

Honorable Jeffrey S. Bostwick Presiding

Probate Department Courtroom Staff:

Court Clerk: Melisa Wong-Jimenez
Bailliff: Rafael Flores

Courtroom: (619) 844-2054

A. Contested Ex Parte Applications

1. Prerequisite Showing:

The court will not hear ex parte contested matters unless the moving papers show extraordinary circumstances. See San Diego Court Rule 4.7.6 (L). Counsel and all self represented parties are reminded that an ex parte application requires an affirmative factual showing by a written declaration signed under penalty of perjury which contains competent testimony based on personal knowledge that irreparable harm, immediate danger, or any other extraordinary circumstances exists.

2. Ex Parte Days/Times:

Contested ex parte applications will be heard by reservation only on Tuesday and Friday at 8:45 AM. **Moving papers and declarations must be filed by 10:00 A.M. the day preceding the hearing.** A reservation for an ex parte hearing may be obtained from the business office when the ex parte applicant submits the Probate Ex Parte Coversheet (PR-136) with the ex parte petition and order. There is a limit on the number of reservations.

3. Required Notice:

A party seeking ex parte relief must provide notice to all persons entitled to notice. Parties appearing ex parte must serve the application, or any written opposition, on all other appearing parties no later than 10:00 AM the day before the ex parte appearance. Absent exceptional circumstances, no hearing shall be conducted unless the ex parte applicant can show such notice has been provided by the timely service of these papers.

A showing that timely notice as provided herein has been provided requires the ex parte applicant to present the court with a written Declaration of Notice signed under penalty of perjury that includes the date, time, manner, and name of the party informed, the relief sought, any response, and whether opposition is expected. Unless exceptional circumstances excusing notice are claimed, this declaration **must accompany every request** for an ex parte order.

If the ex parte applicant claims exceptional circumstances excuses notice of the ex parte hearing, the applicant shall present the court with a written declaration signed under penalty of perjury clearly stating the reasons why notice should not be required. This declaration **must** accompany every request for an ex parte order where relief is sought without notice to the opposing party. 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, Rule 7.52 is also submitted.

4. Rules of Court:

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

5. Order:

Ex Parte Applications must include a separately prepared order.

B. Law and Motion

Law and Motion matters are heard at 1:30 PM on Thursday. In most cases, the Court will post a Tentative Ruling by Wednesday afternoon at 3:00 PM. The ruling may be accessed online at the probate section of the court's website, 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, that 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.

Counsel shall not submit their Motion or Points & Authorities with the request for Ex Parte hearing. The Court does require, however, a **brief** pleading, no longer than one page, double-spaced, stating the discovery issue(s) to be calendared for hearing.

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.

C. Trials and Evidentiary Hearings

The Court hears trials and evidentiary hearings calendars on Fridays. The Court sets the dates for a trial or evidentiary hearing. The trial and evidentiary hearing schedule is 9:00 AM to 12:00 PM, and 1:30 PM to 4:30 PM, with a 15-minute recess in the morning and afternoon. Counsel must complete their matters within the time allotted.

Exhibits must be pre-marked. All evidence must be pre-marked by the Court Clerk. Please provide an extra set of exhibits for the Court and the witnesses. **Please confirm with the Clerk that exhibits have been properly marked prior to the commencement of trial.**

D. 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/ProbateVirtualHearings>.

E. Telecourt

For matters that are set to be heard on the Court's "Accounting" calendar, which is held on Tuesdays at 9:00 A.M. and the "Estate Appointments" calendar which is held Tuesdays at 11:00 A.M., the Court conducts Telecourt on the preceding Monday at 4:00 P.M. For matters that are set to be heard on the Court's "Miscellaneous Probate" calendar, which is held on Wednesdays at 9:00 A.M., the Court conducts Telecourt on the immediately preceding Tuesday at 4:00 P.M.

Telecourt is not available for the "Guardianship Appointment" calendar held on Wednesday at 1:30P.M., the "Conservatorship Appointment" calendar held on Thursday at 9:00 A.M. or the "Review Hearing" calendar held on Monday at 10:30 A.M.

Telecourt is only appropriate for non-contested matters that are ready for pre-approval as well as non-contested requests for continuances. The Court will not continue a matter unless all parties who have appeared in the matter agree in advance to the request, including court appointed counsel and guardians ad litem.

Thank you,
Judge Jeffrey S. Bostwick