# FL-304-INFO How to Reschedule a Hearing in Family Court

## 1 General Information

This form provides information about how to obtain a court order to reschedule a hearing in family court. This information sheet may not cover everything you need to know about rescheduling a hearing in your court. To learn more:

- Find a lawyer through your local bar association, the State Bar of California at www.calbar.ca.gov, or the Lawyer Referral Service at 1-866-442-2529. For free and low-cost legal help (if you qualify), go to www.lawhelpca.org.
- Contact the family law facilitator or self-help center for information and assistance, and referrals to local legal services providers. Go to www.courts.ca.gov/selfhelp-courtresources.htm.
- Read California Rules of Court, rules 5.92 through 5.95, for the procedures to reschedule a hearing.
- Read rules 5.151 through 5.169 for the procedures to notify and serve the other party with a request to reschedule.

You can find these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.

## 2 Written agreement (stipulation) to reschedule a hearing (form FL-308)

The judge in your family court case may order that the hearing date be rescheduled based on an agreement (stipulation) between the parties or their attorneys.

You may use *Agreement and Order to Reschedule Hearing* (form FL-308) if you do not want to change temporary emergency orders. You may use a local form approved by the court, or write your own agreement.

You must follow your court's local procedures to obtain the new hearing date from the court clerk.

If the court has issued temporary emergency orders and those orders are in effect, the parties could further agree that those emergency orders will remain in effect until the end of the new hearing. A draft of a new temporary order with new end dates may have to be given to the court for the judge to sign with your agreement.

When the parties have signed the agreement, you can present it to the court on the day of the hearing, but it is best if you can file it at least five days before that date, so the judge doesn't have to read your file multiple times.

***Remember,*** the agreement is not an order until it is signed by a judge.

Some courts may limit the number of times the parties can agree to rescheduling a hearing. Check your local court rules before submitting your written agreement. For information about how to write up your agreement, get it approved by the court, and filed in your case, see www.courts.ca.gov/selfhelp-agreeFL, speak with an attorney, or get help at your court's self-help center or the Family Law Facilitator.

If you and the other party do not have an agreement, the party who wants to reschedule the hearing must file papers, such as form FL-306 or form FL-307, to ask for a court order.

## 3 When to use *Request to Reschedule Hearing* (form FL-306)

You may use this form to ask to reschedule the hearing if the request for order or order to show cause you want to reschedule:

- Does *not* include temporary emergency (ex parte) orders;
- Was not served on the other parties; or
- Was served, but there is a good reason why the hearing should be changed to a new date. See 6 for other requirements.

Form FL-306 may also be used to reschedule a hearing to be able to meet with a child custody mediator or recommending counselor before the hearing.

If this situation applies to you, ask your mediator or child custody recommending counselor for information.

Most courts have local procedures and forms for rescheduling a hearing but will accept form FL-306 or your agreement to reschedule the hearing.

Do not use form FL-306 to ask to change the date of a domestic violence restraining order hearing. For more information, read *How to Ask for a New Hearing Date* (form DV-115-INFO).



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## 4 When to use *Request to Reschedule Hearing Involving Temporary Emergency (Ex Parte) Orders* (form FL-307)

You may use form FL-307 to ask to reschedule the hearing if the request for order or order to show cause you want to reschedule:

} Includes temporary emergency (ex parte) orders.

} Was not served on the other parties.

} Includes property restraint orders and you are the responding party.

} Was served but there is a good reason why the hearing should be changed to a new date. See 6 for other requirements.

Form FL-307 may also be used to reschedule a hearing to be able to meet with a child custody mediator or recommending counselor before the hearing.

If this situation applies to you, ask your mediator or child custody recommending counselor for information. Most courts have local procedures and forms for recheduling, but will accept form FL-307 or your agreement to reschedule the hearing.

Do not use form FL-307 to ask to change the date of a domestic violence restraining order hearing. For more information, read *How to Ask for a New Hearing Date* (form DV-115-INFO).

## 5 What if I need to reschedule a hearing because the *Request for Order* or an order to show cause was not served on the other party?

You should complete and file with the court a written request to reschedule the hearing and a proposed order at least five court days before the hearing, unless you have a very good reason to submit them later.

Another option is to appear in court on the date of the hearing and ask the court to reschedule the hearing. In this case, the party is not required to file a written request but must complete and submit a proposed order to the court. *Order on Request to Reschedule Hearing* (form FL-309) must be used for this purpose.

## 6 What if I need to reschedule the hearing for a good reason after the *Request for Order* or an order to show cause was served?

} ***Complete a written request and a proposed order.***
You may use form FL-306 or FL-307, whichever form applies to your case, and must use *Order on Request to Reschedule Hearing* (form FL-309).

} ***Follow your court's local rules.***
To get a date for the court to consider your request to reschedule the hearing, find your court's local rules online at *www.courts.ca.gov/3027.htm* and follow them.

! Some courts will set a court hearing for the judge to consider the request to reschedule. Other courts do not have a hearing, but will make an order based on the papers submitted to the court clerk. Before you complete any forms, it is important that you know how your court handles requests to reschedule a hearing.

} ***Notify and serve the other party.***
The other party must be given notice of the request to reschedule the hearing and given a copy of the documents at the first reasonable opportunity before the court can consider the request. You may also include a blank *Responsive Declaration to Request to Reschedule Hearing* (form FL-310).

} ***Submit the written request and order to the court.***
You should complete and file with the court a written request to reschedule the hearing and a proposed order at least five court days before the hearing, unless you have a very good reason to submit them later.

! When you submit the request and order, you must also submit to the court proof that the party was notified and served with the documents. You may use *Declaration Regarding Notice and Service of Request for Temporary Emergency (Ex Parte) Orders* (form FL-303), a local court form, or a declaration that contains the same information as form FL-303.



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} ***Follow your court's procedure for obtaining the court order on your written request.***

If for some reason, you do not receive a response to your request to reschedule from the court before the hearing, you should still attend the hearing, or the court may make a decision without you.

} ***Make an oral request on the date of the hearing.***

Another option is to appear in court on the date of the hearing and ask the court to reschedule the hearing. In this case, the party is not required to file a written request but must complete and submit a proposed order to the court. *Order on Request to Reschedule Hearing* (form FL-309) must be used for this purpose.

## 7 What do I do after the court makes the order?

You must have the other party served with the order and other documents. For example:

} An *Order on Request to Reschedule Hearing* (form FL-309);

} A filed *Request for Order* (form FL-300) or other moving papers;

} Any temporary emergency (ex parte) orders; and

} Other papers that the court requires you to serve.

Prepare for your hearing. Find more information online at *www.courts.ca.gov/1094.htm*.



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