

Rule 4.1.08 Ex Parte Matters – Probate

- (a) Ex parte matters are determined Monday - Friday and will be determined on the papers by 2:30 p.m. unless the Court orders otherwise or unless otherwise required by statute. See subsection c, below, for ex parte petitions for appointment of temporary conservators/guardians and ex parte petitions to change the residence of a temporary conservatee. Petitions and motions appropriate for ex parte determination include, but are not limited to, petitions for special administration, petitions for appointment of temporary conservators/guardians, and motions for orders shortening time. Ex parte applications must set forth the justification for such urgent action as required under California Rules of Court Rule 3.1202.
- (b) **For all ex parte applications other than petitions for appointment of temporary conservators/guardians and petitions to change the residence of a temporary conservatee:** Counsel or the self-represented petitioner shall email the Court's Probate Attorney at probate@santacruzcourt.org or call 831-420-2200 to schedule a date for the ex parte to be determined and submit the paperwork by 10 a.m. the court day before the intended ex parte determination.
- (c) **For ex parte petitions for appointment of temporary conservators/guardians and petitions to change the residence of a temporary conservatee:** Counsel or the self-represented petitioner seeking to file an ex parte petition for appointment of temporary conservator/guardian or an ex parte petition to change the residence of a temporary conservatee shall email the Court's Probate Attorney at probate@santacruzcourt.org or call 831-420-2200 to schedule a date for the ex parte determination, which date will be based on notice and any court investigation required for the ex parte determination.

When contacting the Court's Probate Attorney to schedule an ex parte determination of a petition for appointment of temporary conservator or petition to change the residence of a temporary conservatee, counsel or the self-represented petitioner shall indicate whether they are requesting a waiver of notice to proposed/temporary conservatee and whether they are requesting a waiver of proposed/temporary conservatee's appearance. (Prob. Code sections 2250.4 and 2253(d).) If petitioner is requesting a waiver of notice to proposed/temporary conservatee and a waiver of proposed/temporary conservatee's appearance, then an ex parte review date will be set and the petition determined on the papers consistent with subsection (a) above. If petitioner is not requesting waiver of notice to proposed/temporary conservatee or appearance of proposed/temporary conservatee at the hearing, then a hearing will be set on the 8:30 am calendar and appearances will be required in compliance with Prob. Code sections 2250.4 or 2253(d), whichever is applicable.

Once a date is scheduled, the paperwork shall be presented to the clerk's office as soon as possible but no later than 10:00 a.m. five (5) court days before the ex parte date. A request to expedite the matter may be made if a time urgency exists.

- (d) **Notice to Parties:** Unless otherwise provided by statute, notice must be given to the opposing party or their attorney prior to 10:00 a.m. the court day before the ex parte application will be determined by the court. Unless otherwise provided by statute, notice is governed by California Rules of Court Rule 3.1203, et seq. A declaration regarding notice must be submitted with the ex parte paperwork. Optional Local Form SUPCV 420 may be used.
- (e) **Opposition to Ex Parte Request:** Objections to the ex parte relief requested shall be submitted to the clerk's office and served on the party making the ex parte request and any other individuals/entities entitled to notice as soon as possible after notice is received, but no later than 10:00 a.m. the day of the ex parte determination. The objection must be served by personal delivery, fax, or email to the individuals/entities entitled to notice. Proof of service must be submitted with the objection.
- (f) **Request for Appearance at Hearing:** If either party requests to appear on the ex parte application or objection, the application or objection must state this request on the face page of the ex parte application and/or opposition. The court will contact the parties to notify them of the date of the ex parte hearing if the reviewing judge grants the request for a hearing with appearances by parties.

(Rev. 7/1/03) (Renumbered 7/1/07) (Rev. 1/1/09)
(Rev. 7/1/14) (Rev. 1/1/18) (Rev. 1/1/19)
(Rev. 7/1/20) (Rev. 1/1/22) (Rev. 1/1/25)
(Rev. 7/1/25) (Rev. 1/1/27)