

Department 67 Policies and Procedures – The Honorable Michael T. Smyth

Central - Hall of Justice

Revised February 2024

Honorable Michael T. Smyth, Presiding

Department 67 Telephone Numbers

Courtroom Clerk: (619) 450-7067

Calendar Clerk: (619) 450-7304 [8:00 a.m. to 3:00 p.m.]

Case Management Conferences: Case Management Conferences are heard on Fridays at 10:30 a.m. See Local Rule of Court 2.1.9.

Trial Readiness Conferences: Fridays at 10:15 a.m. Parties are reminded to review local rule 2.1.15. Please review the Advanced Trial Review Order and [Sanchez Waiver](#) prior to the Trial Readiness Conference hearing.

Trial Call: Fridays at 8:30 a.m. It is preferred, not required, that counsel be personally present.

At trial call, counsel must bring a joint trial notebook, which should include the following:

1. Table of Contents
2. Copy of Joint Trial Readiness Report
3. Copies of Motions *in Limine* and Oppositions (in order)
4. 3 copies of Joint Witness List (with description of witnesses' expected testimony)
5. 2 copies Joint Exhibit List
6. Copies of Trial Briefs (if any)
7. Joint Statement of the Case, in neutral language suitable to be read to prospective jurors.
8. Voir Dire questions counsel requests court to ask
9. Jury Instructions (packet agreed upon and packet of those not agreed upon, with indication of who is offering and objecting)
10. Special Verdict Form - either an agreed upon form or each side's proposed forms. If the parties fail to make a genuine effort to limit disputes on the form of the special verdict, a general verdict form will be used.

All exhibits must be pre-marked in an up-to-date exhibit book. All exhibits, demonstrative aids, or other material to be used in opening statements must be shared with opposing counsel in advance. All motions *in limine* must be filed per local rule 2.1.18. Trial briefs must be filed five court days prior to trial call.

Trials: Monday through Thursday, 9:00 a.m. to 12:00 p.m. and 1:30 p.m. to 4:30 p.m., with 15-minute breaks at 10:30 a.m. and 2:45 p.m. Although trial will not be in session on Fridays, the jury will be required to deliberate on Fridays. *See below for Department 67 Trial Guidelines.*

Ex Parte Hearings: By reservation only on Tuesday, Wednesday, and Thursday, 8:30 a.m. to 9:00 a.m. You must call the Calendar Clerk to reserve a hearing date. See Local Rule of Court 2.1.19.

Informal Discovery Conference: The court makes itself available to the parties during ex parte hours to discuss discovery disputes prior to the filing of motions to compel. Voluntary informal discovery conferences (“IDCs”) are encouraged in order to reach a resolution of discovery disputes as an alternative to formal motions, which remain available at any time. Reservations are made by telephoning the calendar clerk at 619-450-7304.

Discovery Motions: Motions to compel initial responses should be reserved and filed as a single motion, regardless of the number of sets of discovery at issue. Motions to compel further responses, and motions to deem facts admitted, should be reserved and filed as separate motions for each set of discovery at issue.

In lieu of submitting a separate statement with a motion to compel further responses, the moving party may submit a concise outline of the discovery request and each response in dispute. In accordance with local rule 2.1.21, a prior order permitting the concise outline is not required. However, in the event the moving party elects to submit a concise outline, copies of the actual requests and responses shall be submitted as exhibits to the motion.

Remote Appearances: : Pursuant to Local Rule of Court 2.5.8, remote appearances are allowed for most matters. Instructions on how to appear remotely are available [here](#).

Law and Motion Hearings: Fridays at 9:00 a.m. Noticed motion hearings are by reservation only and are set on Fridays at 9:00 a.m. unless specially set by the court. Counsel may obtain reservations by contacting the Calendar Clerk at (619) 450-7304.

- (a) Summary Judgment / Summary Adjudication of Issues: Due to motions for summary judgment being very labor-intensive, the court limits the number of such motions that can be heard in any given week. Even though the motion is timely filed, it is often very difficult to schedule the hearing within the 30 days before trial requirement. Counsel are urged to take into consideration that summary judgment motions require longer notice than ordinary motions. To the extent possible, parties are encouraged to e-file all exhibits they intend to rely upon.
- (b) If your case has settled or your motion is otherwise resolved or rendered moot prior to the hearing, please call the department immediately to take the motion off calendar so the Court does not spend scarce resources and time preparing a ruling that is no longer needed.
- (c) The parties are strongly encouraged to meet and confer before filing demurrers, motions to strike, and discovery motions.

Petitions for Minor's Compromise: Petitions to compromise a minor's claims are heard on Mondays at 8:30 a.m. Reservations are made by telephoning the calendar clerk at 619-450-7304.

Guardians Ad Litem: Applications for appointment of a guardian ad litem are governed by Local Rule 2.4.6 and may be submitted for review without an appearance.

Stipulated Continuances: A first continuance request to continue the Trial, Trial Readiness Conference, and Motion cutoff dates may be requested by submitting a written Stipulation and Proposed Order, and upon a good cause finding will be granted without an appearance.

Orders to Serve by Publication: Applications requesting an order to serve by publication may be submitted for review without an appearance. The Court will scrutinize affidavits to determine whether the applicant has been reasonably diligent in attempting service in another manner, as required by Code of Civil Procedure section 415.50, subdivision (a) and CRC 379. Obtaining an order to publish does not toll dates.

Application for Determination of Good Faith Settlement: The application for good faith settlement pursuant to the Code of Civil Procedure 877.6(a)(2) and proposed order shall be concurrently filed, after which it will be held the requisite statutory period (20 days plus 5 for mailing). If no motion to contest is filed within the statutory period, the application will be reviewed and the order may be signed and processed. Thereafter, the clerk will return conformed copies of the application and signed order.

Default Judgment by Court: Papers must comply strictly with California Rules of Court, rule 3.1800. Non-complying papers will be returned with a notation of defects. If personal testimony is required, counsel will be contacted by the courtroom clerk to schedule a default prove-up hearing. Default prove-up hearings are calendared on Fridays at 1:30 p.m.

Courtesy Copies for the Court: The following courtesy copies should be placed in the Department 67 drop box:

- 1) Ex-parte applications for hearings set within 3-5 days (before noon the day prior)
- 2) Motions in limine for trial set within 3-5 days of trial date
- 3) Trial Briefs
- 4) Motions, Oppositions, and Replies upon request.
- 5) Joint trial readiness conference reports
- 6) All other Civil documents must be electronically filed through a court approved Electronic Filing Service Provider.

DISCLOSURE STATEMENT

Judge Michael T. Smyth hereby discloses, pursuant to Canon 3(E)(2)(a) of the California Code of Judicial Ethics, that his wife Nora Smyth, as of December 7, 2015, is employed as a Deputy City Attorney with the San Diego City Attorney's Office, currently assigned to the Workers Compensation Unit; his sister Sharon Smyth was until April 2014 a Lieutenant with the San Diego Police Department, and is currently employed part-time by the San Diego City Attorney's Office as an investigator in its Civil Division; and, his brother Daniel Smyth, is a Lieutenant with the San Diego Police Department.

In accordance with the California Code of Judicial Ethics, Judge Smyth would recuse himself from hearing any case, other than for purely ministerial purposes, in which he becomes aware that his wife, sister, or brother was personally involved.

Unless Judge Smyth advises the parties to the contrary, he is unaware of any fact that disqualifies him from presiding over this case or would require his recusal. If a party is aware of any involvement of Deputy City Attorney Nora Smyth, Lieutenant Sharon Smyth (Ret.), or Lieutenant Daniel Smyth in this case, please inform the opposing party and the Court without delay.

**Michael T. Smyth
Judge of the Superior Court**

Please see [Department 67 Advance Trial Review Order and Trial Guidelines](#).