

Rule 704. Ex Parte Matters

A. Notice of Ex Parte Application

Notice of an Ex Parte Application must be given by telephone or in writing to the self-represented party or to the opposing attorney. The notice must include a statement of the relief being requested, a statement that the opposing party is entitled to attend the court hearing in person or by an attorney, the specific date and time of the hearing, and the name and address of the court where the Ex Parte Application will be presented.

Cases not previously assigned to a specific judicial officer must be noticed to appear in the Family Law Clerk's Office at the Lamoreaux Justice Center, 341 The City Drive South, Orange, California.

Cases that have been assigned to a judicial officer for all purposes must be noticed to appear in the department of that judicial officer. ~~Departments beginning with the letter "C" are located at Central Justice Center, 700 Civic Center Drive West, Santa Ana, California. Departments beginning with the letter "L" are located at Lamoreaux Justice Center, 341 The City Drive South, Orange, California.~~

A party may request that notice be waived by submitting a declaration signed under penalty of perjury which explains facts showing good cause not to give the notice or to give shortened notice.

1. Ex Parte Applications Which Involve Domestic Violence., ~~Elder Abuse or Dependent Adult Abuse Matters~~

Notice must be given so that it is received no less than four (4) hours before the time the ex parte matter will be presented to the judicial officer, unless good cause not to give notice is shown.

2. All Ex Parte Applications Except Domestic Violence., ~~Elder and Dependent Adult Abuse Matters~~ and Discovery Motions

Notice must be given so that it is received prior to 10:00 a.m. on the court day before the ex parte matter will be presented to the judicial officer, unless good cause not to give notice is shown.

3. Ex parte family law discovery motions are governed by rule 3.1203(a) of the California Rules of Court.

B. Court Consideration

The assigned department will commence consideration of Family Law ex parte matters, other than domestic violence, at the time specified by the assigned department for the morning calendar.

For domestic violence, the assigned department will commence consideration of noticed ex parte matters at 1:30 p.m. each day. Applications submitted without notice may be considered at an earlier hour if the court's calendar allows.

C. Custody and Parenting Time Disputes

In all ex parte requests for change of custody or parenting time, the judicial officer may require an emergency investigation where parties are interviewed by Family Court Services. Such investigations may include the child or children of sufficient age to communicate. Any oral report or testimony may be considered by the judicial officer.

D. Cases Involving Juvenile Court or Child Protective Services

In any case where either the Juvenile Court or Child Protective Services is involved, a notice to that effect must be written immediately under the box entitled "other" in the section dealing with the type of relief being sought on the Order to Show Cause form. A willful failure to inform the court as to the involvement of either Juvenile Court or Child Protective Services will constitute grounds for sanctions.

E. Order Excluding a Party from the Home

A temporary restraining order prohibiting a party from the use of the family home will not be granted on an ex parte basis unless the request is supported by a declaration(s) by a witness setting forth a factual basis showing immediate and serious harm. The declaration(s) must state, in detail, the time and place of the act(s) and the exact injuries suffered by the moving party.

(Rule 704 revised effective July 1, 2014; revised effective January 1, 2013; adopted effective July 1, 1984; previously revised effective January 1, 1987, July 1, 1994, October 1, 1996, January 1, 1998, January 1, 2007, July 1, 2011.)