

SANTA BARBARA COUNTY SUPERIOR COURT

DEPARTMENT FIVE

JUDGE COLLEEN K. STERNE

Departmental Requirements and Procedures

Please become familiar with the Santa Barbara County Superior Court Local Rules, for general guidance regarding local practices and procedures. Each Judge may have certain additional requirements. Ex Parte setting, Trial Setting and Trial Preparation practices have nuances individual to each Department. What follows are the policies and practices applicable in Department Five.

Judge Sterne expects counsel to be polite, prepared and efficient. Professional civility is required.

Court Calendar

Monday

8:30 Civil Case Management Conferences
10:00 Civil Law and Motion
1:30 Family Law and Motion
11:30 Trial Call
1:30 Special Setting/Short Cause matters

Tuesday

8:30-4:30 Trial

Wednesday

9:00-4:30 Trial

Thursday

9:00 Probate/Conservatorship/Guardianship
10:30 Mental Health, LPS Conservatorship
1:30 Trial

Friday

8:30 Civil Mandatory Settlement Conferences
9:00 Trial

Ex Parte Matters

Ex Parte matters are generally heard at 8:30 a.m. daily except for Mondays, although exceptions may be made in the Judge's discretion. To set an ex parte matter, contact Judicial Assistant Marilyn Metzner at (805) 882-4570. 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.

Trial Requirements

Trial days in Department Five are Tuesday-Friday. There may be exceptions due to holidays, specially set matters and judicial obligations. Generally, the court follows the schedule set forth in the "Court Calendar" section above.

If your case is determined to be going forward at the time of the Trial Call, you will be set for a Pretrial Conference, and subsequent trial commencement date and time, or advised if you will trail.

Trial Calendar Status Inquiries

As your Trial Call date approaches, you may wish to contact Judicial Assistant Marilyn Metzner, at (805) 882-4570 concerning the viability of your initial Trial date. She will NOT BE ABLE TO TELL YOU WHETHER YOU ARE DEFINITELY GOING OUT OR NOT. She will be able to advise you if the court is currently engaged in a trial, and how many matters are set on your Trial Call date. The final trial priority of cases is determined by the judge, and that priority is generally unavailable until the actual Trial Call.

Pretrial Preparation

All Trials:

Five court days prior to Trial Call date, each party shall file, serve, and email to all counsel of record and to the court, at csterne@sbcourts.org, as an email attachment (Microsoft Word preferred) the following:

1. The table of contents of the party's evidence binder;
2. A complete witness list
3. A Trial Brief

4. Any *In Limine* motions. For court trials, *in limine* motions are heard at the commencement of trial. For jury trials, *in limine* motions are usually heard at the time of the pretrial conference.

At least three court days prior to the Trial Call date, all parties shall meet and confer and prepare a joint evidence binder with sufficient copies for the witness stand, the bench, and each side in the case. The evidence binder shall comply with the following requirements:

1. Exhibits shall be numbered serially, without designation as “Plaintiff’s” or “Defendant’s”;
2. Each party shall be assigned a block of numbers sufficient for the number of exhibits to be offered by that party, with the lowest numbered block assigned to the plaintiff;
3. There shall be a separate, numbered tab in the binder for each exhibit or group exhibit;
4. Each group exhibit shall have an internal numbering system (Bates stamp or pagination.);
5. Impeachment exhibits need not be in the evidence binder, but a numbered tab for a “reserved” exhibit must be in the evidence binder for each such exhibit;
6. Medical bills or invoices shall be tabbed separately from medical records.

Reporter’s Fees. Court reporter fees shall be paid to the courtroom clerk at the beginning of each day’s session. Failure to pay daily reporter fees may be deemed a waiver of the court reporter and the trial may proceed as an unreported trial.

Deposition Transcripts. No deposition transcript shall be read in court until a condensed or other copy has been furnished to the court. Admissible portions of a party deposition may be used for any purpose and read into the record. Non-party depositions may be used only for impeachment absent further order of the court, in which case relevant and impeaching deposition testimony may be read into the record without comment. Foundational questions about depositions shall be kept to a minimum and questions whether the witness remembers giving certain testimony at his or her deposition shall not be permitted absent further order of the court.

Time estimates and Examination of Witnesses. At the commencement of Court trials, or at the jury trial Pretrial Conference, the parties will provide to the Court the final time estimate for trial, including jury selection, jury instruction, opening statements, closing arguments and

all examination of witnesses including direct examination, cross-examination, redirect, re-cross, rebuttal examination and so forth. The trial will proceed according to such estimates, and deviation will be permitted only if good cause is shown.

Time management is the responsibility of each party's lead trial counsel and a party's presentation will end on exhaustion of his or her allocated time, except for good cause shown. If a party abuses the prompt commencing of proceedings after recess, or a witness is grossly evasive or non-responsive, the court may reallocate time in the interests of justice.

In cases where a party is represented by multiple attorneys, one attorney shall conduct the entire examination of one witness, including sidebar conferences, and one attorney shall give the entire opening statement and one attorney shall give the entire closing argument (including rebuttal) for one party

Order of Proof. In cases involving cross-complaints or other actions consolidated for trial, examination shall proceed first on the complaint and shall be limited to examination, cross-examination and so forth on the plaintiff's case in chief followed by defendant's case in chief and any rebuttal. Next, examination shall proceed on the cross-complaint and shall be limited to examination, cross-examination and so forth on the cross-complainant's case in chief followed by cross-defendant's case in chief and any rebuttal. Next, examination shall proceed on any consolidated complaint and shall be limited to examination, cross-examination and so forth on the plaintiff's case in chief followed by defendant's case in chief and any rebuttal, and so forth as above. Upon prior approval of the court, witnesses may be called out of order for convenience of the witness, but the order of examination shall remain the same.

The order of closing argument shall be: each plaintiff's closing argument; each defendant's closing argument; each plaintiff's rebuttal argument; each cross-complainant's closing argument (limited to new matter alleged only in the cross-complaint); each cross-defendant's closing argument (limited to new matter alleged only in the answer to cross-complaint); each cross-complainant's rebuttal argument.

Court Etiquette. During opening statement and trial, counsel shall speak from the lectern or counsel table except when reasonably required to be elsewhere to refer to an exhibit. During closing argument, counsel shall speak from the lectern or counsel table, except when reasonably required to be elsewhere to refer to an exhibit. Counsel shall request permission to approach the witness and shall not enter the well. Counsel shall avoid familiar address of witnesses by first name or nickname. The proper form of address for all persons in the courtroom, including staff, is by last name, preceded by the appropriate honorific.

Objections. No speaking objections shall be allowed without permission of the court. State only the ground of the objection. If the objection is hearsay, the proponent of the evidence shall state only the purpose for which it is offered. If the court finds the evidence is hearsay, the proponent of the evidence shall state only the exception in a word or two. If the objection is relevance, the proponent of the evidence shall state only the ultimate or intermediate fact it is offered to prove, in a word or two. If the objection is foundation, the objecting party will be asked for the elements of foundation claimed to be missing in a word or two each.

Questions summarizing prior testimony are prohibited beyond the bare minimum needed to orient a witness.

Witnesses. Before adjournment each day, each counsel shall notify the court and opposing counsel of the witnesses anticipated to be called the following day and as far into the future as practicable. Non-party witnesses shall be excluded until they have testified and been excused and each party shall so advise his or her witnesses. Counsel shall identify non-party witnesses to the bailiff who shall so exclude them from the courtroom. Witnesses shall be advised by counsel prior to testifying concerning any *in limine* rulings that apply to their testimony. While the Santa Barbara County Superior Court has not published an official dress code, counsel shall advise witnesses to dress appropriately for their appearance in court.

Audio and Video Tapes. No audio or video tape shall be played unless a transcript of the audio has been submitted to the court and counsel 24 hours prior to playing the tape, absent a showing of good cause.

Interpreters. Parties shall arrange for any foreign language interpreters required during trial, shall notify the court and counsel of any such need for an interpreter at the Pretrial Conference, and shall notify the bailiff before calling a witness requiring an interpreter and request the bailiff to place a chair at the witness box for the interpreter.

Use of Exhibits. No exhibit shall be displayed before it is received into evidence, except with permission of the court. No model, chart, photograph or writing shall be used in opening statement, except by prior order of the court and agreement of all counsel.

No exhibit during trial shall be marked for identification until copies have been delivered to the court and opposing counsel or, at a minimum and for good cause shown, opposing counsel has had an opportunity to inspect and review the exhibit.

Jury Trials:

In addition to adhering to the requirements applicable to all trials, the following requirements apply to jury trials:

Jury Instructions: Three court days prior to the Trial Call, each party shall file, serve and email to the court at csterne@sbcourts.org as an email attachment (Microsoft Word preferred) the following:

1. A list of the parties' requested CACI instructions, by number;
2. A document containing the text of each CACI instruction as the party wants it given; and
3. The text of any requested special jury instruction, with supporting authorities.
4. A proposed jury verdict form.
5. A joint Statement of the Case, or one may be submitted by each side if there is disagreement as to the content.

As testimony reaches its conclusion, the judge and counsel will confer to finalize the instructions to be presented to the jury.

Peremptory Challenges: As a general rule, each side in a civil jury trial is entitled to six peremptory challenges. Each side shall have additional peremptory challenges for alternate jurors in the same ratio as peremptory challenges for regular jurors, such peremptory challenges applicable only to alternate jurors. For example, if there are six peremptory challenges for regular jurors and four alternate jurors, there will be two peremptory challenges for alternate jurors.

Six-pack procedure. Eighteen potential jurors shall be empanelled and all 18 shall be questioned on voir dire and passed or excused for cause. Peremptory challenges shall then be exercised and the panel re-filled by the 6-pack in the order seated. On exhaustion of the 6-pack plus one, 7 new potential jurors shall be empanelled, those 7 shall be questioned on voir dire, passed or excused for cause, and the peremptories shall continue. This process shall continue until a jury is selected or all peremptory challenges are exhausted.

Alternate jurors. If alternate jurors are required, they shall be selected by utilizing any remaining persons in the 6-pack, in the order seated, until the 6-pack is exhausted. Thereafter, the 6-pack procedure shall not be used to select any remaining alternate jurors. The alternates and their order shall be as designated at the outset of the trial.

Voir dire. Any voir dire questions that counsel request be considered by the court to be included in the court's voir dire shall be submitted at the pre-trial conference. Counsel will be allowed to introduce themselves and their clients at voir dire and make a brief opening statement prior to the commencement of the oral questioning phase of the voir dire process.

Except for good cause shown, counsel for each side shall be allowed a reasonable amount of time to voir dire the original 18 prospective jurors and each new 6-pack panel of prospective jurors. At the end of his or her voir dire for a panel counsel shall either pass for cause or reserve challenges for cause. When all sides have concluded voir dire for a panel, a brief conference shall be held to rule on any challenges for cause.

The voir dire will not be reported unless counsel request otherwise.

Jury Fees. Jury fees must be posted 25 days prior to trial. The party demanding a jury trial shall, at the beginning of the second and each succeeding day's session, pay daily jury fees to the courtroom clerk. The amount for each day will be calculated and provided by the courtroom clerk to the demanding party. If more than one party has demanded a jury, the amount payable by each party may be determined by stipulation or order of the court. Failure to pay daily jury fees may be deemed a waiver of the jury, and the trial may proceed as a court trial.

Sidebar Conferences. Sidebar conferences are disfavored. Juries dislike them, because they feel information is being hidden. Counsel are encouraged to meet with the judge in the morning before trial begins or at the end of the day, to discuss any anticipated matters and to minimize surprises that may lead to a sidebar request.

Court Personnel:

Judicial Assistant: Marilyn Metzner (805) 882-4570

Court Clerk: Kary Swan (805) 882-4566

Bailiff: Deputy David Alcott, Santa Barbara County Sheriff

Court Reporter: Shelley Cockrell