

Probate Court 503 Policies and Procedures - Honorable Olga Álvarez

Central Division, Central Courthouse

Effective: April 1, 2023

Honorable Olga Álvarez Presiding

Probate Department Courtroom Staff:

Court Clerk: Hannah Snyder

Bailiff: TBD

Courtroom: (619) 844-2053

Contested and/or Personal Appearance Ex Parte Applications

Contested Ex Parte Applications, or those where counsel wishes to see the Judge, will be heard by reservation only, Tuesday at 10:30 a.m. and Friday at 8:45 a.m. **Moving papers, and declarations, must be filed in the business office by 10:00 a.m. the day preceding the hearing.** A reservation may be obtained by coming into the business office and submitting the Probate Ex Parte Coversheet (PR-136) with an ex parte petition and order. There is a limit on the number of reservations. The court will not hear contested matters unless the moving papers show extraordinary circumstances. See San Diego Court Rule 4.7.6 (L).

Parties appearing ex parte must serve the application, or any written opposition, on all other appearing parties at the first reasonable opportunity. Absent exceptional circumstances, no hearing shall be conducted unless such service has been made.

All Ex Parte Matters

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 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 3:00 p.m. 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 Procedures and the California Rules of Court. Provisions of the Local Rules of Probate, which are inconsistent with the Code

of Civil Procedures, **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.

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 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

For trials and evidentiary hearings, 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].

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>

Telecourt

For matters that are set to be heard on the Court's "Miscellaneous" Probate calendar, which is held on Tuesdays at 9:00a.m., the Court conducts Telecourt on the preceding Monday at 3:00 p.m. For matters that are set to be heard in the Court's "Estate" calendar, which is held on Thursdays at 1:30 p.m., as well as matters that are set to be heard on the Court's "Accountings" calendar, which is held on Thursdays at 2:30 p.m., the Court conducts Telecourt on the immediately preceding Wednesday at 3:00 p.m.

Telecourt is not available for the "Guardianship Appointment" calendar held on Wednesday at 8:45 a.m. or the "Conservatorship Appointment" calendar held on Thursday at 10:30 a.m. or the "Review Hearing" calendar held at 11:00a.m. on Mondays. Personal appearances are required for these calendars.

The Telecourt phone number is (619) 844-2817.

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 Olga Álvarez