

## **Probate Court 503 Policies and Procedures - Honorable Olga Álvarez**

Central Division, Central Courthouse

Effective: July 15, 2024

### **Honorable Olga Álvarez Presiding**

#### **Probate Department Courtroom Staff:**

Court Clerk: Bianca Leon-Alvarez

Bailiff: Glenn Parian

Courtroom: (619) 844-2053

### **Remote Appearances**

Court appearances may be made either in person or virtually, unless otherwise ordered by the Court. Virtual appearances must be made using the department's Microsoft Teams ("MS Teams") video link; or by calling the department's MS Teams conference phone number and using the assigned conference ID number. The MS Teams video conference links and phone numbers can be found at <http://www.sdcourt.ca.gov/ProbateHearings>.

Upon being allowed entrance into the calendars hearing, parties are reminded to keep themselves muted until their matter is announced in order to avoid any distractions and disruptions during the hearing.

### **Contested and/or Personal Appearance Ex Parte Applications**

Reservations are not permitted. Contested applications require an appearance and are heard on Tuesdays at 10:30 a.m. and Fridays at 8:45 a.m. Any party seeking ex parte relief must complete the mandatory Probate Ex Parte Coversheet (PR-136), ex parte petition, supporting declaration, declaration regarding notice and an order. Ex parte documents should be filed in the business office, via mail or e-filed – All attorneys are mandated to electronically file. Any virtual appearances shall follow the section on the remote appearances.

All ex parte applications must comply with rule 3.1200 et seq. of the California Rules of Court.

The Court will not hear contested matters unless the moving papers show extraordinary circumstances. See San Diego Court Rule 4.7.5

### **Ex Partes drops – uncontested matters**

Ex parte drops are not set for hearing but are considered by the Court daily at 3:15pm without an appearance by parties. Ex parte requests must be received by 10:00 a.m. to be considered that same day. If received after 10:00 a.m., ex parte application will be considered the next business day as set forth under Probate local Rule 4.7.6. Also, please follow the ex parte notice section below.

### **Ex Parte Notice**

A party seeking ex parte relief must provide notice to all persons entitled to notice. The Court considers "reasonable notice" to mean by 10:00 a.m. the day before the Ex Parte appearance, absent a showing of exceptional circumstances. A separate Declaration of Notice, including the date, time, manner, and name of the party informed, the relief sought, any response, and whether opposition is expected, or a Declaration stating reasons why notice should not be required, **must** accompany every request for an Ex Parte order. The Court will not consider a request to waive notice when the recipient's address is unknown unless the declaration required by the California Rules of Court 7.52 is submitted.

All applicants for ex parte relief are expected to comply with the California Rules of Court 3.1200 et seq., and the San Diego Superior Court Rules, 4.7.5 and 4.7.6.

Counsel and/or propria persona are reminded that an Ex Parte application requires an affirmative factual showing by Declaration containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other basis for Ex Parte relief. Ex Parte Applications must include a separately prepared Order.

### **Law and Motion**

Law and Motion matters are heard at 10:30 a.m. on Wednesday, in accordance with the California Rules of Court. In most cases, the Court will post a Tentative Ruling by Tuesday afternoon at 4:00 p.m. The ruling may be accessed online at the probate section of the court's website, [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov). If all counsel wish to submit on the Tentative Ruling rather than appear for argument, please contact the department clerk to advise the Court.

Deadlines for filing Law and Motion Pleadings are governed by the Code of Civil Procedure and the California Rules of Court. Provisions of the Local Rules of Probate, which are inconsistent with the Code of Civil Procedure, are not applicable to Law and Motion matters and will not be observed by the Court. Late pleadings will not be considered.

**When a matter settles, or a hearing is otherwise unnecessary, PLEASE notify the Clerk at the earliest opportunity so that limited Court resources will not be wasted reviewing the Motion.**

### **Trials and Evidentiary Hearings**

The Court's hearing schedule is from 9:00 a.m. to 12:00 p.m., and 1:30 p.m. to 4:30 p.m., with a 15-minute recess in the morning and afternoon. Counsel must complete their matters within the time allotted.

Parties are advised that five court days prior to trial, trial briefs, joint witness lists and joint exhibits must be filed with the court and served on all parties. (Local Rule 4.22.11.) Witness lists are to contain time estimates for direct and cross-examination. If there are any witnesses that are appearing virtually, they are to be provided with paper copies of exhibits.

The parties must pre-mark all proposed exhibits prior to the time of the hearing. Counsel should coordinate in advance to avoid duplication of exhibit numbers. Please provide at least two extra sets of

exhibits for the Court and the Witnesses. More copies may be required depending on the number of witnesses and parties. Please confirm with the Clerk that exhibits have been properly marked prior to the commencement of trial.

For trials and evidentiary hearings, the parties and attorneys must appear in person, witnesses may appear in person or through MS Teams video. A witness may not testify by telephone, without video, unless they receive authorization from the court in advance of the trial or evidentiary hearing. Each party should ensure that each of its witnesses has the necessary equipment and ability to appear by video. Otherwise, absent prior authorization for telephone testimony, the witness must appear in person, because the court's ability to see as well as to hear a witness in a contested matter materially assists the court in the determination of the proceeding and in the effective management or resolution of the case. See Code of Civil Procedure 367.75(b)(2), (b)(3) [effective 1/1/22]; and California Rules of Court 3.672(d)(1) [effective 1/1/22].

Parties are reminded of the provisions of San Diego Superior Court Rules 4.22.8 and 4.22.9 relating to Trial Readiness Conferences and Rule 4.22.11 relating to trial briefs, motions in limine, witness and exhibit lists, and marking of exhibits. Counsel are to meet and confer in advance as to the admissibility of exhibits. Trial briefs should include: (a) enumeration of the issues to be tried and the parties' positions thereon, including the relief sought (and any specific dollar amounts sought) on the enumerated issues as delineated the original petition; (b) statements of the applicable facts and law, including the applicable standard(s) of proof, the party bearing the burden of proof and any burden shifting; (c) any unusual evidentiary or legal issues anticipated at trial; and (d) all matters of fact to which the parties stipulate.

### **Hearings on Sales of Real Property**

Reports of Sale and Petitions for Order Confirming Sale of Real Property in Probate (JC Form #DE-260/GC-60) are heard on Tuesdays at 11:00 a.m.

A potential overbidder should have in his or her possession at the confirmation hearing sufficient certified funds or cashier's checks as a deposit in an amount equal to at least 10% of the amount he or she will bid, and a loan qualification letter or bank statements verifying the buyer's ability to complete the sale.

When there is a successful overbid in open court on a sale of real property, an "Increased Bid in Open Court" (SDSC PR-065) must be completed, signed, and filed with the court before the conclusion of the hearing; otherwise, confirmation is not effective.

If the overbidding party is appearing virtually for the proceeding, that party must have the immediate ability to transmit the SDSC PR-065 form to the courtroom clerk by email.

A potentially overbidding party is encouraged to confer with the moving party in advance of the hearing to ascertain whether the overbidding party is qualified to bid, typically by presenting the above-referenced deposit. Due to the foregoing logistical requirements, the court encourages the moving party and any overbidding party to appear in person (rather than virtually) at the hearing to minimize the necessity for a continuance.

See San Diego California Local Rules 4.13.11 and 4.13.12

**Case Management Conferences**

The Court expects compliance with San Diego Superior Court Rule 4.22.6 in advance of all Case Management Conferences, unless compliance is expressly waived by the Court.

**Stipulation and Orders**

Any stipulation/orders filed by the parties shall clearly state the hearings and petitions, including all ROA#s to be vacated, dismissed or taken-off calendar.

**Telecourt**

As of March 1st, 2024, Telecourt has been suspended until further notice by the Court. The Court will reassess its ability to resume this service when a fourth Probate Department is added.

Thank you,  
Judge Olga Álvarez