





requires, among other things, that a party's request for temporary emergency orders include a written declaration regarding notice of application for emergency orders based on personal knowledge. The proposed new form would also assist courts who do not provide a local form for this purpose.

The proposal would benefit the judicial branch, along with attorneys and self-represented litigants who use the forms by clarifying, reorganizing, and rewording specific items that have caused some confusion to persons who complete the forms and to court clerks who process them.

### **Specific changes proposed to rules of court relating to form FL-300**

#### *Rule 5.12. Discovery motions*

This rule would be updated to refer to a request for order regarding discovery instead of referring to discovery motions. This change would avoid confusion for persons who may look use a form titled "motion" which no longer exists, as *Notice of Motion* (form FL-301) was revoked, effective July 1, 2012. However, the rule would be revised substantively to clarify that a request for order regarding discovery is subject to the same requirements for motions under the Code of Civil Procedure.

#### *Appearance by respondent or defendant*

This rule would be revised to include subdivision (a)(5) that a party can appear in the case by "Intentionally submitting to the jurisdiction of the court by seeking to obtain a ruling or court order that goes to the merits of the case, other than merely contesting jurisdiction." This new language is based on California case law.<sup>5</sup> The rule would also be amended to specify that Code of Civil Procedure section 1014 and Family Code sections 2012 and 3409 also fall outside of the scope of the rule.

#### *Rule 5.63. Motion to quash proceeding or responsive relief*

This rule would be amended to delete the reference to "motions." Instead, "motions" would be replaced with "request for order". This change is needed to avoid confusion to parties and attorneys since the Judicial Council previously revoked *Notice of Motion* (form FL-301), effective July 1, 2012.

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<sup>5</sup> *Chaplin v. Superior Court in and for Los Angeles County* (1927) 81 Cal.App. 367, 373-74; *Botsford v. Pascoe* (1979) 94 Cal.App.3d 62, 67.









In addition, the committee members discussed comments about deleting the orders shortening time for service or time for the hearing from form FL-300 and placing it on the proposed stand-alone form, *Temporary Emergency Orders* (form FL-305). After receiving input from small and large courts, the committee proposed that these orders remain on page 1 of the *Request for Order* (form FL-300). The input demonstrated that the requests for orders shortening time are one of the most frequently requested orders and are often the only order requested on form FL-300. Removing the order to shorten time to a separate document could decrease court efficiency in those cases by requiring the party to generate a second form for filing.

*Changes to pages 2–4 on form FL-300.*

- “This Is Not a Court Order” would be added to pages 2–4 of FL-300.
- Due to the level of concern in the previous proposal circulated in SPR13-22 in response to revising page 2 to add an entry for “Appearance at Hearing,” the committee decided not to include such a revision in the winter 2014 proposal. Any specific requests for an order for a party’s appearance could be made at item 8 (“Other Relief”) on page 4.
- The check boxes at items 1, 2, 6, and 7 would be changed. Instead of stating “To be ordered pending hearing,” these check boxes would be revised to state: “Applicant requests temporary emergency orders.” These revisions are needed to clarify that any request for relief on pages 2–4 pending a hearing is distinct from the actual temporary emergency orders granted by the court.
- Under item 6 on page 3 “Property Restraint,” the language in the check box under “a” would be expanded to reflect the full statutory language. A second sentence would be added to state: “However, the parties may use community property, quasi-community property, or separate property to pay for the help of an attorney or to pay court costs.”
- Item 9 would be expanded to distinguish between a request for an order shortening time and an order shortening time for the hearing of the request for order.
- The committee proposes other changes, including (1) expanding the space available to respond to items 1 through 4, (2) inserting “other parent/party” where appropriate throughout the form, and (3) reformatting items to clarify that a current *Income and Expense Declaration* (form FL-150) or a current *Financial Statement (Simplified)* (form FL-155) must be attached when relevant to the relief requested.

**Proposed changes to FL-300-INFO**

This form serves as the instruction sheet to help parties complete form FL-300. The committee has proposed the following extensive revisions of this form in response to comments from the legal community:

- The whole form would be reformatted similar to the plain-language format of *How Do I Ask for a Temporary Restraining Order?* (form DV-505-INFO);



- New sections to the form (on pages 1–3) would be added that provide: (1) information about when a party should or should not use form FL-300, (2) a check list of additional forms that might be needed depending upon the relief requested, (3) more detailed information about the additional requirements for seeking a temporary emergency (ex parte) order, and (4) more specific information and graphics that help explain the differences between personal service and service by mail of the request for order;
- New sections to the form on page 4 would be added to help: (1) parties understand when the *Request for Order* (form FL-300) should be served using personal service or service by mail (2) connect a party to legal services or information,(3) prepare a party for the court hearing;
- In addition, in items 4 and 7, the form would make parties aware that different local practices may apply that affect the completion or filing of the FL-300. For example, local practices differ as to whether the court clerk or the party completes page 1, item 7 of form FL-300 with the appointment date for the child custody mediation or child custody recommending counseling. Local procedures may also differ about how the court clerk processes requests for temporary emergency orders.

### **Proposed new form FL-303**

Effective January 1, 2013, the Judicial Council adopted specific rules relating to requests for temporary emergency (ex parte) orders (rules 5.151 through 5.169). Rule 5.151 (Request for emergency orders; application; required documents) requires, among other items, that a party’s request for temporary emergency orders includes a written declaration regarding notice of application for emergency orders based on personal knowledge.

There is no current Judicial Council form to help a party comply with the requirement for such a written declaration. Historically, the reason has been because courts throughout the state had adopted a variety of rules and forms regarding notice of ex parte hearings in family law matters. Local rules and forms often differed from county to county about the time frame for providing notice, which presented particular challenges to proposing a statewide form that could serve the needs of self-represented litigants or attorneys who practice in more than one jurisdiction.

With the adoption of rule 5.165 (Requirements for notice), effective January 1, 2013, the Judicial Council implemented a uniform rule in family court addressing the time frame for providing notice to the other party about the request for temporary emergency orders. The rule requires, absent the court’s approval for shortened notice or a waiver of notice, that, “[a] party seeking emergency orders under this chapter must give notice to all parties or their attorneys so that it is received no later than 10:00 a.m. on the court day before the matter is to be considered by the court.”

While some local courts offer a form for parties to complete and demonstrate their compliance with the notice requirements of rule 5.165, the committee recognizes that other courts do not.

























































































