

Family Law Virtual Town Hall with Judge Gregory Syren
Wednesday, April 29, 2020

ACFLA and ACBA co-sponsored this Town Hall event. Donna Gibbs, Board member of ACFLA facilitated the Town Hall with Judge Syren and Dan Preddy, Past-Vice President and current Board Member of ACFLA, moderated the Chat with Judge Syren.

Judge Gregory Syren, Supervising Judge Family Law, summarized as follows:

- On 3/16/20, the Alameda County Public Health Department issued a Shelter-In-Place Order.
- On 3/17/20, per Government Code §68115, Chief Justice of CA, Tani G. Cantil-Sakauye and Judicial Council granted Alameda County Superior Court's request for emergency orders. Pursuant to the emergency orders Alameda County Superior Court closed from 3/17/20 through 4/3/20, to be considered as court holidays per CCP §§ 12 and 12A. The emergency orders also bestow broad powers for Alameda Court to effectuate the court closure. Restraining Orders were extended 30 days and the court continued to file requests for restraining orders and other temporary orders for emergency relief in family law matters.
- On 3/23/20, all jury trials were continued for 60 days and gave authority to local courts to enact emergency local rules, waiving the review period.
- On 3/30/20 jury trials were further continued, TROs were extended another 30 days and the court began to plan to make use of technology to conduct court business.
- On 4/3/20 the court closure was extended through 5/3/20 and restraining orders were extended another 30 days.
- On 4/6/20 the Judicial Council authorized remote appearances, allowed restraining orders to be extended an additional 90 days, tolled statute of limitations were extended and provided authorization for electronic service.
- Emergency Local Rule 13 deals with the modification of child and spousal support and puts in place a process of noticing the opposing party and giving the court authority for retroactivity.
- Officially there are no emergency orders beyond 5/3/20, but Judge Syren anticipates further closure in light of extension of Shelter in Place Order.
- Emergency Local Rule 3.29 requires that all civil hearings that take place in family law, civil or probate will happen remotely by telephone or videoconference and pleadings and notices may be served electronically.
- On 4/10/20 Emergency Local Rule 1.8A limited FAX filing opportunities to TROs and responses; requests emergency orders and responses; Stipulation and Orders to include appointment of private judges, mediators and experts; and DCSS filings.
- The court is in the process of opening up FAX filing and mail in filings to the following types of documents:
 - New Petitions for Dissolutions and Parentage cases;
 - Substitution of Attorney;

- Findings and Order After Hearings for hearings prior to 3/17/20 and for any remote hearings that have taken place; and
 - Limited Judgments (those submitted prior to 3/17/20 but not yet signed).
- Emergency Local Rule 5.26 allows informal settlement process for RFOs calendared up to 6/30/20.
- Emergency Local Rule 5.27 provides procedures for restraining orders in Department 502.
- Judge Desautels, Presiding Judge, suggested that anything that does not involve court reporter and clerk should proceed.
- Emergency Local Rule 5.31 allows submitting requests for orders on the pleadings for RFOs calendared through 6/30/20.
- Emergency Local Rule 5.46 sets forth procedures for settlement conferences in Department 504 with Commissioner Bishay, but no court reporter or clerk available.
- There will be no FL trials in April or May 2020 in Department 503. They do not have the bandwidth for remote trials, but we can anticipate that remote trials will take place in the future. Judge Chatterjee believes he is ready to do remote trials now. Judge Chatterjee will need to come up with a Pre-Trial Order to describe how to proceed, how to submit evidence to the court and opposing party, etc.
- Emergency Local Rule 5.66 allows electronic service by email or fax.
- On April 20, 2020 the FL Court started limited video hearings. At first, all RFOs calendared in April 2020 were reset, then when remote hearings began, the court tried to reschedule April hearings back to April. However, the rescheduling was not successful either because clerks were unable to reach both parties and attorneys or there was resistance from one side or another and the parties did not reach an agreement to a video hearing.
- Judge Syren had his first video hearing. The litigants were pro pers and the matter was regarding child custody. FCS was available for same day mediation and the parties did do separate mediations in breakout rooms. Judge Syren made orders. The whole process took about 1 hour 15 minutes.
- On 5/4/20 FL Court will start video hearings "IN EARNEST." Notices are going out this week and once parties have been noticed, the hearing will go forward whether the parties show up or not. Parties and attorneys may appear by telephone.
- The FL Clerk's Office was greatly affected by the COVID-19 crisis. Many of the clerks have children and are caring for them per the Families First Coronavirus Response Act (FFCRA) and some are in the vulnerable category either by age or other health condition and then there are challenges of being able to social distance in the office. Thus the FL Clerk's Office has been operating with a skeleton crew.
- With regard to the FL Courtroom Clerks, originally hearings were set on Mondays and Thursdays. Judge Desautels wants to expand FL hearings to everyday. Each Bench Officer will have one half day session per week. The FL and Restraining Order Remote Hearings Schedule is attached.
- Finally, Judge Syren requests that attorneys be creative and think about how to get things done that don't necessarily involve going to court.

QUESTIONS AND ANSWERS BY DONNA GIBBS AND DAN PREDDY

Q: What can be filed now?

A: Refer the Alameda County Superior Court website (www.alameda.courts.ca.gov) and go to the COVID-19 section to get the latest court news and information about Emergency Local Rules. Refer to Emergency Local Rule 1.8a for guidelines as to what documents can be filed.

Q: Is FAX file preferred method of filing documents?

A: Judge Syren has heard that FAX filing is going smoothly, there is a lot of bandwidth. The Drop Box is also available and soon mail filings will be available.

Q: Can you mail filings?

A: You can always mail filings but the mailed in documents are mostly sitting in 28 banker's boxes. Judge Syren anticipates that mail filings of documents allowed to be filed will start to be processed next week.

Q: How is Drop Box working?

A: It is working well. Judge Rodriguez reviews all TROs, including those not assigned to Department 502. The FL Clerk's Office calls parties/attorneys when temp orders, TROs, etc. are ready for pick up. It is important to provide a telephone number and email for FL Clerk.

Q: How do we receive filed copies?

A: Come pick them up from the Court. Come to the front door, tell Sheriff your case information, Sheriff relays information to FL Clerk and FL Clerk comes to front door to deliver filed documents.

Q: Is there a process to get access to files?

A: No.

Q: What is process for RFO requests for orders submitted by pleadings?

A: Emergency Local Rule 5.31 lays out procedure. The court has created a form (Local Form ALA-FL-EMER-060) Stipulation and Waiver of Right to Hearing on RFO.

Q: If parties were noticed of a BlueJeans hearing and one side has not yet appeared, what can be done?

A: Responsive pleadings may be included as an attachment to the Department's email. FL Clerks are only setting matters where both sides have been noticed.

Q: How much in advance will attorneys/parties receive notice of remote hearings?

A: Notices are going out now by mail and email. If you have a matter calendared next week and haven't received notice from the court by the Friday before, you should contact the department.

Q: Can there be an appearance by video and by telephone?

A: Yes, even if hearing is by video, parties and/or attorneys have the option to appear by telephone.

Q: Is notice bilingual?

A: No, only in English, but the court is working on it.

Q: What is the timing for hearings? Does everybody log-in at 9am or will there be staggered start times?

A: It is still a 20-minute short cause calendar, but we know how that goes. Currently everybody is getting noticed for 9:00am, but still figuring out a system. May do roll call and get everybody's contact information and tell them to be on stand-by. Just waiting on BlueJeans can drain your battery. They haven't perfected the system, but the court wants to get hearings going and will work out kinks.

Q: Can DissoMasters and other evidentiary documents be sent to the Department's email for a hearing?

A: Yes, DissoMasters and any other documents RELEVANT to the hearing may be sent to the Department by email.

Q: How to deal with attorney who double sets?

A: The moment the attorney realizes he/she has to appear in two different Departments at the same time, the attorney should email the Departments. The email should be sent directly to the Departments. Every Bench Officer's email is checked two times per week.

Q: If there is not enough time to file Responsive Pleadings or file-endorsed copy has not yet been received before a remote hearing, should it be emailed to the Department?

A: Judge Syren is not encouraging people to do this, but yes, any Responsive Pleadings, Declarations, DissoMasters, documents relevant to the video hearing can be emailed to the Department. However, Judge Syren does not want to open the floodgates.

Q: What if FCS appointment hasn't been set or parties haven't received notice that appointment set?

A: Call the FCS phone number and leave a message. Messages are checked twice per day. The mediators are not filing FCS Reports, but they are emailing to the Judicial Officer hearing the case. Same day mediation is available, but it is a good idea to email Courtroom Clerk ahead of time to notify the court that the case may need same day mediation. Judicial Officers do not necessarily have his or her Courtroom Clerks and instead have whatever Clerk is assigned to that Department on that particular day. Therefore, it is best to email the Department, not Clerk you may be accustomed to communicating with in a particular Department.

Q: How long before trials are started?

A: Hopefully by 6/1/20, but there is no crystal ball and they do not know when Shelter In Place Order will be lifted. Once Emergency Orders expire, trials may start.

Q: How is Court going to deal with potential conflict between Alameda County Public Health Department and Judicial Council?

A: Litigants and attorneys have the opportunity to appear remotely if they are not comfortable appearing in person.

Q: Will long cause hearings start?

A: For the time being only short cause matters will be heard. There are no long causes in the foreseeable future. Bandwidth is an issue and the court has no current plan to increase the bandwidth. The Hayward Hall of Justice can have up to eight Departments do BlueJeans hearings. Systemwide Alameda County has up to a total of 30 Departments that can do BlueJeans hearing simultaneously.

Q: Some other courts are closed through 5/27/20, any expectation Alameda County Superior Court will follow course?

A: There is an expectation that the court will remain closed through May 2020, but no official word yet.

Q: Is there a tutorial for BlueJeans?

A: Yes, it is available on the Alameda County Superior Court website (www.alameda.courts.ca.gov).

Q: Will adoptions start up soon? What if there is something urgent that needs to be addressed in a pending adoption?

A: Adoptions are not being processed at this time, but if there is something that needs immediate attention in a pending adoption matter, you should file a request for emergency orders.

Q: If Substitution of Attorney forms are allowed to be filed, what about Limited Scope of Representation forms?

A: Yes.

Q: Is there a Stip and Order form for Commissioner Bishay's settlement conferences?

A: They are working on it.

Q: Are informal settlement conferences available for RFOs?

A: Yes, Emergency Local Rule 5.26 allows parties to create opportunity for informal settlement conferences for RFOs. Parties must stipulate to informal settlement conference. Parties should email Department to request informal settlement conference. There will not be a court

reporter or clerk available for the informal settlement conference. These informal settlement conferences are not to take the place of a full blown settlement conference.

Q: Can Status Conferences be set?

A: Judge Syren is not opposed to it if attorneys and parties are willing to move along a case. They can email the department clerk.

Q: If the closure considers the shut down as a court holiday, are typical discovery remedies such as contempt or motions to compel suspended?

A: Correct, no contempt or motion to compel actions will be heard by the court at this time.

Q: How do attorneys receive notice of BlueJeans video hearing?

A: Notices are being sent out this week. They are fairly extensive notices which include technological use of BlueJeans; how the video hearing will be conducted; and how evidence will be presented and provided to the opposing side. Attorneys should also receive a BlueJeans invitation by email with link to hearing. Judge Syren hopes that each Department will have its own meeting ID in the future so that if you know you have a hearing set in a certain Department, you will use that Department's ID. Also, not every hearing is set for video-some are by telephone.

Q: What can attorneys do to prepare for a BlueJeans hearing?

A: Try the BlueJeans app before the hearing and be familiar with it. Go the Alameda County Superior Court website (www.alameda.courts.ca.gov) to do the BlueJeans tutorial.

Q: What can be done if there are technical difficulties?

A: If a telephone and computer are being used at the same time, this tends to create problems so this should be avoided. Interpretation is complicated on BlueJeans because interpretation needs to be done consecutively, not concurrently.

Q: Will anything be done about the bandwidth issue?

A: No.

Q: Are all Departments doing video hearings?

A: Yes.

Q: Will there be trials by video?

A: Yes, eventually.

Q: Is there a mechanism for third party witnesses on BlueJeans?

A: Yes, any witnesses other than parties can wait in break out rooms until ready for testimony.

Q: Can parties request settlement conferences not on the calendar?

A: Commissioner Bishay willing to entertain settlement conferences not on calendar. Attorneys should contact Commissioner Bishay directly at mbishay@alameda.courts.ca.gov

Q: What is happening with Judgments submitted right now?

A: They are sitting there.

Q: What about Judgments that have timing issues and need immediate orders?

A: File an ex parte.

Q: What is the plan for the 28 banker boxes with documents waiting to be filed?

A: Emergency Local Rule 1.8A allows clerks to go through mail to figure out allowable documents to be filed.

Q: What if important documents were submitted and are documents that are allowed to be filed?

A: Call the Clerk's Office to fish out the documents to file.

Judge Syren is considered an essential worker and goes to work everyday. If anybody has suggestions or concerns email Department 516: dept516@alameda.courts.ca.gov