposed rules and forms stating that the request to reschedule should be submitted at least 5 court days before the hearing date.

### Form FL-306/FL-307/FL-308-INFO

## SPR19-27

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

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Commenter	Comment	Committee Response
Harriett Buhai Center for Family Law by: Rebecca L. Fischer Staff Attorney	Form should not include item 10. This section will be confusing for litigants representing themselves. While the distinction between "must" and "should" is well understood by attorneys, a pro per litigant may lump these categories together and may deem their action barred by item 10 even if good cause exists for filing the request to continue less than 5 court days before the hearing date. The association with items 8 and 9 is strengthened by the items falling under the same heading. In the event this language is included, it should be visually separated from items 8 and 9 and/ or should include language further qualifying that item 10 is best practice, not an absolute requirement.	In response to a majority of commenters, the committee has included recommended language in the proposed rules and forms stating that the request to reschedule should be submitted at least 5 court days before the hearing date. However, the committee has now added additional language in item 10 for exceptional "good cause" requests.
Superior Court of Los Angeles	<b>b. Form FL-306/FL-307/FL-308-INFO. Should this form include the current requirements for submitting the request to reschedule no later than five court days before the hearing date set on the request for order, order to show cause, or other moving paper? Please explain your answer.</b>  Yes, it provides guidance to litigants not to wait until the last minute to file such requests.	In response to a majority of commenters, the committee has included recommended language in the proposed rules and forms stating that the request to reschedule should be submitted at least 5 court days before the hearing date.
Superior Court of Riverside by: Susan Ryan Chief Deputy of Legal Services	b. Form FL-306/FL-307/FL-308-INFO. Should this form include the current requirements for submitting the request to reschedule no later than five court days before the hearing date set on the request for order, order to show cause, or other moving paper? Please explain your answer.  Yes, forms FL-306/FL-307/FL-308 should specify that the party should submit the documents in item 9 to reiterate the rule for requesting to reschedule a hearing. It provides clear	Same as response above.



## SPR19-27

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

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	instructions to the court user as to what is needed to file their request properly.	
Superior Court of San Bernardino by: Court Executive Office	Form FL-306/FL-307/FL-308-INFO. Should this form include the current requirements for submitting the request to reschedule no later than five court days before the hearing date set on the request for order, order to show cause, or other moving paper? Please explain your answer. Yes, this provides information that is stated in the court rule that is helpful to the filing party	Same as response above.
Superior Court of San Diego by: Mike Roddy Executive Officer	<p>b. Form FL-306/FL-307/FL-308-INFO. Should this form include the current requirements for submitting the request to reschedule no later than five court days before the hearing date set on the request for order, order to show cause, or other moving paper? Please explain your answer.</p> <p>Yes, by providing the deadline it encourages parties to submit their requests sooner rather than later. Maintaining the “five court days” timeframe, reduces the likelihood that a judicial officer will needlessly review a matter that may not go forward and preserve judicial resources to review other matters.</p> <p><b>Form FL-306/FL-307/FL-308-INFO:</b> Include language somewhere that the party should attend the hearing if they do not receive a response to their request to continue the hearing.</p> <p>Form number is unnecessarily long. Propose that a single form number be used.</p> <p><b>Item 1:</b> “You can <del>get</del> find these rules...”</p>	Same as response above.

## SPR19-27

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

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	<p><b>Item 4:</b> There is a period missing between the two sentences in the third paragraph.</p> <p><b>Items 5 &amp; 6:</b> As written, the current references to FL-309 appear to indicate that the form is optional rather than mandatory. "FL-309 may be used..."</p> <p><b>Item 7:</b> Propose that first bullet point be replaced with the following: "<i>Order on Request to Reschedule Hearing</i> (form FL-309);"</p>	
TCPJAC/CEAC Joint Rules Subcommittee (JRS), Judicial Council of California	Regarding Form FL-306, FL-307 and FL-308-INFO these forms should include current requirements for submitting requests to reschedule no later than five days before the hearing date to avoid last minute filings that are more problematic than helpful.	Same as response above.

Form FL-307		
Commenter	Comment	Committee Response
Harriett Buhai Center for Family Law by: Rebecca L. Fischer Staff Attorney	Form should not include item 10. This section will be confusing for litigants representing themselves. While the distinction between "must" and "should" is well understood by attorneys, a pro per litigant may lump these categories together and may deem their action barred by item 10 even if good cause exists for filing the request to continue less than 5 court days before the hearing date. The association with items 8 and 9 is strengthened by the items falling under the same heading. In the event this language is included, it should be visually separated from	In response to a majority of commenters, the committee has included language in the proposed rules and forms stating that the request to reschedule should be submitted at least 5 court days before the hearing date. However, the committee has added additional language in item 10 for exceptional "good cause" requests.

**SPR19-27**

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

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	items 8 and 9 and/ or should include language further qualifying that item 10 is best practice, not an absolute requirement.	
Judy Louie Director/Family Law Facilitator ACCESS Center Superior Court of San Francisco	<ul style="list-style-type: none"> <li>Items 10 in forms FL-306 and FL-307: <ul style="list-style-type: none"> <li>Should continue to include a provision that the party submit the request and other docs to the court 5 days before the hearing date as more instruction is better for SRLs.</li> </ul> </li> </ul>	In response to a majority of commenters, the committee has included language in the proposed rules and forms stating that the request to reschedule should be submitted at least 5 court days before the hearing date.
Superior Court of Los Angeles	<p><b>c. Form FL-307. Should item 10 on this form be included to specify that the party should submit the documents in item 9 to the court no later than five court days before the hearing date set on the request for order, order to show cause, or other moving paper? Please explain your answer.</b></p> <p>Yes, the item 10 should be included. It will help with reduction in judicial and calendar preparation and gives time for response.</p>	Same as response above.
Superior Court of Riverside by: Susan Ryan Chief Deputy of Legal Services	<p>c. Form FL-307. item 10</p> <p>Yes, item 10 on form FL-307 should specify that the party should submit the documents in item 9 to reiterate the rule for requesting to reschedule a hearing. It provides clear instructions to the court user as to what is needed to file their request properly.</p>	Same as response above.
Superior Court of San Bernardino by: Court Executive Office	Form FL-307. Should item 10 on this form be included to specify that the party should submit the documents in item 9 to the court no later than five court days before the hearing date set on the request for order, order to show cause, or other moving paper? Please explain your answer. Yes, this provides information that is stated in the court rule that	Same as response above.

## SPR19-27

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

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	is helpful to the filing party.	
Superior Court of San Diego by: Mike Roddy Executive Officer	<p>c. Form FL-307. Should item 10 on this form be included to specify that the party should submit the documents in item 9 to the court no later than five court days before the hearing date set on the request for order, order to show cause, or other moving paper? Please explain your answer.</p> <p>Yes, by providing the deadline it encourages parties to submit their requests sooner rather than later. Maintaining the “five court days” timeframe, reduces the likelihood that a judicial officer will needlessly review a matter that may not go forward and preserve judicial resources to review other matters.</p> <p><b>Form FL-307:</b> <b>Item 11:</b> As written, the current reference to FL-309 appears to indicate that the form is optional rather than mandatory. “FL-309 may be used...”</p> <p>The proposal to create a new form and include the information indicated seems beneficial.</p>	Same as response above.
TCPJAC/CEAC Joint Rules Subcommittee (JRS), Judicial Council of California	Regarding Form FL-306 and FL-307, Item 10 on these forms should be included to specify that the party should submit the documents in item 9 to the court no later than five court days before the hearing date to avoid last minute filings that are more problematic than helpful.	Same as response above.

## SPR19-27

**Family Law: Changes to Continuance Rule and Forms** (Adopt rule 5.95; amend rules 5.2, 5.94, 5.151, and 5.165; approve forms FL-304-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307)

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<b>Form FL-308</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
California Department of Child Support Services By: Kristen Donadee Chief Counsel and Deputy Director	There appears to be an omission from the language following the checkbox provided in section 7.b.(1). As such, the Department respectfully proposes adding the number “6” at the end of this section so it reads “the end of the new hearing in item 6.”	The typographical error has been corrected.
Judy Louie Director/Family Law Facilitator ACCESS Center Superior Court of San Francisco	Need more information re FL-308 to make it clear it is only for stipulations to rescheduling.	The committee agrees and has added “(form FL-308)” to the subheading of item 2 of the FL-304-INFO sheet (formerly FL-306/FL-307/FL-308) to make instructions more clear.
Superior Court of San Diego by: Mike Roddy Executive Officer	<p><b>Form FL-308:</b>  <b>Item 6:</b> Propose that the word “(continued)” be removed. It is not consistent with the language used on item 6a of proposed form FL-309 and is unnecessary.</p> <p>Consider adding an option for the parties to attach a stipulation/agreement. regarding modified TEOs or add a note that form</p> <p><b>Item 7:</b> Option for parties to agree to modifications of the TEOs?</p>	<p>The committee agrees and has removed, “(continued)” from item 1 of form FL-308.</p> <p>The committee discussed this option but decided not to include it because the proposed rules and forms are only to reschedule a court hearing, unless the court modifies any existing orders on its own. Should the parties wish to enter a stipulation modifying emergency orders, a separate agreement can be filed, as FL-308 is an optional form.</p>
<b>Form FL-309</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Superior Court of Los Angeles	<p><b>Form FL-309</b> – Add to title so that self-represented litigants and attorneys know this form is also required when they use form FL-307.</p> <p>“Order on Request to Reschedule Hearing; Includes Temporary Emergency (Ex Parte) Orders”</p>	The committee considered adding the suggested language to the title of FL-309 but determined that it was too lengthy. The FL-304-INFO sheet (formerly FL-306/FL-307/FL-308-INFO) and rules consistently inform parties to use FL-309 along with both FL-306 and FL-307. In addition, it is anticipated that Self-Help Center staff will be able to provide additional guidance and clarity.