



## DEPARTMENT POLICIES AND PROCEDURES

### Dept. SM1

**The Honorable Patricia L. Kelly**  
**Judge of the Superior Court**

*COURTROOM CLERK: Cynthia Barajas-Garcia*  
*JUDICIAL SECRETARY: Alison Villarruel*

*DEPT. TELEPHONE: 805-614-6500*  
*DEPT. E-MAIL: [SM1Continue@sbcourts.org](mailto:SM1Continue@sbcourts.org)*

Welcome to Department SM1. The court assumes counsel have read and familiarized themselves with the California Rules of Court and the Santa Barbara County Local Court Rules. Please keep in mind that each Judge may have certain additional requirements. Ex parte setting, trial setting, and trial preparation practices have nuances individual to each department. Below you will find helpful policies and procedures which are particular to Department SM1.

### Court Calendar

#### **Monday**

9:00 a.m. – Evidentiary Hearings/Court Trials/Jury Trials – *Personal appearances required*

#### **Tuesday**

8:30 a.m. – Case Management Conferences – *Zoom authorized\**

9:30 a.m./1:30 p.m. – Evidentiary Hearings/Court Trials/Jury Trials – *Personal appearances required*

#### **Wednesday**

8:30 a.m. – Adoption, Civil Law & Motion, Probate/Conservatorship/Guardianship – *Zoom authorized\*, except for Adoptions*

9:00 a.m./1:30 p.m. – Evidentiary Hearings/Court Trials/Jury Trials – *Personal appearances required*

#### **Thursday**

8:30 a.m. – Family Law & Motion – *Zoom authorized\**

1:30 p.m. – Evidentiary Hearings/Court Trials/Jury Trials – *Personal appearances required*

#### **Friday**

8:30 a.m. – Small Claims Appeals – *Personal Appearances Required*

9:00 a.m. – Evidentiary Hearings/Court Trials/Jury Trials – *Personal appearances required*

\*The court reserves the right to require in-person appearances for any matter on calendar.

### Zoom Appearances

Zoom appearances in Dept. SM1 are authorized for certain hearings as set forth in the above “Court Calendar” section. If extenuating circumstances exist that require a remote appearance, the court requires the filing of local Form SC-2073, *Request to Appear by Zoom Videoconference/Order*, at least 10 calendar



days prior to the hearing date for the court's review and consideration. Zoom is typically not authorized for ex parte hearings or Mandatory Settlement Conferences, and the court discourages the filing of a request unless exigent circumstances exist.

Make sure that your video and audio are muted until your case is called and that your name is reflected on your screen. Direct all chat messages to the Courtroom Clerk. If you are in a vehicle, you must be parked when your case is called. Assess your surroundings before turning on your video to make sure your background is not offensive or unprofessional. More detailed information on Zoom appearances can be found at: <https://www.santabarbara.courts.ca.gov/system/files/general/zoom-information-civil-2025.pdf>.

### **Ex Parte Matters (Civil)**

Civil ex parte hearings are set at the court's discretion and the department's availability. To request a civil ex parte matter, contact Judicial Secretary Alison Villarruel at (805) 614-6500. Please reflect on the Rules of Court and Local Rules applicable to ex parte matters – mere desire for expediency is not sufficient. The court strongly disfavors unnecessary ex parte hearings and requires the personal appearances of both parties on all ex parte matters. Where possible, ex parte applications or a stipulation with a proposed order can be filed with the clerk's office which the court will review via the filings and determine if a further hearing is needed.

### **Ex Parte Matters (Family)**

For ex parte requests relating to family law matters, in the North County, please follow the procedures as set forth at <https://www.santabarbara.courts.ca.gov/system/files/general/ex-parte-instructions-cook-division-0223-2024.pdf>. We DO NOT provide hearing dates for ex parte family law matters prior to the judicial officer's review. You must file your documents without a hearing date inserted. The judicial officer will review your documents and decide if you need an ex parte hearing or an order shortening time. If required, the court will assign a hearing date and time.

### **Courtroom Etiquette**

Whether appearing in-person or by Zoom, all parties will respect the department's rules of etiquette, even when waiting for their case to be called. There shall be no sunglasses or head coverings worn, i.e., hats or hoodies, unless for religious purposes, and this should be addressed with the bailiff upon entrance into the courtroom. No eating, including chewing gum, or drinking (other than water) is allowed in the courtroom. Cell phones are not to be used in the courtroom and should be turned off or placed on silent. If a call must be made, the party must step into the lobby.

### **Tentative Rulings**

To the extent practicable, the court will post tentative rulings on civil law and motion and probate matters on the court's website no later than 5:00 p.m. the day before the hearing. Tentative rulings are located at <https://www.santabarbara.courts.ca.gov/online-services/tentative-rulings>.



### **Pre-Trial**

- Case Management Conferences (CMC)
  - a. Case Management Statements are required to be filed for every CMC, unless otherwise specifically ordered. The court expects that counsel will be prepared to thoroughly discuss the status of the case, discovery, amenability to mediation, and any unusual factual, legal, or evidentiary issues that may need resolution. Counsel who fails to appear will typically be set for an Order to Show Cause hearing as to why sanctions should not be issued.
  - b. Early mediation is strongly encouraged. Good faith participation in mediation will ordinarily excuse participation in a Mandatory Settlement Conference.
- Mandatory Settlement Conferences (MSC)
  - a. A Mandatory Settlement Conference will be required, in appropriate cases, at least ten (10) days prior to trial.
  - b. The MSC will be set on the record by the judge to which the case is assigned. Personal appearances are required at the MSC and Zoom will not be authorized. Last-minute cancellations and date changes are not authorized.
  - c. The judicial secretary will send out the *MSC/Mediation Requirements* to the parties. The requirements are to be filed with the court one (1) week prior to the scheduled MSC.

### **Non-Jury Trials**

- The decision of the court will be directed to the List of Controverted issues prepared at the Issues Conference. Trial briefs directed at key controverted issues, complete with points and authorities, shall be submitted to the court no later than three (3) days prior to the date set for trial.
- If the court orally announces its tentative decision, the court will orally make a statement of decision. Immediately thereafter, any party may specify controverted issues, make proposals not covered in the tentative decision, or make proposals as to the content of the statement of decision to which the court will respond orally. Counsel/parties shall comply with Code of Civil Procedure, section 632 and California Rules of Court, Rule No. 3.1590 with respect to requests for a Statement of Decision.

### **Jury Trials**

- Trial briefs, with a separate agreed upon statement of the case, are to be e-filed at least five (5) court days before the trial date with a courtesy copy e-mailed to [SM1Continue@sbcourts.org](mailto:SM1Continue@sbcourts.org). Use eFiling code “Trial Brief” and add the trial date in the Filing Description field.



- A joint exhibit list, to the extent possible, and separate exhibit lists otherwise, is to be e-filed at least five (5) court days before the trial date with a courtesy copy e-mailed to [SM1Continue@sbcourts.org](mailto:SM1Continue@sbcourts.org). Use eFiling code “Exhibit List” and add the trial date in the Filing Description field.
- Witness lists must be e-filed to show to the jury at the outset of voir dire with a courtesy copy e-mailed to [SM1Continue@sbcourts.org](mailto:SM1Continue@sbcourts.org) at least five (5) court days before the trial date. Use eFiling code “Witness List” and add the trial date in the Filing Description field.
- A joint statement of the case for the benefit of the jury to be read during voir dire is to be e-filed five (5) court days before the trial date, with a courtesy copy e-mailed to [SM1Continue@sbcourts.org](mailto:SM1Continue@sbcourts.org). Use eFiling code “Statement” and add the trial date in the Filing Description field followed by “Joint”.
- Mini-opening statements of no more than three (3) minutes per side are allowed before jury selection. Those must be e-filed with the court in writing at least five (5) days before trial. Use eFiling code “Statement” and add the trial date in the Filing Description field followed by “Opening”.
- A list of proposed jury instructions by CACI numbers and any pinpoint instructions, special findings, and verdict forms are to be e-filed five (5) court days before the trial date. Any proposed language that is added to and/or differs from the CACI approved language shall be identified as a “Special Instruction” in the heading with a separate attachment with any supporting points and authorities. Use eFiling code “Jury Instructions, Proposed, Filed” and add the trial date in the Filing Description field.
- A set of business cards from each attorney shall be presented to the courtroom clerk at the time in limine motions are heard or, at the very latest, on the first day of voir dire. If the CA State Bar license number is not noted on the card, it must be handwritten.
- Motions in limine are to be e-filed at least five (5) court days before the trial; Opposition papers shall be e-filed at least one (1) court day before the trial date. Motions in limine are usually heard on the first day of trial. Depending on the expected length of the hearing, the jury is often (but not always) brought in on the second day of the trial for voir dire. Use eFiling code “Motion in Limine” and add the trial date in the Filing Description field followed by the motion number and description.
- Voir dire will be conducted by the court initially, with trial counsel allowed reasonable follow-up time to examine the panel of 18 prospective jurors. If there are voir dire issues either side would prefer the court inquire about initially, the court will entertain those requests. Counsel will be given an opportunity to object to areas of inquiry proposed by the court and to request in writing that the court add additional areas of inquiry.
- The court permits counsel to pursue oral voir dire on follow-up to areas covered by court, subject to the following limitations:



- a. No repetition
    - (1) No pre-conditioning of jury
    - (2) No hypothetical verdicts
    - (3) No questions regarding pleadings, law, or juror comfort without prior permission of court
    - (4) Time limit per prior discussion with court
    - (5) New areas shall not be covered without a satisfactory explanation as to why the court was not requested to cover the area in its voir dire.
  - b. Initial voir dire will be conducted on all 18 prospective jurors with immediate replacements. A random selection of subsequent panels will continue until jury is selected with two alternates.
- Counsel shall instruct their clients and witnesses as to proper behavior around jurors and advise them against engaging in any conversation in the vicinity of jurors or in areas of the courthouse where jurors may be present.
  - In-person appearances are required for all parties (including counsel, witnesses, etc.) and the court discourages the filing of a request for a remote appearance, unless exigent circumstances exist.
  - The courtroom clerk will prepare a statement for the jury fees once the jury is selected (approximately \$300.00 per day for the length of the trial).

### **Exhibit Requirements**

- Courtesy copies of all exhibits must be brought to the court on the first day of trial (Court copy, Witness copy, Clerk copy, and Counsel copy). The Clerk's copy of the exhibits will be maintained for the record.
- Exhibits must be organized in the order they are listed on the Exhibit List.
  - a. The first page of the exhibit packet shall be the Exhibit List. The Exhibit List shall list (in numerical order) the number of the exhibit, the type of exhibit, and a brief description of the exhibit. Parties may print or download the Exhibit List local form (SC-1043) from the court's website at <https://www.santabarbara.courts.ca.gov>.
  - b. For five (5) or less exhibits, and where the total number of pages of all exhibits combined does not exceed 25 pages: (If the number of pages exceeds 25, follow the instructions under c - e below)
    - Each exhibit shall have a divider sheet in front of the actual exhibit.
    - The divider sheet shall be blank except for the exhibit number displayed at the bottom.
  - c. For more than five (5) exhibits, exhibit packets shall be assembled in an exhibit binder, using numbered tab pages before each exhibit.



- d. Plaintiff/Petitioner is assigned Exhibits 1 through 200 and Defendant/Respondent is assigned Exhibits 201 through 400.
- e. If exhibits exceed 200, please contact the department for further guidance on numbering.
- Parties shall exchange their Exhibit List and their proposed exhibits, organized as above, by providing to the other party, copies of the exhibits submitted to the court, at least five (5) business days prior to the scheduled hearing or trial, unless a different date is set by the court. Copies may be provided in their physical form or may be sent electronically to opposing counsel. Copies may be provided in their physical form or may be sent electronically to a self-represented party who consents to electronic delivery of the exhibits, at their verified e-mail address.
- Original deposition transcripts to be used at trial must be available to the court in hard copy.
- Electronic evidence such as CDs, DVDs, and other media will not be downloaded or duplicated by the court during the hearing.
- **IMPORTANT: DO NOT** include any ex parte correspondence to the judge with your exhibit submissions. Any ex parte communication submitted will not be read or considered. You must present your arguments at the trial.
- The court will retain all physical exhibits at the end of the hearing, unless the parties stipulate, and the court orders the exhibits be returned to the respective parties in accordance with CCP §1952.

### Witnesses

- Prior to the commencement of trial, counsel shall e-lodge all depositions to be used in trial with the court and advise the court if there are any depositions which are unsigned. Use eFiling code “Deposition Lodged”. Add the trial date in the Filing Description field. Original deposition transcripts to be used at trial must be available to the court in hard copy.
- Counsel shall provide the court with a copy of their Demand for Exchange of Expert Witnesses and their Response to Demand for Exchange of Expert Witnesses to assist the court in ruling on expert witness issues.
- It is the responsibility of counsel to so arrange the appearance of witnesses, to avoid delay caused by witnesses who have been placed on call, to confer amongst themselves during the trial as to when witnesses will be needed, and to advise the court at the earliest opportunity of any anticipated problems with the presence of witnesses. In general, witnesses shall not be placed on call. Counsel should subpoena all witnesses to ensure timely appearances. In-person appearances are required for all witnesses and the court discourages the filing of a request for a remote appearance unless exigent circumstances exist.
- To avoid delay, if a witness, expert, or participant, while on the stand, will use documents other than exhibits previously marked for identification by the clerk, counsel must arrange for the prior





examination of such documents by all other counsel during a time when court is not in session.

### **Court Reporters**

- Should the court have an official reporter available, reporter fees shall be posted in advance. Each side shall deposit one-half of the total amount due for the first five (5) trial days. Reporter fees are \$534.00 for a full day and \$267.00 for a half day. **Please be prepared to make payment on the first day of trial.** Checks are to be made payable to Clerk of the Court.
- A court reporter is provided for all 8:30 a.m. calendar matters. Should a court reporter not be available for calendar matters, the parties may agree to use the *For the Record* electronic recording as a verbatim record of the proceedings.
- Effective Monday, March 25, 2024, the Santa Barbara County Superior Court will no longer provide court reporters for evidentiary hearings, court trials and jury trials, in civil, family law, and probate matters.
- Where court reporters are not provided, parties may privately arrange and pay for an official court reporter pro tempore. Please see *Hiring of Private Reporter Pro Tempore* on the court's website for instructions and the link to the pre-approved official reporter pro tempore list contact information. <https://www.santabarbara.courts.ca.gov/general-information/court-reporting-services> Please contact the department secretary for further guidance on how to arrange for a private reporter.

### **Additional Trial Information**

- The trial schedule is generally from 9:30 a.m. to noon with a 15-minute break, and/or 1:30 p.m. to 4:30 p.m. with a 15-minute break.
- Court expects counsel, parties, and witnesses to be prompt and to maintain proper courtroom demeanor.
  - (1) All witnesses are to be addressed by their last name, accompanied by the appropriate title, such as Mr., Ms., Dr., etc.
  - (2) Counsel shall not lean or sit on the jury rail.
  - (3) Objections, statements, and arguments are to be addressed to the court rather than opposing counsel.
  - (4) Counsel/Parties will not speak over each other.
  - (5) COURTESY TOWARDS EVERYONE IN THE COURTROOM IS REQUIRED.



Counsel may contact the Department's Judicial Secretary, at 805-614-6500 or [avillarruel@sbcourts.org](mailto:avillarruel@sbcourts.org) if there are any questions. Courtesy copies of any e-filed documents can also be emailed to the Judicial Secretary or department email.