

Superior Court of California
County of San Luis Obispo

Court Administration

Rita Federman
Presiding Judge

Michael Powell
Court Executive Officer



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Notice of Local Rules Updates

In compliance with California Rules of Court 10.613 and 10.614, the Superior Court is distributing for comment, a proposed amendment to the local rules. The proposed change will be effective January 1, 2025.

The following rule is proposed to be amended:

- RULE 10.07 LAW AND MOTION PROCEEDINGS

The proposed change is attached to this notice and may also be found online at:

<https://www.slo.courts.ca.gov/forms-filing/local-rules>. A hard copy of the proposed change is available upon request.

Please submit all comments to LocalRulesComments@slo.courts.ca.gov.

Michael Powell,
Court Executive Officer

RULE 10.07

LAW AND MOTION PROCEEDINGS

(a) Location

All motions except Penal Code section 995 motions will be held before the judge to whom the case is assigned. Upon filing a Penal Code section 995 motion, counsel must, if denied, request such motion be assigned to another judge on the criminal team.

(b) Notice of Motion

All motions and notices must be in writing and an original must be filed for each case when multiple cases are listed. In addition, it must specify the date, department, time of the hearing and the grounds of the motion. All motions must be in writing and ~~give not less than ten (10) calendar days' notice~~ be served and filed in accordance with the requirements of Rule 4.111, subdivision (a), of the California Rules of Court, unless such requirement is shortened by court order or waived. The papers intended to be used by the moving party must be attached to, and served and filed with, the notice of motion. All citations of authority must include the official reporter citation and the West Publishing (unofficial) citation. Failure of either party to file and serve the points and authorities may be deemed by the court to be a concession to the motion and/or that the motion is without merit. Where the review of a transcript is necessary, the pertinent transcript testimony must be summarized with a specific page and line reference cited.

(Subd (b) amended effective January 1, 2025.)

(c) Date of Hearing

Any motion requiring a hearing must be noticed for a date certain after confirming such date with the court clerk prior to noticing the motion. The motion must be noticed and heard prior to the Trial Setting Conference for misdemeanors and prior to the readiness conference for felonies.

(d) Format

The first page of each motion must specify immediately below the number of the case:

- (1) The date, time and location, if ascertainable, of any scheduled or noticed hearing;
- (2) The nature or title of any attached document other than an exhibit; and
- (3) The trial date, if set.

Documents bound together must be consecutively paginated.

(e) 1538.5 Motion

(1) Felony

Motions by defendant to suppress or return evidence may be heard in conjunction with and at the same time as a Preliminary Hearing or on a date set.

(a) A written noticed motion is not required if a motion based upon Penal Code section 1538.5 is to be heard at the Preliminary Hearing. The prosecutor must be prepared at all such hearings to justify, legally and factually, all seizures of proffered evidence; however, upon a showing of surprise the case may be continued. If a Penal Code section 1538.5 motion is made other than at a preliminary hearing, a written notice that complies with Rule 10.07(b) is required.

(b) A written noticed motion pursuant to Penal Code section 1538.5 must specifically describe and list the evidence which is the subject of the motion to suppress; and must specifically state the theory or theories which must be relied upon and urged for the suppression of the evidence; and cite the specific authority or authorities which will be offered in support of the theory or theories and must set forth a statement of facts upon which such theory(ies) is based upon which suppression of the evidence is urged. It must also conform to Rule 10.07(b).

(2) Misdemeanors

Motions by defendant to suppress or return property will be heard at least 10 calendar days in advance of the trial date (PC 1538.5(g)). Notice of the date of such hearing must be given in compliance with Rule 10.07(b) above and must

specifically list and describe the evidence sought to be suppressed or returned, must state specifically the theory(ies) which will be relied on and urged for suppression or return of the evidence, must set forth a statement of facts upon which such theory(ies) is based, and must cite the specific authority(ies) which supports the theory(ies) for such suppression.

(3) Hearing

Defendant must be prepared to prove standing to object, and in instances of warrantless searches, must be prepared to prove:

- (a)** That a seizure of the evidence took place; and
- (b)** That it was done so without a warrant.

(Amended 7/1/10)