



## SUPERIOR COURT OF CALIFORNIA COUNTY OF SACRAMENTO

April 27, 2020

Dear Members of the Sacramento Legal Community:

A few weeks ago, the court conferred with Elizabeth Bacon of the Sacramento County Bar Association and Karen Jacobsen with the Sacramento Superior Court Civil Law Advisory Committee to solicit “frequently asked questions” from the Sacramento legal community regarding court operations during the COVID-19 pandemic. We have reviewed the questions and provide the enclosed responses. These responses address our operational status for civil matters as of April 24, 2020, and discuss additional planned increases. We began the process of implementing those operational increases today.

As you know, the Sacramento legal community and the Sacramento Superior Court have faced unprecedented challenges as a result of the COVID-19 pandemic. Although starting March 20, 2020, court buildings were temporarily closed to the general public, we continued to operate and provide enumerated “critical” or “essential” services including matters that are statutorily and/or constitutionally mandated. This included functions in the areas of criminal, family, juvenile delinquency and dependency, probate, mental health, as well as some civil functions. Governmental public health orders and environmental circumstances required us to implement extraordinary measures to protect the health and safety of the public, our staff and judicial officers. As a result, many court operations have been curtailed and understandably, have adversely impacted the civil legal community. We appreciate that while many civil operations were not deemed “essential” at the outset of this crisis, the longer such operations remain closed, the need increases for them to reopen. Therefore, we have and will continue to assess and increase civil functions when and where possible.

Although it remains unclear when we will be able to return to full operations, we have developed and are implementing an operational plan that will permit us to provide increased civil, family law and probate operations beyond those previously enumerated. Many of the enclosed responses provide insight to that operational plan. As more operations are added during the temporary closure, we will continue to provide additional information to you in the form of an administrative order issued by the Presiding Judge and public notices. It is very important that you check the court's website for updates and additional orders.

We thank you for your understanding and patience during this time.

Best regards,

Russell L Hom  
Presiding Judge

Bumni Awoniyi  
Supervising Judge of the Family Law Court/Probate

Richard K. Sueyoshi  
Supervising Judge of Civil Division

**Answers to “Frequently Asked Questions” Re: Court  
Operations during COVID-19 Pandemic  
(Current as of April 24, 2020)**

**Court Operations and Clerk’s Office for Filing**

**1. Is there a current timetable to reopen the court for normal operations?**

Construing “normal” operations to mean the level of court operations as they existed before the Presiding Judge’s March 17, 2020 Order re: Implementation of Emergency Relief (March 17<sup>th</sup> Order), the court does not yet have a timetable to return to full operations. The decision to return to unfettered operations will be significantly dependent upon the applicable public health orders (county and state) and the interests of health and safety of the public as well as court employees. The court has been in contact with the Sacramento County Director of Public Health regarding the environmental factors, including epidemiological information and related updates. These factors remain outside of the court’s control. Prior to the COVID-19 pandemic, full court operations would result, for instance, in an average of over 1000 people being inside the Gordon D. Schaber Courthouse each day. The layout and configuration of the Schaber Courthouse, as well as other court buildings, present unique challenges to operating while maintaining “social distancing” and other protective measures that are required by the public health orders.

Although the court does not yet have a timetable to return to full operations, the court has and will continue to implement increases to criminal and civil functions when and where possible until a return to full operations is allowed. Since the Presiding Judge’s March 19, 2020 Order re: Temporary Court Closure (March 19<sup>th</sup> Order) the court has, primarily by creating and implementing solutions using remote technology, increased specified operations via subsequent orders in areas including criminal, civil, family/probate, juvenile delinquency, juvenile dependency, and mental health. All orders and notices are available on the court’s website. Additional planned operations are discussed herein.

**2. The Sacramento Order says it is in effect until May 15, 2020. This order may be amended as circumstances require. Is there a possibility that the Temporary Closure Order may be terminated sooner than May 15, 2020?**

The Presiding Judge’s April 16, 2020 Order re: Extension of Court Closure from April 17, 2020 to May 15, 2020 and Implementation of Renewed Emergency Relief (April 16<sup>th</sup> Order) extended the court’s March 19<sup>th</sup> Order and implemented further authority received from the Chief Justice for certain specified extensions. Given the current state of environmental factors and their impact on current court operations, it is unlikely that the April 17<sup>th</sup> Order will be terminated in its entirety sooner than May 15, 2020.

However, the April 16<sup>th</sup> Order specifically indicates that it may be amended as circumstances require. In this regard, and as further discussed herein, the court intends to modify the April 16<sup>th</sup> Order to the limited extent that May 5, 2020 will be the new end of the “holiday” period for filings relating to those civil cases that are or will be handled at either the Schaber Courthouse or in the Law & Motion Departments (i.e., not for cases handled at the Carol Miller Justice Center; see herein for cases handled at Family Relations Courthouse). Filings will be limited as detailed below.

Although court buildings remain generally closed to the public, the court presently continues to handle the emergency and essential matters enumerated by the Presiding Judge’s March 19<sup>th</sup> Order and subsequent orders. Such matters remain excepted from the temporary closure and “holiday” period otherwise applicable for filings. Excepted matters have been and will continue to be handled while court buildings remain generally closed to the public. The court has and will continue to add additional civil operations as soon as possible and as further described herein.

**3. Would the court be willing to consider resuming some operations of civil practices such as filing of complaints, answers and petitions for minor’s compromises sooner than May 15, 2020?**

Yes. By the Presiding Judge’s April 20, 2020 Order re: Resumption of Additional Specified Essential Services–Civil (April 20<sup>th</sup> Order), the court added to its current operations the handling of Petitions for Compromise of Claims of Minors or Incompetent Persons. The court also added Petitions for Appointment of Guardian ad litem for a Minor or Incompetent Person to the extent necessary for a party to file the aforementioned Petition for Compromise of Claims. For procedural questions, please refer to the Public Notice of Civil Essential Services posted April 20, 2020, available on the court’s website.

As to the “holiday” period for civil filings (including complaints, answers, etc.), the court intends to modify the April 16<sup>th</sup> Order to the extent that May 5, 2020 will be the new end of the “holiday” period for civil filings relating to civil cases handled at either the Schaber Courthouse or in the Law & Motion Departments (cases handed at Family Relations Courthouse addressed separately herein). Therefore, civil filings for these specified cases will be permitted by mail (preferred) or drop box at the Schaber Courthouse and the Hall of Justice (for Departments 53 and 54) starting May 6, 2020.

However, all new motions or any other matter requiring a hearing date may not be filed until after the moving party has reserved a hearing date with the applicable department, including the Law & Motion Departments, and has indicated the reserved date/time/department for the hearing in the notice and accompanying moving papers. This will apply to all types of motions (excluding ex parte applications for emergency relief which shall follow the existing protocol). The prior

rule permitting parties to self-set hearings for new motions in the Law & Motion Departments will be suspended until further notice.

The court will provide issue further orders and public notices in this regard disseminated through the court website.

**4. Will the court utilize a phased re-opening for its operations? If so, how will a phased re-opening be implemented? Will the court bring back to work certain clerical and administrative staff before opening to the public? If so, how will the court prioritize the work necessary to be accomplished by the clerical and administrative staff in advance of re-opening to the public?**

Increases in civil operations require corresponding increases in varying degrees of court employees who must be physically present inside court buildings. Any increase in the number of employees in court buildings must be measured and conducted in compliance with applicable public health orders to maximize the health and safety of court personnel, even where court buildings remain generally closed to the public. The court's ability to comply with public health orders is dependent upon a myriad of factors, including limitations presented by the individual physical configuration of each Sacramento Superior Court facility. Further, sustaining court operations at any given level requires a continuous and uninterrupted period without infection of employees and judicial officers and related exposure to the COVID-19 virus. For example, a positive COVID-19 infection among court staff or judicial officers and related exposure, even where protective measures have been used, may result in immediate quarantines, immediate reduction in court personnel, and corresponding impact on court operations.

Subject to these important factors and the uncertainties therein, the court is currently working towards increasing court staff in a limited manner to allow for a measured increase in civil operations at the Schaber Courthouse and in the Law & Motion Departments (see below regarding operations at the Family Relations Courthouse). The court will approach this planned increase in phases, starting with addressing the civil filing backlog that existed prior to the March 17<sup>th</sup> Order. The next phase would be to end the "holiday" period for certain filings on May 5, 2020, inclusive, such that civil filings relating to cases handled at either the Schaber Courthouse or in the Law & Motion Departments may be filed by mail (preferred) or drop-box at such locations starting May 6, 2020, subject to the limitations discussed above regarding the requirement that parties reserve hearing dates for new motions and any other matters requiring a hearing prior to filing such papers. This includes all matters heard in the Law & Motion Departments.

Additionally, due to the indefinite duration/extension of public health orders, the Court is working on a subsequent phase for a limited re-opening of certain operations that can be conducted remotely, including limited hearings for Law & Motion, Civil Writs, and Complex Civil. The court is in the process of acquiring and then implementing technological infrastructure that will eliminate the need for

physical appearances in courtrooms. The intent of this project is to develop and provide a stable solution over a potentially extended period that will enable hearings, albeit in less quantity than full operations, while public health orders continue to prevent a full re-opening of court buildings to the public. The court currently anticipates that the Law & Motion Departments will hold hearings 3 days per week and that each Civil Writ and Complex Civil Department will hold hearings a half day per week.

In setting future hearings under this plan, priority will be given to the court's resetting of those matters that were on calendar prior to the general continuance of all civil matters by way of the March 17<sup>th</sup> Order, Section 3. After giving preference to previously-calendared matters, the court anticipates allowance of newly-set matters by reservation only with the applicable department. The timing of this potential limited re-opening of hearings and applicable protocols will be addressed by court order. This plan also remains dependent upon the feasibility of increases and more expansive deployment of court personnel and the court's ability to sustain such staffing level.

Increasing civil operations through phases, including the anticipated limited hearings and re-opening of filings, will also facilitate an eventual re-opening to full operations once public health orders are lifted and there are no longer impediments to the court's full staff returning to work.

**5. Will the court re-open for some purposes, such as filings, but remain closed for other purposes, such as law and motion hearings, trials, settlement conferences or other court proceedings involving individual interaction between court staff, judges, litigants and the attorneys?**

Subject to the factors discussed above, the court anticipates continuing gradual increases in civil operations. As indicated, the court is working towards re-opening civil filings for cases at the Schaber Courthouse and in Law & Motion Departments and a re-opening of civil hearings in a manner that can operate even if the public health orders continue indefinitely. The court is also working towards reinstating, when possible, the Voluntarily Settlement Conference program which will be handled by remote appearances through Department 59.

Given the current public health orders and circumstances, the court does not yet have a timetable for resetting civil trial dates and MSCs, all of which have been continued until further notice per Section 3 of the March 17<sup>th</sup> Order.

**6. As the court begins its steps to re-open, how will the court avoid being inundated at one time with massive filings? Will the filings be phased over time?**

The court anticipates that once civil filings are re-opened in the scope discussed above, the court's filing and document processing staff will be given an extended

period of time to process documents prior to any civil hearings taking place. Should there be an event where a hearing cannot proceed due to necessary filings not being up-to-date in the court's system, such hearing will be rescheduled and counsel notified as necessary.

**7. Why can't the Court accept mailed filings? Can the Court date-stamp received mail? When will the drop box be open for civil filings? Why are other counties allowing filings and Sacramento is not?**

Other than filings related to excepted functions, general civil filings are not due or processed during the current "holiday" period, or for that matter, on any other court holiday. The processing of mailed filings necessitates substantial court personnel. The court has addressed above some of the important factors that impact the court's ability to increase civil operations which would include the processing of filings. Those factors were relevant to the court's ordering of the "holiday" period. The court requested that parties refrain from submitting documents during the "holiday" period pertaining to matters not excepted by the court's orders due to the fact that court personnel regularly required to process such documents have not been staffing civil document processing areas. As explained above, the substantial reduction in court personnel in court buildings is a result of the health and safety issues as they have affected the Sacramento Superior Court.

While the court can date-stamp items as they are received through mail, any such items subject to and received during the court "holiday" period are not processed for filing and given filing dates until the next day that is not a holiday. As discussed above, the court intends May 6, 2020 to be the first day that civil filings relating to cases handled at either the Schaber Courthouse or in the Law & Motion Departments may be filed by mail (preferred) or drop-box at each facility, subject to the limitations specified above regarding the requirement that parties reserve hearing dates for new motions and any other matters requiring a hearing prior to filing such papers. This includes all matters heard in the Law & Motion Departments.

Notwithstanding the temporary court closure, the drop-box at the Schaber Courthouse has been open each court day for filings in connection with the enumerated essential matters listed in the court's orders as posted on the court's website. This includes, for example, CHRO and GVRO applications and ex parte applications for emergency relief. Please refer to the orders and notices available on the court's website.

As to this question's comparison of the Sacramento Superior Court to "other counties allowing filings," the impact of the COVID-19 pandemic has affected each county and each court in a variety of ways, many of which are unique to a given court. Each court has unique resources and challenges, including, but not limited to, technological capabilities, restrictions on staffing utilization, volume of cases per judicial officer, master vs. direct calendaring systems, physical layout and

configuration of court buildings, etc. The Sacramento Superior Court cannot speak to the resources and solutions available to other counties.

**8. Is there a way to petition for increased staffing after the Courts re-open to handle the volume of pending filing?**

Assuming this question is in reference to seeking assistance from other government branches in the form of budget increases to help alleviate the impact on court operations, the court does not have an answer to this question at this time. As for the court's implementation and deployment of its present staff, the court will continue to assess its ability to do so as described above.

**9. Some cases just need to file a dismissal to close out the case for the litigants and the court eliminating new orders perhaps on order to show cause hearings and the like. Is there a plan to allow these to be filed and how can the parties avoid a 3 to 4 month delay in getting them filed with anticipated backlog of filings?**

As discussed above, the court's phased approach to a limited re-opening of civil operations includes a cessation of the "holiday" period for certain filings on May 5, 2020, such that civil filings relating to cases handled at either the Schaber Courthouse or in the Law & Motion Departments may be filed by mail (preferred) or drop-box starting May 6, 2020, subject to the limitations discussed above regarding the requirement that parties reserve hearing dates for new motions and any other matters requiring a hearing prior to filing such papers. This includes all matters heard in the Law & Motion Departments. The court anticipates a substantial volume of documents to process for filing.

**Use of Telephonic Hearings and/or Video Hearings**

**1. Will all hearings be telephonic hearings when the Court re-opens for hearings?**

The court's current plan for limited re-opening of hearings for Law & Motion, Civil Writs and Complex Civil, includes utilization of video-conferencing technology and allows for live-streaming to the court's YouTube page so as to satisfy the requirement of public hearings. Under this plan, the public will be able to view and hear the proceedings as if they were present inside the courtroom. The plan would allow courtrooms to remain closed to in-person appearances and physical attendance by members of the public. The court intends to integrate telephonic appearances as an option, including where parties are unable to utilize video-conferencing. Other types of matters which do not require public hearings, such as petitions for approval of minor's compromise of claims and certain ex parte matters, may be conducted strictly telephonically. The court will provide further notice regarding protocols for appearances.



- 2. As the courthouse re-opens, it is likely that there will be attorneys, members of the public and others who will be resistant to being in a public setting. Will the court permit telephonic appearances and/or remote video appearances (Zoom) for certain mandatory appearances? What types of civil proceedings would the court consider eligible for telephonic appearances and/or remote video appearances in the future?**

See above.

- 3. What accommodations can the Court make for attorneys or parties that cannot work with telephonic or video hearings?**

The court will address such potential issues on a case-by-case basis.

## **Law & Motion**

- 1. When will ex parte civil law and motion matters be able to be heard?**

The court has been open to and hearing ex parte applications for emergency relief as of the Presiding Judge's March 30, 2020 Order re: Resumption of Specified Essential Services—Civil (March 30<sup>th</sup> Order), effective April 1, 2020. The March 30<sup>th</sup> Order added emergency ex parte applications in all civil cases handled at the Schaber Courthouse (e.g., Civil Writ and other "all purposes" assigned cases) and in Law & Motion Departments. For procedural questions, please refer to the Public Notice of Civil Essential Services available on the court's website. As to non-emergency ex parte applications, the court is considering the inclusion of such matters in conjunction with the limited re-opening of law and motion hearings.

- 2. When will the Law & Motion departments be operational?**

As discussed above, the Law & Motions Departments have been open for ex parte applications for emergency relief since April 1, 2020. As indicated in more detail earlier, the timing of the current plan to re-open limited hearings including law and motion matters will be subject to the phases explained above. The court will provide further notice regarding the re-opening of limited hearings.

- 3. What happens to motions set during the court closure that were vacated? What about cases that were not fully briefed due to the court closure? How will these matters be re-set? How will time be calculated for oppositions and replies if they were due during the extended "holiday" when Sacramento County court will be shut down?**

Previously-calendared motions were continued. As discussed above, per the court's plan for future civil hearings, in setting future hearings, priority will be given to the court's resetting of those matters that were on calendar prior to the general continuance of all civil matters by the March 17<sup>th</sup> Order. For motions that were not

fully briefed, filing deadlines for opposition and/or reply papers will be based upon the rescheduled hearing date. Because all hearing dates were continued by the March 17<sup>th</sup> Order subject to further notice by individual departments, and because due dates for most motions are calculated from the hearing date pursuant to Civil Procedure Code section 1005(b), no opposition or reply papers are due during the “holiday” period and until a hearing date is reset. After giving preference to previously-calendared matters, the court anticipates allowance of newly-set matters by reservation only with the applicable department.

The timing of the contemplated limited re-opening of hearings and applicable protocols (including minute orders noticing new hearing dates) will be addressed in the future.

**4. Will law and motion operations be resumed on a virtual basis? Decisions on demurrers, MSJs, motions to compel, things of that nature. Tentative rulings could be issued and oral argument conducted by ZOOM/WebEx. Is this being considered?**

Yes. The court’s plan for re-opening civil hearings to the limited degree discussed above contemplates the creation of a “virtual” courtroom that uses video-conferencing technology whereby the parties and court may appear and be visible to each other. Subject to security protocols, the hearing will be available for live-stream viewing on the court’s YouTube page so as to satisfy the requirement of public hearings. It is anticipated that tentative rulings will be issued similar to previous protocol including the requirement that a party request oral argument if they do not wish the tentative ruling to become final. The court has already instituted the technological solution of “virtual” courtrooms in criminal operations and it has been successful.

**5. It is our understanding that motions cannot be filed without a hearing date and we are unable to select a hearing date while the court is closed. Is there another way to file motions in the meantime to preserve rights with regards to certain legal issues and avoid waiver? For example, is there a way to file motions to compel arbitration to preserve those arguments? Particularly, in light of plaintiffs who want to push forward with litigation and defendants’ inability to file a motion to compel arbitration? MSJ’s also need time to be heard before trial, how is that going to be handled?**

See answers above regarding the ending of the “holiday” period on May 5, 2020. As to calculating the time in which any act provided by law is to be performed, the court refers to Civil Procedure Code sections 12 and 12(a). The provisions provide that no act can be due on a “holiday.” Aside from the excepted matters, no filings are due until the “holiday” period has ended. Pursuant to Civil Procedure Code section 437c(a), motions for summary judgment must be heard no later than 30 days before the trial date unless the court for good cause orders otherwise. The March 17<sup>th</sup> Order, Section 3, continued all civil matters not specifically excepted by Section 2.

Section 3 effectively continued all civil trials until further notice. Until new trial dates are set, there is no deadline for which any motion for summary judgment must be heard.

## **Trial**

- 1. Trial Dates: All trials set to start within the period of March 23 to May 23, 2020 have been continued pursuant to the Order of the Chief Justice, dated March 23, 2020. If a civil case is set for trial after May 23 will it be continued?**

For Sacramento County, all civil trials were continued by the Presiding Judge's March 17<sup>th</sup> Order, Section 3, until further notice. The subsequent orders of the Chief Justice of March 23, 2020 and March 30, 2020 ordered a "60-day continuance of jury trials." While these statewide orders immediately affected jury trials which remained set in other counties and also affected criminal trials in Sacramento County (as implemented by the Presiding Judge's April 1, 2020 Order re: Implementation of Emergency Relief, Section 6), the statewide orders did not disturb the status of civil trials (jury or bench) in Sacramento County. That is, as of March 17, 2020, all civil trials in Sacramento had already been continued until further notice. Thus, no civil cases had trial dates subject to being continued 60-days per the statewide order.

With respect to resetting civil trial dates, this will occur when the court has more information as to when civil trials can proceed. There are many factors that affect this analysis, including the backlog of criminal trials and other trials that take constitutional and/or statutory priority over civil trials. As to how trials will be reset, if a case has already been assigned to a judge for trial, that judge, in their discretion, may set a new trial date, may defer setting a new trial date until a later time, or may elect to reset/utilize the previously-scheduled trial date if it is far enough in the future. As an example of the latter, if your case had a trial date of February 1, 2021, and has already been assigned to a judge for trial, that judge, in their discretion, may elect to "reset"/maintain the trial on such date and provide notice of the same. Please refer to future minute orders and other notices that may be issued by your assigned department. For those cases that have not yet been assigned to a judge for trial, the court intends to refer them back to the Trial Setting Process (TSP) by which the parties shall select new MSC and trial dates. Minute orders referring cases back to TSP will be issued when the court is able to determine the date range in which civil trials can be reset.

- 2. If a civil case set to start after May 23, 2020 is not continued, what should a party do if they were not able to complete discovery due to the shelter in place orders? Will Department 47 hear motions to continue on an ex parte basis?**

See above. The March 17<sup>th</sup> Order continued until further notice all civil trials, including, but not limited to, any trials with a date after May 23, 2020. Section 3 of the March 17<sup>th</sup> Order includes continuance of non-expert and expert discovery cutoff

dates (calculated from the trial date), which shall be reestablished by the resetting of trial dates.

**3. Will cases with trial dates that passed during the closure have priority? When and how will they be reset?**

See above regarding how trials will be reset. The court contemplates that minute orders referring cases back to TSP will be issued in groups according to their previously set trial dates.

**4. What happens to a Preference Case that has been set for trial during the March 23 to May 23, 2020 period? Will it get priority when the court starts holding trials again? What timeframe will this occur? What about preference cases set for trial this summer or in the fall, will their trial dates remain on calendar?**

See above for how cases will be reset generally. For cases with granted statutory preference, counsel may request from Department 47 via ex parte application, an earlier trial date than that available through TSP, if necessary. The Presiding Judge will consider whether an earlier trial date is possible in such instance.

**5. Does the court anticipate that Department 47 will have problems in finding available courtrooms and getting civil cases assigned out to trial in light of the increasing backlog of civil cases? Estimated date for non-preference cases that were vacated during the court closure?**

Probably yes. Civil trials are not anticipated to commence until all trials with constitutional and/or statutory preference are completed. Once civil trials commence, given the backlog of civil cases, there may be some difficulty in having courtrooms available. Use of the TSP program to reset trial dates provides some regulation over the potential congestion of civil trials at a given time. However, whether civil cases set for trial promptly receive a courtroom will be largely based, as always, on the number of cases set on a given date that have not settled or otherwise resolved by the time of trial. The court does not presently have an estimated date for civil trials.

**6. When will the court begin jury trials?**

It is too early to tell.

**7. For cases set in the summer before civil jury trials are resumed, what will be the plan on getting them reset? For attorneys with trials scheduled during the summer, is it advisable to request a continuance now or wait until the Court reopens for normal operations?**

See above, answers #1-6.

- 8. Will cases in the Fall that are currently on calendar remain on calendar? If not, how will the parties receive notice of a vacated trial date and when will they receive it? Motions for summary judgment are impacted by trial dates and time is of the essence.**

See above.

- 9. Can the court clarify its position on how the 5-year time period provided in section 583.310 of the Code of Civil Procedure to bring an action to trial is extended and will be handled?**

Please see Emergency Rule 10(a) recommended by the Judicial Council and adopted by the Chief Justice on April 6, 2020. As stated therein, for all civil actions filed before April 6, 2020, Emergency Rule 10(a) increases by six months, the five-year period in which an action would otherwise have been required to be brought to trial in Civil Procedure Code section 583.310 (for a total of five years and six months).

- 10. How will the Court deal with social distancing both during jury selection and empaneling a jury with alternates?**

The court will provide information on this topic in the future.

- 11. How will the Court handle motions for either a dismissal and/or a new jury pool due to the potential impact of social distancing reducing the cross section of the community in the jury pool brought up to the Courtroom? Or that the Jury Commissioner had to draw the jury panel from to make up the jury pool sent to the Courtroom?**

The court cannot comment in response to this question.

## **Discovery**

- 1. How does the court view the “court holiday” impact in discovery deadlines?**

The March 17<sup>th</sup> Order, through Section 3, continued all civil matters including civil trial dates and deadlines based upon the trial date such as the deadline for completion of non-expert and expert discovery. As to other deadlines based upon when a particular act is due, the court refers parties to Civil Procedure Code sections 12 and 12(a) to determine the extent of their application given the “holiday” period. The extent of the impact of the “holiday” period on “discovery deadlines” depends upon the individual circumstances including what specific “deadline” is at issue and the time period in question.

- 2. The Judicial Council’s Emergency Rule 12 and related court orders specify that depositions may be conducted remotely. How does this impact the notice period for depositions in this time frame given that the Court considers this time to be “holidays” for the purpose of computation.**

This question is unclear to the court. Emergency Rule 12 re: Electronic Service, was adopted April 17, 2020. Emergency Rule 11 re: Depositions through remote electronic means, was adopted on April 6, 2020. Neither of these rules appear to conflict with the Sacramento Superior Court’s court-ordered “holiday” period for purposes of computing time for filing papers and the limitation of court operations. That is, the court’s “holiday” period does not prevent or hinder the parties’ use of electronic service among them or the ability for parties to conduct remote depositions.

## **Probate Departments**

- 1. Currently the Probate Court is only hearing on an ex parte basis temporary conservatorships and temporary guardianships, which are necessary. However, will the Probate Court entertain accepting ex parte matters for the appointment of a special administrator when there is an emergency related to a decedent’s estate or trust during this COVID-19 crisis?**

The court recognizes the significant impacts to our litigants, practitioners, and community, and appreciates the volume of important work not currently being handled or processed at this time. As the court closure further extends, the court continues to evaluate measured actions to mitigate impacts and initiate plans for increasing essential services, while still observing the applicable state and county public health orders

Given the continued duration of the court closure, it has become increasingly necessary to address broader ex parte applications beyond those originally set forth in the Probate Court Closure Mitigation Plan (<https://www.saccourt.ca.gov/general/docs/extended-court-closure-mitigation-plan-for-probate-041720.pdf>) to provide litigants facing vulnerable and dire situations a pathway to seek emergency orders. As such, consistent with the same drop-box and email provisions set forth in the Probate Court Closure Mitigation Plan, the Probate Court will accept and process ex parte applications that otherwise comply with the requirements set forth in CRC 3.1202(c), beyond those limited to temporary conservatorship and guardianship.

- 2. If we file a new petition, does it sit in a pile, or are hearing dates assigned?**

As the court considers incrementally increasing services and authorizes staff support, establishing priorities to address backlogs and unprocessed work is ongoing. In addition to increasing the scope of ex parte applications, efforts are underway to perform essential functions to facilitate resets and continuances of

missed hearings using Zoom video-conferencing technology. As staff is authorized and return, work will commence to post new hearing information to the Public Case Access System.

Other than those filings related to the excepted matters listed in the Presiding Judge's orders, any other documents received during the "holiday" period have not been processed for filing. However, by way of an order specifically for Probate and Family Law cases (i.e., separate from the general civil order discussed earlier), the court intends to modify the April 16 Order signed by the Presiding Judge to the extent that May 5, 2020, will be the new end of the "holiday" period for civil filings relating to Probate and Family Law cases handled at the Family Relations Courthouse located at 3341 Power Inn Road. Therefore, all filings for these cases will be permitted by mail (preferred) or drop box at the Family Relations Courthouse starting May 6, 2020. All mail postmarked and/or received during the "holiday" period between March 20, 2020 through May 5, 2020, will be processed with the filing date of May 6, 2020.

While the court is committed to marshaling all available resources to address and mitigate the backlogs as staff is authorized, exercising patience and understanding will be necessary.

## **Family Law Departments**

### **1. How will the Court take on the enormous task of notifying everyone whose hearings and mediation/FCS appointments have been missed or continued since March 20th?**

The court recognizes the significant impacts to our litigants, practitioners and community. While the Family Court has been able to provide very limited but critical services, the court appreciates the volume of important work not currently being handled or processed at this time. The court continues to evaluate measured actions to mitigate impacts and increase essential services, while still observing the continuing public health orders.

Given the continued duration of the court closure, it has become increasingly necessary to address missed hearings, particularly those involving custody and visitation requiring mediations. Therefore, with authorized but limited staffing, hearings missed during the court closure period (March 20, 2020 through May 15, 2020) will be continued by minute order and posted to the Public Case Access System. The posted minute order will provide new hearings dates, extend temporary orders if applicable, and provide instructions for appearing using Zoom. Continuance dates could be set as early as May 11, 2020.

The court will also notify parties and attorneys that had mediation appointments scheduled March 20, 2020 and beyond of their new mediation date by US Mail. Mediations conducted via telephone or Zoom could begin as early as May 1, 2020.

**2. Can the Court ensure that all the missed appointments and hearings will be given priority over new filings?**

During the court closure, only very limited services in Family Court continue, such as, Domestic Violence/Elder Abuse Restraining Orders and Family Law ex parte applications. As essential services incrementally increase and staffing is authorized to return to work, the court is committed to marshaling resources to prioritize the volume of outstanding work. Missed hearings and mediation appointments are deemed to be of prominent importance and continuing/resetting this caseload will be given priority over any new filings. Priority will be assigned to cases involving custody, visitation, and domestic violence-related issues, in the regular family law departments that were on calendar prior to the court closure. If these cases have associated child support issues, they will also be addressed.

**3. Is there a process to assure the Bar/Parties that nothing will slip through the cracks?**

The court appreciates the volume of work not currently being handled or processed at this time, and the increasing impacts as the court closure continues to extend. For example, over 3000 family law missed hearings require resetting since March 20, 2020 and incoming mail by drop-box and US Post Office remains unprocessed. There are some 2000 Department of Child Support Service (DCSS) cases that need to be reset, with the assistance of the staff of Department of Child Support Services.

As the court considers incrementally increasing services and authorizes staff support, establishing priorities to address this backlog is ongoing. Efforts are underway to perform some essential functions such as processing resets and continuances of missed custody/visitation, domestic violence and associated support hearings. Assigning staff to this task will enable us to conduct remote hearings as early as May 11, 2020. If restrictions are modified, calendars will have been populated so that hearings on these essential matters can still proceed.

Additionally, as discussed above, the court intends to modify the April 16 Order to the extent that May 5, 2020, will be the new end of the “holiday” period for civil filings relating to Family Law and Probate cases handled at the Family Relations Courthouse located at 3341 Power Inn Road. Therefore, all filings for these cases will be permitted by mail (preferred) or drop box at the Family Relations Courthouse starting May 6, 2020. All mail postmarked and/or received during the court closure period from March 20, 2020, through May 5, 2020, will be processed with the filing date of May 6, 2020, consistent with rules governing court holidays.

With a limited staff footprint, we can only undertake limited services. As such, priorities have been assessed in terms of how best to utilize the staffing resource. Matters not identified as a priority or essential service at this time will have to wait. As staffing levels continue to increase, more essential services will be added. Until



additional staffing is authorized, the court is not in a position to resolve or respond to case inquiries relating to matters without a pending hearing date during the court closure.

Once the court is re-opened and staff returns to work, case inquiries and concerns will be addressed as soon as administratively possible. As the volume of outstanding work is significant, unfortunately, it will be incumbent upon parties and the Bar to communicate issues of concern (or items perceived as slipping through the cracks). An appropriate communication channel will be set up once full staffing levels are established. While the court is committed to marshaling all available resources to address and mitigate the backlogs when the court re-opens, exercising patience and understanding will be necessary.

**4. Some of the hearings and mediation/Family Court Service appointments haven't been issued minute order for continuances while others have. Is there a date for when the Court will be caught up?**

Given the summary notification of the shelter in place order, the court closure was executed expeditiously to comply and protect our employees and the public. As such, we were not able to provide notice and continue all pending law and motion and trial matters on calendar prior to March 20, 2020. Therefore, as referenced above, some minute orders/continuances may have been completed while others not. As the court closure continues to extend, the Family Court is evaluating expanding services to some essential functions, while balancing and still observing the Public Health Order. As such, all mediations missed since the court closure on March 20, 2020, will be rescheduled with notification sent to parties by US Mail, by the anticipated date of May 27, 2020. Hearings on the return from mediation will be reset, noticed via the Public Case Access System to be heard commencing the week of May 25, 2020. It is incumbent on everyone to be patient because, in addition to this particular caseload, approximately 3000 other law and motion hearings require resetting/continuances.

**5. What about mediations that were conducted in early March? When can attorneys/parties expect to receive those reports?**

Measures are underway to address this outstanding caseload. Additionally, during the court closure period, efforts are in place to utilize technology-based solutions to conduct mediations, specifically teleconferencing and Zoom. Therefore, it is anticipated that all reports for mediations conducted in early March will be issued by May 11, 2020, and posted on the Public Case Access System.

**6. How can the Bar/Parties submit the 10-page FCS packet and Attorney Input Letters once the Court re-opens?**

As the court increases essential services during the court closure, such as mediation, the court recognizes the difficulty of submitting the 10-page FCS packet,

if the courthouse remains closed to public entry and US mail remains backlogged. Therefore, a dedicated email box will be created for this purpose. The designated email address will be contained within the FCS notification sent out to parties.

**7. Retroactive modification of support (child and spousal support) is statutorily retroactive to date of filing. How will the Court address these issues for Request for Orders dealing with retroactivity?**

The Judicial Council has addressed this issue by implementing Emergency Rule 13, effective April 20, 2020. See Judicial Council web link at <http://www.courts.ca.gov/documents/2020-04-19-rules-effective-04-20-2020.pdf>.

**Communication from Court and Future Needs**

**1. Can the Court provide more regular updates and frequent communiques with the Bar? Other county courts are scheduling calls every week or at minimum, once, a month.**

Yes. Thus far, the court has provided written updates to the legal community, including the civil bar, on March 24, 30, April 10, and 17, 2020. The court has also provided separate public notices advising of civil protocol and filing procedures on March 30, and April 20, 2020. The court has also issued separate news releases explaining the status of court operations relevant for civil operations on March 17, 19, 26, 30, and April 16, 2020. These are in addition to the separate Presiding Judge orders affecting civil operations, including the March 17<sup>th</sup> Order, March 19<sup>th</sup> Order, as well as the March 30, 2020 and April 20, 2020 Orders re: Resumption of Specified Essential Services—Civil. All of these documents have been and remain available on the court's website. In addition to all of these resources, the court is open to teleconferencing.

**2. When will the Bar be updated about continuances and how will the Court work with attorney or party unavailability for continued hearings? Has the Court considered adopting a uniform model for all continued hearings (for e.g., continuing them 2 months out, scheduled for the same day and time?)**

See responses above regarding resetting of hearings and trials. Because most trials will be reset through TSP once the range of available civil trial dates are determined by the court, parties will have control over the MSC and trial dates that they select. Under the plan to re-open civil hearings, newly-set hearings will be by reservation so they may be selected by the moving party. If court-set hearings or other hearings cannot be attended by any party, counsel may advise the applicable department.

**3. Does the Court have a protocol in place in case such a situation arises again in the fall/winter or the coming years?**

The court is aware of the potential for the recurrence or reemergence of the COVID-19 pandemic in the future. Many of the operational plans developed and being developed by the court during this period can be applied in the future if necessary and as appropriate.

- 4. When will the Court move to e-filing? If not for this current situation, what about in the near future? Is this even on the radar for discussion to avoid the back log of filing the Court will face when it reopens? Placer County launched their system approximately a week ago.**

Prior to the COVID-19 pandemic, the court was examining the potential of using an “e-delivery” system that would have similar aspects as “e-filing” for possible implementation during the summer. However, the present crisis has required the court to deploy limited IT resources towards developing technological solutions to criminal cases. As discussed earlier, the court intends to expand this to civil hearings. After urgent needs have been addressed, the court will look to diverting IT resources back to developing an “e-delivery” system.

- 5. With an eye towards speeding up when general civil becomes operational again, would it help if the parties agree to submit solely on the papers so we can get things filed and ruled on? For instance, can the attorneys prepare and file a stipulation for a new trial date? Under what timelines can this be heard ex parte or would the court consider allowing the parties to use stipulations for new trial dates rather than motions to streamline the process given Covid-19’s disruption to parties and the court?**

Once the “holiday” period is ended for civil filings relating to cases handled at the Schaber Courthouse and in the Law & Motion Departments (see above for cases handled at the Family Relations Courthouse), parties may submit stipulations and proposed orders as they have in the normal course. As to selecting trial dates however, such task is reliant upon the court first determining when civil trials can resume. For cases that will be referred back to TSP, parties will have the opportunity to agree upon new MSC and trial dates.

- 6. In order to anticipate and minimize the backlog of cases in Department 47, should we numerically increase our mandatory settlement conferences in Department 59? What can the judges pro tem do to help Judge Davidian with the backlog of cases in Department 59? Prior to re-opening, should the court offer to conduct settlement conferences in Department 59 via remote video conferencing, utilizing the judges pro tem who are trained to use remote video conferencing platforms such as Zoom?**

As discussed earlier, the court is working towards reinstating Voluntary Settlement Conferences to be conducted remotely with Department 59. The court will provide further notice when this plan becomes operational. Given the court’s limited IT resources and other relevant factors, it remains to be seen whether sufficient

equipment will be available to allow pro tem judges to operate remotely through Department 59. As discussed above, MSCs will be set through TSP.

- 7. Should the court enlist the experienced judges pro tem to help reduce case backlog in law and motion? Where could the experienced judges pro tem best be used to help with the re-opening of the courthouse? For example, if Departments 53 and 54 are inundated with a backlog of discovery motions, could Judges Brown and Krueger increase the use of discovery referees by appointing some of the judges pro tem or other experienced civil attorneys to act as discovery referees?**

The court will assess whether or not pro tem judges can be utilized under the circumstances. This may include increased use of discovery referees in the discretion of the individual judges handling each case.

- 8. How can members of the Bar assist the Court?**

The court is appreciative of how the civil bar has been largely patient and understanding during this unprecedented crisis. The court asks for this continued support as we begin to increase civil operations. There are and will be no perfect solutions to adjusting operations in response to the COVID-19 pandemic. No operational plan will please everyone. Even when civil operations begin to increase, we will surely have our share of technical issues, procedural hurdles, and other operational challenges.

Additionally, there are a number of things that the members of the bar can do which will facilitate the court's operations moving forward: (1) review and be aware of the current and evolving court orders published on the court's website as well as statewide orders; (2) review and be familiar with civil operation protocols (public notices) that are available on the website; (3) in considering litigation decisions, including the filing of new motions, be mindful of timing issues and the need to reserve hearing dates in advance for all motions in all departments; (4) be proactive and utilize meet-and-confer efforts early and to the full extent possible; (5) try to use stipulations and proposed orders to avoid motion practice to the full extent possible; (6) be open-minded and creative in formulating and suggesting solutions to resolve actions, portions of actions, and disputes within actions; (7) engage the Judicial Council and Legislature with proposals that may lessen current statutory obstacles or pressures; and (8) continue to ask questions or make suggestions to this court as necessary.

The court remains committed to do the best it can under all of the circumstances, including those unique to Sacramento County. The court looks forward to working with the civil bar as we continue this process.