



SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY

1200 Aguajito Road, Monterey, California 93940, 647-5800 ext 3017
www.monterey.courts.ca.gov

TIMOTHY P. ROBERTS
Presiding Judge

ADRIENNE M. GROVER
Past Presiding Judge

CONNIE MAZZEI
Court Executive Officer

ROSALINDA CHAVEZ
*Assistant
Court Executive Officer*

**TO: MEMBERS OF THE MONTEREY COUNTY BAR
AND THE FAMILY LAW SECTION**

FROM: JUDGE SUSAN J. MATCHAM

DATE: JANUARY 3, 2011

SUBJECT: GUIDELINES FOR FAMILY LAW CASES – DEPARTMENT 13

Beginning January 3, 2011 the following guidelines will be instituted in Department 13.

LATE FILINGS

The Court will not consider late filed papers for Order to Show Cause (OSC) and Notice of Motion (NOM) hearings. Papers, to be considered by the court, must be timely filed according to the Code of Civil Procedure (CCP) §1005(b)¹.

DECLARATIONS

Declarations in support of OSCs and NOMs must be limited to facts and not contain legal arguments.

Declarations must only contain admissible evidence based upon personal knowledge.

Declarations may not be based on speculation.

Declarations may not be used to attack the other side. Declarations that contain belittling, argumentative, improper, or mean spirited accusations will be considered bad faith actions. The Court will consider various remedies for improper declarations including: striking a portion of the declaration, striking the entire declaration, continuing the matter so that a proper declaration can be filed, and/or monetary sanctions.

FAMILY CODE SECTION 217 HEARINGS

The parties will identify in their petitions, opposing papers, or reply papers whether they will request an evidentiary hearing for a noticed OSC or NOM, pursuant to Family Code (FC) §217. Those cases that have only the parties as witnesses may trail on the calendar and be taken up as court time is available. For those cases where the parties do not wish to trail, or that have filed witness lists, a special set date will be

¹ Filing of NOM or OSC, along with all moving and supporting papers, must occur no later than sixteen (16) court days before the hearing. Filing of Opposing papers must occur no later than nine (9) court days before the hearing. Filing of Reply papers and Settlement Conference Statements must occur no later than five (5) court days before the hearing.

given, along with pending orders on the matters at issue. The court will make every effort to accommodate evidentiary hearings as soon as possible. Special set cases will either be set in Department 13, or sent to the civil presiding judge for assignment depending on the availability of court time, judicial officers, and court staff.

The Court may make a finding of good cause to refuse to receive live testimony under FC §217. Until such time as regulations are adopted by the Judicial Council, the Court will consider the following factors in making a finding of good cause to refuse to receive live testimony:

- 1) Whether a substantive matter is at issue, such as child custody, visitation, parentage, child support, spousal support, request for restraining orders, or the characterization, division, or temporary use and control of the property or debt of the parties;
- 2) Whether material facts are in controversy;
- 3) Whether live testimony is necessary for the court to assess the credibility of the parties or other witnesses;
- 4) The right of the parties to question anyone submitting reports or other information to the court;
- 5) In testimony from persons other than the parties, whether there has been compliance with FC §217(c); and
- 6) Any other factor that is just and equitable.

I look forward to working with all attorneys, staff, and litigants in the Family Law Department 13 in 2011. If the Court can be of assistance in any way please free to contact this Department through Courtroom Clerk Lonneta Dorsey at 647-5434.

Sincerely,

Honorable Susan J. Matcham
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County of Monterey**
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