

Trial Call in San Mateo County

“Now you know, and knowing is half the battle.” — G.I. Joe

What should I expect at trial call? Will my case be assigned out to trial or continued? If I am assigned to a trial department will it always be at the Redwood City Courthouse? Will the first day of trial always be a day dedicated to settlement discussions? If I request a trial continuance is it likely to be granted? Is San Mateo County a hostile environment for a plaintiff’s case?

Who better to answer these questions than the Presiding Judge Stephen Hall, who graciously accepted my request for an interview. The information in this article will provide the litigator with significant

Factor #1: Criminal Cases May Affect Whether a Civil Case Is Assigned to a Trial Department

There are a set number of trial judges available for all cases, including both civil and criminal cases. For obvious constitutional reasons, the criminal cases have first priority. Therefore, the number of criminal cases proceeding to trial will directly impact the availability of a trial department for a civil case.

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power to successfully prepare for his or her next trial in San Mateo County. This article also provides valuable judicial insight from Judge Hall.

Question: Will my case be assigned out to trial or continued?

Answer: It depends on the number of criminal cases proceeding to trial and the number of trial judges available on any given week.

Trial call in San Mateo County is on Monday (unless Monday is a holiday). Technically, it is the first day of your scheduled trial date. San Mateo County operates on a master calendar system, as opposed to a single assignment calendar. This means that you will not know who your trial judge will be until your case is assigned to a department. Whether your case is assigned to a department depends on a number of factors.

instance, one week there can be a large number of criminal cases on the calendar, but none proceed to trial due to plea bargains. Other weeks there can be a smaller number of criminal cases, but they all proceed to trial.

Factor #2: Judicial Availability Affects Whether a Civil Case Is Assigned to a Trial Department

San Mateo County is allocated 27 judges and 7 commissioners. Currently, two judges are out on disability. There are two judicial vacancies as two judges have recently retired. There is also an open commissioner position.

Certain judicial assignments (some permanent and others temporary) reduce the number of judges available for trial. For example, the Presiding Judge, the Criminal Presiding Judge, the Law & Motion Judge, and the Settlement Judge will not



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be available for trial. In addition to these permanent assignments, temporary judicial assignments (referred to as “working the grid”) to hearing criminal arraignments, preliminary hearings and pre-trial misdemeanors reduce the number of available trial judges.

The number of judges on vacation may also affect whether your civil case is assigned out to a trial department. Theoretically, 27 judges and 7 commissioners will have to coordinate their vacation time within a 12 month period. This means there may be fewer trial judges available if they have taken vacation the week your trial is scheduled. This is especially true during the summer months.

Also, we can't forget the economy. Four million dollars was cut from San Mateo County Superior Court's budget. For the first time in history, 22% of the staff was laid off. The courts were closed the third Wednesday of the month for several months. Although it was only one day, it would often result in a trial continuing into the next week.

Current State of Affairs

Judge Hall reported that San Mateo County was extremely successful getting civil cases to trial until 2009. The above factors (largely the financial constraints and judicial vacancies) have resulted in more continuance in recent times. Judge Hall is hopeful that the situation is changing for the better. The Courts are no longer shut one day a month. Also, the judicial vacancies should be filled in the near future.

Question: If I am assigned to a trial department will it always be at the Redwood City Courthouse?

Answer: No.

Attorneys litigating in San Mateo County need to know that their cases can be assigned to trial in Redwood City, San Mateo or South San Francisco. This will not be determined until your case is assigned out to a trial department at trial call. San Mateo County Superior Court comprises three branches. The Southern Branch (referred to as the Hall of Justice and Records) is located in Redwood City; the Central Branch is located in San Mateo; and the Northern Branch is located in South San Francisco.

Your case can be assigned to trial in any of the three branches. This can be an obstacle when scheduling witness testimony. However, by knowing the uncertainty of the trial location ahead of time, you have time to prepare for it. Also, it is important to know that statistically, you are most likely to be assigned to a trial department in Redwood City. Normally, there is only one trial department at the Northern Branch and two trial departments at the Central Branch, whereas there are normally multiple trial departments at the Southern Branch.

Question: Will the first day of trial always be an entire day dedicated to settlement discussions?

Answer: Not necessarily.

The earliest a civil case will likely be assigned to a trial department is noon. Before the Presiding Judge is able to assign a civil case to a trial department, he must first assign out the felony and misdemeanor cases proceeding to trial. This takes time. All calendars (civil and criminal) are called Monday morning. The criminal presiding judge reports the number of felony cases proceeding to trial to the Presiding Judge. There is one judge from the Northern Branch and one judge from the Southern Branch that report the number of misdemeanor cases proceeding to trial. Once this information is obtained, the Presiding Judge will determine if there are trial departments available for the civil cases.

This means it is unlikely that a civil case will be assigned to a trial department immediately. Most likely, a civil case will be assigned to a department for a morning settlement conference. Whether it takes a few hours or days to determine whether there is a trial department available for a civil case will vary from week to week.

The exception is if a retired judge has been assigned to a special assignment. If this is the case, your case can be assigned out immediately.

Question: If I request a trial continuance is it likely to be granted?

Answer: It depends on whether you have good cause and whether the request is being made in a timely manner.

In San Mateo County (unlike other counties), a stipulation to continue the trial date without good cause will likely be denied. Also, a request by an attorney who is requesting more time because he or she failed to prosecute their case during the allotted time will be denied (this does not constitute good cause). Litigants are required to demonstrate good cause for a continuance coupled with a timely motion. If you have waited until the first day of the scheduled trial date to request a trial continuance, be prepared to explain why the motion was not brought sooner.

Whenever possible it is better to bring a motion to continue the trial date before trial call. This would be done in the Presiding Judge's department. If time is of the essence, you can appear ex-parte Monday through Friday, 2:00 through 3:30. (FYI - If you see a sign saying “Ex Parte”, do not assume you are in the right department. Ex-parte for law and motion is heard at the same time but in a different department.)

Question: Is San Mateo County a hostile environment for a plaintiff's case?

Answer: Not necessarily.

Judge Hall places faith in the jurors in this county. He describes them as applying common sense to come to the right decision. They are not necessary defense oriented.

They are a pool of intelligent jurors who intently listen to the facts. The jurors will react negatively to overreaching. They don't like it if they feel like someone is trying to put something over on them.

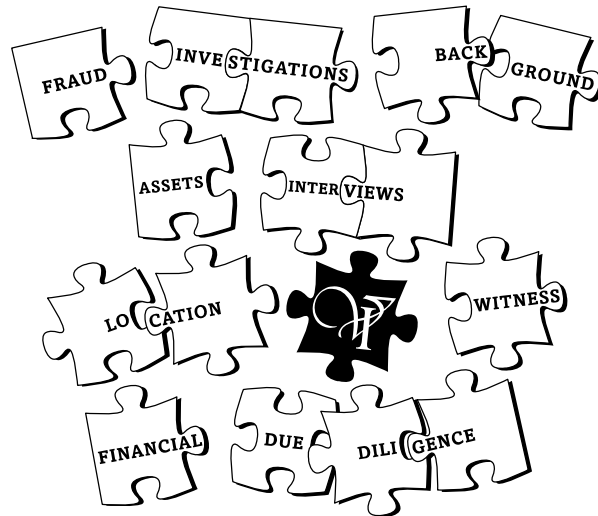
Judge Hall described a change in the jury pool. It is a dynamic population. In the past, the typical juror was born and raised in San Mateo County. Now, the trend is to see more jurors who have lived in the county for only a few years. He describes the outcome in every case as being fact specific. It really depends on the evidence that is admitted and how it is presented. He repeated several times that there have been some really big verdicts lately. He values the jury system. He states, "I have a lot of faith in our jury system. It is one of the cornerstones of our system of justice."

Conclusion

There are a lot of variables affecting what will happen the first day scheduled for trial. However, understanding and recognizing those variables will allow you to better prepare for them. ■

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