



Ex Parte Application

Superior Court of California
Los Angeles County

Timing

Notice

A party seeking an *ex parte* order must notify all parties no later than 10:00 a.m. the court day before the *ex parte* appearance, absent a showing of exceptional circumstances that justify a shorter time for notice. [CRC 3.1203\(a\) \(renumbered eff 1/1/07\)](#). When notice of an *ex parte* application is given, the person giving notice must state with specificity the nature of the relief to be requested and the date, time, and place for the presentation of the application, and must attempt to determine whether the opposing party will appear to oppose the application. [CRC 3.1204\(a\) \(renumbered eff 1/1/07\)](#).

Scheduling An Ex Parte Hearing

In the Central District all *ex parte* matters shall be heard by the I/C and Departments 85 and 86 Judges in their respective departments at 8:30 a.m. each day. *Ex parte* matters on cases assigned to other districts shall be heard at the designated times and places. [LASC LR 9.9\(a\)\(amended eff 7/1/09\)](#).

Information regarding *ex parte* procedures can be obtained from the courtroom of the judge who will hear the application. A directory of Los Angeles County judicial officers can be found at: <http://www.lasuperiorcourt.org/judicialofficers>.

Must Make Diligent Effort to Notify Opposing Party

Before making an *ex parte* application, a lawyer should make diligent efforts to notify the opposing party and accommodate the opposing party's schedule; an *ex parte* application should be made only where there is a bona fide emergency; before filing any motion, counsel should engage in "more than a mere pro forma discussion of its purpose in an effort to resolve the issue." [LASC LR 7.12\(h\), \(j\)\(2\) and \(j\)\(3\)](#).

Downtown-Call for Court File Before the Hearing

For *ex parte* proceedings in the Central District (downtown Los Angeles branch, Stanley Mosk Courthouse) it is recommended that files be ordered by 4:30 p.m. the previous court day. To order files for an *ex parte* matter, leave a message for the records section on the *ex parte* file request line at (213) 893-1213 (213) 893-1213 . Files may also be ordered in person in Room 112 or by calling the records section main number at (213) 974-5181 (213) 974-5181

Ex Parte Procedures

No Notice

The court may grant *ex parte* relief without notice to the opposing party. An *ex parte* application presented without notice must be accompanied by a declaration that, for reasons specified, the applicant should not be required to inform the opposing party. [CRC 3.1204\(b\)\(3\) \(renumbered eff 1/1/07\)](#).

Identification of Attorneys

An *ex parte* application must state the name, address, and telephone number of any attorney known to the applicant to be an attorney for any party or, if no such attorney is known, the name, address, and telephone number of the party if known to the applicant. [CRC 3.1202\(a\) \(renumbered eff 1/1/07\)](#).

Affirmative Factual Showing Required

An applicant must make an affirmative factual showing in a declaration containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief *ex parte*. [CRC 3.1202\(c\) \(renumbered eff 1/1/07\)](#).

Notice of Ex Parte Application

When notice of an *ex parte* application is given, the person giving notice must:

- (1) State with specificity the nature of the relief to be requested and the date, time, and place for the presentation of the application; and
- (2) Attempt to determine whether the opposing party will appear to oppose the application. [CRC 3.1204\(a\)](#).

Declaration Re Notice

An *ex parte* application for an order must be accompanied by an affidavit or a declaration showing:(1) that the applicant informed the opposing party when and where the application would be made no later than 10:00 a.m. on the court day before the application was made and the notice given, including the date, time, manner, and name of the party informed, the relief sought,

any response, and whether opposition is expected; or (2) that the applicant in good faith attempted to inform the opposing party but was unable to do so, specifying the efforts made to inform the opposing party; or (3) that, for reasons specified, the applicant should not be required to inform the opposing party. [CRC 3.1204\(b\) \(renumbered and amended eff 1/1/07\)](#).

If notice was provided later than 10:00 a.m. the court day before the ex parte appearance, the declaration regarding notice must explain the exceptional circumstances that justify the shorter notice, or, in unlawful detainer proceedings, when the notice given is reasonable. [CRC 3.1204\(c\) \(renumbered eff 1/1/07\)](#).

Disclosure of Prior Application

If an ex parte application has been made to the court and has been refused in whole or in part, any subsequent application of the same character or for the same relief, although made upon an alleged different state of facts, must include a full disclosure of any previous applications and the courts actions. [CRC 3.1202\(b\) \(renumbered eff 1/1/07\)](#).

MOVING PAPERS

Required Documents

A request for ex parte relief must be in writing and include all of the following:

- (1) An application containing the case caption and stating the relief requested;
- (2) A declaration in support of the application making the required factual showing;
- (3) A declaration based on personal knowledge of the notice given;
- (4) A memorandum; and
- (5) A proposed order.

[CRC 3.1201 \(renumbered and amended eff 1/1/07\)](#).

Caption

California Rule of Court 312(h) was deleted effective 1/1/07. It provided that motions or demurrers may have short captions that simply identify the first party on each side. This Rule was replaced with California Rule of Court 3.1320(c) that provides, "A demurrer must state, on the first page below the number of the case, the name of the party filing the demurrer and the name of the party whose pleading is the subject of the demurrer." [CRC 3.1320\(e\) \(amended eff 1/1/07\)](#).

It appears that with motions other than demurrers, California Rule of Court 2.111(4) now governs. This rule provides that on any pleading or paper subsequent to the initial complaint or cross-complaint, it is sufficient in the title of the case to state the name of the first party on each side, with appropriate indication of other parties, and state that a cross-action or cross-actions are involved, if applicable. [CRC 2.111\(4\) \(renumbered eff 1/1/07\)](#).

No change, other than a renumbering, was made to the California Rule of Court addressing the other elements of a caption in the 1/1/07 revisions. This Rule provides: "The first page of the motion or demurrer must specify, immediately below the number of the case, the date, time and location of the hearing and the name of the hearing judge, the title of any attached document other than an exhibit, the date the action was filed and the trial date." [CRC 3.1110\(b\) \(renumbered eff 1/1/07\)](#).

Memorandum of Points and Authorities

Content

The memorandum must contain a statement of facts, and a concise statement of the law, evidence and arguments relied on in support of the position advanced. [CRC 3.1113\(b\) \(renumbered eff 1/1/07\)](#).

Fifteen (15) Page Limit on Briefs

Except in a summary judgment or summary adjudication motion, a memorandum of points and authorities in support of a motion may not exceed fifteen (15) pages, not including exhibits, declarations, attachments, tables of contents or authorities, or the proof of service. [CRC 3.1113\(d\) \(renumbered eff 1/1/07\)](#).

A memorandum that exceeds ten (10) pages must include a table of contents and table of authorities. [CRC 3.1113\(f\) \(renumbered eff 1/1/07\)](#).

A memorandum that exceeds fifteen (15) pages must also include an opening summary of argument. [CRC 3.1113\(f\) \(renumbered eff 1/1/07\)](#).

Citations to Authority and Exhibits

Case citations must include the official report volume and page number and year of decision. [CRC 3.1113\(c\) \(renumbered eff 1/1/07\)](#). Authority from outside California must be lodged with the papers that cite the authority and attached as an exhibit. [CRC 3.1113\(i\) \(renumbered eff 1/1/08\)](#). References to exhibits must include the number or letter of the exhibit, the specific page and specific paragraph or line number, if applicable. [CRC 3.1113\(k\) \(renumbered eff 1/1/08\)](#).

Reference to Previously Filed Papers

Any paper previously filed must be referred to by date of execution and title. [CRC 3.1110\(d\)](#).

Style of Citations

Citations to cases and other authorities in all documents filed in the courts must be in the style established by either the California Style Manual or The Bluebook: A Uniform System of Citation, at the option of the party filing the document. The same style must be used consistently throughout the document. [CRC 1.200](#). (added eff 1/1/08)(requirement formerly contained in [CRC 3.1113\(i\) deleted eff 1/1/08](#)).

Signature

Every paper filed with the court must be signed by the attorney or unrepresented party submitting the paper. The signer's address and telephone number must be included. With the exception of discovery papers, the signature constitutes certification pursuant to Code of Civil Procedure 128.7. [CCP 128.7](#).

Preemption of Local Rules

California Rule of Court 3.20 states that the Judicial Council preempts local court rules relating to pleadings, demurrers, *ex parte* applications, motions, discovery, provisional remedies, and form and format of papers. No trial court shall enact or enforce any local rules concerning these fields and all such local rules are null and void unless otherwise permitted or required by a statute or California Rule of Court. [CRC 3.20 \(renumbered and amended eff 1/1/07\)](#).

Additional Requirements

See Los Angeles County SmartRules procedural guide: **GENERALLY APPLICABLE RULES AND FORMATTING REQUIREMENTS**.

Evidence

Written

Papers that may be filed in support of a motion include declarations, exhibits, appendices, and other documents or pleadings. [CRC 3.1112\(b\)](#).

Evidence received at a law and motion hearing must be by declaration, or request for judicial notice, without testimony, or cross-examination, unless the court orders otherwise for good cause shown. [CRC 3.1306\(a\) \(renumbered and amended eff 1/1/07\)](#). (See also [LASC LR 9.1\(b\)](#).)

Request To Present Testimony

A party wishing to present oral evidence at a hearing must file, no later than three (3) court days before the hearing, a written statement setting forth the nature and extent of the evidence proposed to be introduced and a reasonable time estimate for the hearing. [CRC 3.1306\(b\) \(renumbered eff 1/1/07\)](#).

The statement must also include the reason why the evidence cannot be presented by declaration or affidavit. [LASC LR 9.1\(b\)](#).

Declarations

See Los Angeles County SmartRules procedural guide:DECLARATIONS.

Deposition Testimony

The first page of any deposition testimony used as an exhibit must state the name of the deponent and the date of the deposition. The exhibit should include only the relevant pages of the transcript. The original page numbers must be clearly visible. The relevant testimony should be highlighted. [CRC 3.1116 \(renumbered eff 1/1/07\)](#).

Judicial Notice

See Los Angeles County SmartRules procedural guide: REQUEST FOR JUDICIAL NOTICE.

Facts From The Record

Briefs and memoranda should not rely on facts that are not properly part of the record. Litigants may utilize historical, economic or sociological information if such information is derived from generally available sources. [LASC LR 7.12\(c\)\(1\)](#).

Additional Documents

Application

A request for *ex parte* relief must include an application containing the case caption and stating the relief requested. [CRC 3.1201\(1\) \(renumbered eff 1/1/07\)](#).

Declaration Supporting Application

Papers seeking *ex parte* relief must include a declaration in support of the application making the required factual showing [CRC 3.1201\(2\) \(renumbered eff 1/1/07\)](#).

Declaration Re Notice

Papers seeking *ex parte* relief must include a competent declaration based on personal knowledge of the notice given. [CRC 3.1201\(3\) \(renumbered eff 1/1/07\)](#).

Proposed Order

Papers seeking *ex parte* relief must include a proposed order. [CRC 3.1201\(5\) \(renumbered eff 1/1/07\)](#).

A proposed order may be lodged and served with the moving papers but must not be attached to them. [CRC 3.1113\(n\) \(renumbered eff 1/1/07\)](#). See Los Angeles County SmartRules procedural guide: PROPOSED ORDERS, PREPARATION OF ORDERS AND NOTICE OF RULING.

FILING AND SERVICE

Filing

Consult Judge's Procedures

In the Central District all *ex parte* matters shall be heard by the I/C and Departments 85 and 86 Judges in their respective departments at 8:30 a.m. each day. *Ex parte* matters on cases assigned to other districts shall be heard at the designated times and places. [LASC LR 9.9\(a\)\(amended eff 7/1/09\)](#).

Information regarding *ex parte* procedures can be obtained from the courtroom of the judge who will hear the application. A directory of Los Angeles County judicial officers can be found at: <http://www.lasuperiorcourt.org/judicialofficers>.

Downtown Window Open at 8:00 a.m.

For *ex parte* proceedings in the Central District (downtown Los Angeles branch, Stanley Mosk Courthouse) if a filing fee needs to be paid or a file ordered for delivery to the courtroom, the Clerk's Offices will accept fees and file orders between 8:00 a.m. and 8:30 a.m. for *ex parte* matters only.

Filing Fee

The Los Angeles County fee schedule is online at <http://www.lasuperiorcourt.org/fees/>.

Service

Parties appearing at the *ex parte* hearing must serve the *ex parte* application or any written opposition on all other appearing parties at the first reasonable opportunity. Absent exceptional circumstances, no hearing may be conducted unless such service has been made. [CRC 3.1206 \(renumbered eff 1/1/07\)](#).

Hearing & Disposition

8:30 am Each Day

In the Central District all *ex parte* matters shall be heard by the I/C and Departments 85 and 86 Judges in their respective departments at 8:30 a.m. each day. *Ex parte* matters on cases assigned to other districts shall be heard at the designated times and places. [LASC LR 9.9\(a\)\(amended eff 7/1/09\)](#).

Information regarding *ex parte* procedures can be obtained from the courtroom of the judge who will hear the application. A directory of Los Angeles County judicial officers can be found at: <http://www.lasuperiorcourt.org/judicialofficers>.

Appearance Mandatory

The moving party or counsel for the moving party must be personally present when the request for TRO is made. [CRC 3.1150\(d\)](#).

An *ex parte* application will be considered without a personal appearance of the applicant in the following cases only: (1) Applications to file a memorandum of points and authorities in excess of the applicable page limit; (2) Applications for extensions of time to serve pleadings; (3) Setting of hearing dates on alternative writs and orders to show cause; and (4) Stipulations by the parties or other orders of the court. [CRC 3.1207 \(amended and renumbered eff 1/1/08\)](#).

© RealPractice, Inc. 2001-2010 exclusive of the text of Government codes

