

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SONOMA

FILED

MAY - 4 2020

In Re: Order to Adopt Emergency
Amendment to Local Rule Expanding
Ex Parte Access to Probate

Clerk of Superior Court of California,
County of Sonoma
By *M. Tenley*
Deputy Clerk

Pursuant to the March 23, 2020 Order by Hon. Tani G. Cantil-Sakauye, Chief Justice of California and Chair of the Judicial Council, the superior court is authorized under rule 10.613(i) of the California Rules of Court to adopt any proposed amendment to a rule that is intended to address the impact of the COVID-19 pandemic to take effect immediately, without advance circulation for 45 days of public comment.

The Court finds that implementation of amended Local Rule 6.2.H, will increase access to the public for resolution of emergency matters, uncontested matters, and other matters as allowed by statute, from two days a week to five days a week. The Court further finds that this increased access is immediately necessary given the delays in hearing cases, and given the fact that the ongoing effects of the pandemic are broadly rendering otherwise routine matters an emergency in many cases.

Accordingly, and for the foregoing reasons, and under the authority granted me by the Chief Justice in her Order dated March 23, 2020, and for good cause shown, this Court HEREBY FINDS AND ORDERS AS FOLLOWS:

Local Rule 6.2.H is hereby amended as stated in Attachment A. The amended rule shall be effective May 4, 2020. The Clerk of the Court is directed to provide a copy of the amended rule and this order to Judicial Council staff and post notice of the change prominently on the court's website, along with the effective date of the amended rule. Additionally, the Clerk of the Court is directed to immediately distribute the amended rule as set forth in rule 10.613(g)(2).

No litigant's substantive rights shall be prejudiced for failing to comply with the requirements of a new or amended rule until at least 20 days after the rule change has been distributed.

IT IS SO ORDERED.

Dated: May 4, 2020



Bradford DeMeo
Presiding Judge of the Superior Court

Attachment A

Amended Local Rule 6.2.H. (5/4/20)

H. Ex Parte Applications and Stipulated Petitions

1. Ex Parte Procedure

a. Same Day Ex Parte Matters

If a party has reason to believe that an order is urgently needed to prevent irreparable harm or immediate danger to person or property, that party may file a Same Day Ex Parte application for relief. Filing fees must be paid, and in the event a new case is being commenced a case number must be assigned, before a party presents any application for ex parte relief.

An order granting or denying a Same Day Ex Parte matter is generally available for pickup at 2:00 p.m. on the day it is presented.

b. Drop-Off Ex Parte Matters/Consent Petitions

Ex Parte Applications not based on an urgent need to prevent irreparable harm or immediate danger to person or property may be submitted to the Court as a "Drop-Off Ex Parte Matter" where otherwise authorized by statute, Rules of Court, court order, or these rules. All Drop-Off Ex Parte Matters must include "Drop-Off Ex Parte Matter" on the caption. Failure to include "Drop-Off Ex Parte Matter" on the caption will cause the pleading to be reviewed as a Same Day Ex Parte application and will be denied if it does not meet the standard for a Same Day Ex Parte application.

The following matters are expressly authorized to be presented as Drop-Off Ex Parte Matters:

- a. Approval of a stipulation, including a stipulated petition to approve settlement agreement;
- b. Petitions for letters of special administration or appointment of temporary conservatorship;
- c. Stipulated applications for a continuance of a hearing or trial;
- d. Matters authorized to be presented to the court ex parte by statute or Rule of Court (with citation to authorizing statute or Rule of Court);
- e. Requests to advance a hearing date and/or shorten time;
- f. Applications to correct an order;
- g. Applications to reduce or increase bond;
- h. Petitions to appoint a guardian ad litem;
- i. Petitions to authorize sale of personal property in a conservatorship matter;

- j. Petitions for final discharge and order;
- k. Petitions for allowance or rejection of a creditor's claim (by attorney or personal representative); or
- l. Petitions requesting court appointment of counsel.

An order granting or denying a Drop-Off Ex Parte Matter is generally available for pickup at 2:00 p.m. on the day which is five (5) court days after it is presented.

c. Hearing May be Required

The Court may deem that any matter presented on an ex parte basis, whether opposed or unopposed, requires a hearing. If a hearing is required, the matter will be set by the Court on the regular probate calendar on a date chosen by the Court. The Court may shorten time or upset an existing probate calendar on its own motion if it deems such is necessary.

If a hearing is required, the party presenting the ex parte application will be notified of the date and time of the hearing and that party shall be required to provide notice of the date and time to all parties entitled to notice within two (2) court days thereafter, unless otherwise ordered by the Court.

2. Timing of Ex Parte Matters

Applications for ex parte relief are accepted Monday-Fridays and reviewed in chambers. No personal appearance is required to request or oppose an ex parte matter.

The application and all supporting documents must be filed with the Sonoma County Court Clerk's office, Probate Division, before 10:00 a.m. to be considered presented on that day. The judicial officer may decline to consider untimely applications on the merits.

Papers in opposition to an ex parte matter must also be filed with the Sonoma County Court Clerk's office, Probate Division, by 10:00 a.m. on the day the ex parte application is presented.

3. Contents of Application and [Proposed] Order

An application for any ex parte order must be verified and must contain sufficient evidentiary facts to justify issuance of the order. Conclusions or statements of ultimate facts are not sufficient, and a foundation must be shown for the declarant's personal knowledge.

Except where a Judicial Council or local form that includes an order is used, an application for an ex parte order must be accompanied by a separate order which is complete in and of itself and which specifies all relief ordered by the Court. For example,

it is not sufficient for such order to provide merely that the application has been granted, or that the sale of property set forth in the petition has been approved.

4. Notice and Special Notice

Unless otherwise expressly provided for by applicable statute or rule of court, the form and content of notice to all interested parties and parties who requested special notice shall be provided in accordance with the California Rules of Court applicable to civil ex parte matters, including timely notice of the date, time, and place for the presentation of the ex parte matter. The application must be accompanied by a declaration identifying all persons entitled to notice under the applicable sections of the Probate Code, California Rules of Court (including special notice), or these rules, and it must evidence compliant notice or set forth the facts and legal authority upon which the applicant requests an order dispensing with notice.