Tentative rulings: pro per litigants beware

Meant to save time and money, the tentative ruling system can create an unpleasant surprise for self-represented litigants (aka “pro pers” or “pro se.”)

Sacramento County uses a “tentative ruling” (sometimes called “tentative decision”) system for most types of hearings in civil and probate court. Most courts in California do the same.

On the court day before a hearing, the judge writes a tentative ruling based on the paperwork the parties submitted. The court posts the tentative rulings on the Internet by 2 p.m., and the parties are expected to read them.

If a party wants to attend the hearing and present oral argument, they have two hours to notify the court and the other party.

If neither party calls the court by 4 p.m., the court cancels the hearing. The next day, the judge orders that the tentative ruling becomes the final ruling.

If a party wants to attend the hearing, they must tell the court and other party by 4 p.m. the previous business day

If one party informs the court and the other party that they plan to attend, the other party can also attend. They are not required to attend. The judge will listen to the oral argument, and then make a final ruling

How this system can hurt pro pers

Most California litigators know about the tentative ruling system, while most pro per litigants have never heard of it. (“Pro per” stands for the Latin phrase “in propria persona,” or “representing himself.”) As a result, the pro pers often do not check the ruling, or call to inform the court and other party that they want to attend the hearing.

Because they do not contact the court, the court cancels the hearing. When the party arrives, they learn that they missed their chance to talk to the judge. If they lost the ruling, this seems unfair and even cruel. Even if they won, they end up spending unnecessary time on preparing for and attending the hearing.

Unfortunately, as they say, ignorance of the law is no excuse. If you are involved in a court case, you are expected to learn all of the court’s rules. Sacramento Local Rule 1.06 (https://www.saccourt.ca.gov/local-rules/docs/local-rules.pdf) covers the tentative ruling system.

If your hearing was cancelled because you didn’t know about the tentative ruling system, the judge might reschedule (“continue”) the hearing. It depends on the specific facts in your case. Usually, you are just out of luck.

Purpose of tentative rulings

At first, the tentative ruling system seems pointless. You might expect that the losing party would always want to go to the hearing, to try to change the judge's mind.

But in fact, most of the time the parties don't actually go to the hearing. There are two good reasons why it may be a waste of time and money to go.

First, it is *very rare* for the judge to change their mind. Since the parties should include all arguments and evidence in the paperwork, the hearing usually doesn't add much. If something about the case has changed, you might choose to attend and update the judge. If the judge has overlooked or misunderstood your legal arguments, you may be able to explain better in person. Usually, though, nothing will change.

Second, not all motions are important enough to change the outcome of the case. An attorney (and their client) might choose not to spend several hundred dollars on travel time and oral argument about something relatively minor. Remember, it is very rare for the judge to change their mind.

Once you know about it, the tentative ruling system makes sense as a way to save time and money. If you don't know about it, it can really hurt you.

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