

# SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

## Summary of Proposal to Add rule 5.37 to Title 5, Division 1, Chapter 1 of the Local Rules

### Requests to appear by telephone

The proposal to add rule 5.37, entitled *Request to appear by telephone* to the court's Local Rules ("Rules") is part of the court's continuing effort to review, correct, and update its Rules as needed.

---

#### SUMMARY

This new rule clarifies how a litigant in a family law case may request a telephone appearance in a family law proceeding.

Below is the full text of proposed local rule 5.37 with deletions noted in **strikethrough** and additions noted in underline.

---

#### **Proposed New Local Rule 5.37. Request to appear by telephone**

##### **(a) Application**

This rule applies to all family law cases, including those brought under the Domestic Violence Prevention Act, except Title IV-D child support hearings and conferences.

##### **(b) General provision regarding telephone appearance at family law status conferences, family centered case resolution conferences, and hearings to review the dismissal of an action**

Telephone appearances by a party or an attorney for a party may be authorized for appearances at family law status conferences, family centered case resolution conferences, and hearings to review the dismissal of an action.

##### **(c) Required personal appearances**

A personal appearance is required for hearings, conferences, and proceedings not listed in subsection (b), including the following:

- (1) Trials and hearings at which witnesses are expected to testify;
- (2) Settlement conferences, whether mandatory or voluntary;
- (3) Hearings on motions in limine;
- (4) Hearings on an order to show cause why sanctions should not be imposed for violation of a court order or rule, provided that the personal appearance is required only of the person to whom the order is directed;

# SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

(5) Persons ordered to appear in any order or citation issued under the Probate Code.

## **(d) Court discretion to deny or grant an individual request**

Notwithstanding the provisions of subsections (b) and (c) above, the court may deny or grant a request to appear by telephone if the court determines that it is appropriate to do so in an individual case.

## **(e) Need for personal appearance**

If, at any time during a hearing, conference, or proceedings conducted while any person is appearing by telephone, the court determines that a personal appearance is necessary, the court may continue the matter and require a personal appearance.

## **(f) Notice by party**

(1) A party or attorney who wishes to appear by telephone at a family law proceeding must file and serve an *Application and Order for Telephone Appearance* (ALA FL-037) at least 12 court days before the date set for the proceedings.

(2) Service of the *Application and Order for Telephone Appearance* (ALA FL-037) must be made by personal delivery, fax transmission, express mail, or other means reasonably calculated to ensure delivery to the parties no later than the close of the next business day.

(3) If, after receiving notice from another party or attorney provided under subsection (1), a party or attorney that has not given notice also decides to request authorization to appear by telephone, that party must file and serve a *Request to Appear by Telephone* no later than noon on the court day before the conference or hearing. Service of the *Application and Order for Telephone Appearance* (ALA FL-037) must be made by personal delivery, fax transmission, express mail, or other means reasonably calculated to ensure delivery to the parties no later than the close of the next business day.

## **(g) Provision of telephone appearance services**

The provisions for telephone appearances that apply to general civil actions, including provisions concerning the method, fees to appear by telephone and collection of those fees, effect of fee waivers, audibility procedures, reporting of proceedings during which a party or attorney appears by telephone, apply to telephone appearances in family law matters.