

Superior Court of California County of Santa Clara

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Santa Clara County Superior Court Issues General Order on Use of Electronic Recording Equipment in Proceedings Affecting Fundamental Liberty Interests

SAN JOSÉ, California (November 15, 2024): The Superior Court of California, County of Santa Clara, has issued a General Order authorizing the use of electronic recording (ER) equipment in specific court proceedings where fundamental liberty interests are at stake, and no court reporter is available. This action seeks to preserve litigants' appellate rights and ensure equal access to justice amid a significant, long-standing shortage of court reporters.

Over the last decade, the number of court reporters employed by Santa Clara County Superior Court has declined sharply, from 70 full-time equivalents (FTE) in 2011 to only 28.1 FTE in 2024. This decrease, consistent with a nationwide trend, has occurred despite considerable recruitment and retention efforts. The shortage has impacted the Court's ability to provide verbatim records in a growing number of hearings, particularly in unlimited civil, family, and probate matters where court reporters are not legally mandated and California Government Code section 69957 does not permit use of electronic recording (ER).

ER is currently permissible only in infraction, criminal misdemeanor, and limited civil cases, and for monitoring subordinate judicial officers such as commissioners. As a result, many litigants in unlimited civil, family, and probate cases have no access to a verbatim record unless they can retain and pay for a private reporter.

Without a verbatim record, parties may face severe limitations in their ability to appeal rulings, undermining their fundamental rights. In 2023, the Santa Clara County Superior Court held over 56,000 hearings without a verbatim record, with projections exceeding 70,000 such hearings in 2024.

This General Order authorizes the use of ER in specific proceedings that affect fundamental rights and meet outlined criteria, including when parties cannot secure a court reporter and have a reasonable inability to pay for a private reporter. Under these conditions, when a judicial officer makes such a finding, courtroom clerks are directed to operate ER equipment to prepare a record for potential appellate review, ensuring justice and due process for all litigants.

The Santa Clara County Superior Court is committed to protecting access to justice and upholding appellate rights for all parties, despite ongoing staffing challenges that impact courts statewide.

To review the General Order, visit: <https://santaclara.courts.ca.gov/system/files/general/general-order-re-operation-electronic-recording-equipment-declaration-rebecca-j-fleming-11-14-24.pdf>

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About the Superior Court of California, County of Santa Clara

The Superior Court of California, County of Santa Clara, serves the county's residents with a commitment to fairness, accessibility, and transparency in all judicial proceedings. The Court strives to ensure that all individuals have the opportunity to seek justice, regardless of background or financial resources.