



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

- CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101
- CENTRAL DIVISION, COUNTY COURTHOUSE, 220 W. BROADWAY, SAN DIEGO, CA 92101
- CENTRAL DIVISION, KEARNY MESA, 8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123
- EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020
- NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081
- SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910

MISDEMEANOR AND INFRACTION COUNTER / FAX ARRAIGNMENT CRITERIA

1. Attorneys appearing in propria persona or who are retained to represent defendants charged with misdemeanor(s) or infraction(s) may, in lieu of a court appearance, arraign matters informally if the attorney, as authorized by the defendant, enters a plea of not guilty and waives time for trial (San Diego Superior Court Rules, rule 3.1.2.). Attorneys eligible to use these arraignment procedures must be members in good standing of the State Bar of California, whose privilege of using these arraignment procedures has not been revoked by order of the Presiding Judge for failure to comply with these criteria. The attorney must provide his or her State Bar number on the Counter/Fax Arraignment form (SDSC Form #CRM-141). For fax arraignments, the attorney **MUST** include a fax number for return information from the court. A defendant is **ineligible** for counter/fax arraignment if (San Diego Superior Court Rules, rule 3.1.2):
 - The defendant is in custody on this or any other case.
 - The case charges domestic violence or child abuse.
 - The case is being prosecuted by the Consumer Fraud or Code Enforcement Divisions of the San Diego City Attorney's Office.
 - A victim has elected to exercise the right to be present at the arraignment (see Cal. Const., art. I, § 28(b)(7)).
 - Any previously posted cash bail or bond has been forfeited.
2. A defendant charged with an infraction who is eligible and wishes to have the case proceed as a misdemeanor (see Pen. Code § 17(d)(1); Bus. & Prof. Code §§ 146(b)(1), 7574.32(a)(1), 7582.05(a)(1)) must make a court appearance to make that election. Submission of a Counter/Fax Arraignment form (SDSC Form #CRM-141) without first making the election in court constitutes a representation to the court that the attorney has advised the defendant of the right to elect to proceed as a misdemeanor; the rights, benefits, and potential penalties associated therewith; that the defendant may be ordered to appear in court on a future date; that the prosecuting agency may not have reviewed the case before the Citation/Notice to Appear was filed with the court and, if defendant elects to proceed as a misdemeanor, the prosecuting agency might review the case and add, delete or amend the charges; and that submission of the form without first making the election will be deemed a waiver of the right to make the election.
3. Statutory time must be waived to counter/fax arraign.
4. The following cases, as identified by the prosecuting agency, will be set for a readiness conference within three weeks following counter/fax arraignment: (1) a DUI with a blood alcohol content of .20 or higher; (2) a DUI with a prior DUI offense within two years from the date of driving; (3) a DUI with two or more prior DUI offenses; and (4) a DUI with a child under 14 in the vehicle.
5. To counter/fax arraign a defendant, the attorney must use the Counter/Fax Arraignment form (SDSC Form #CRM-141), available at the court and on the court's website at www.sdcourt.ca.gov. The attorney must complete ALL information, sign the form, and transmit it to the appropriate division. If any information is omitted, the form will be rejected and returned to the attorney.
6. A counter/fax arraignment form faxed and received after 4:30 p.m. on any court day, or received on any non-court day, will be deemed to have been received on the next court day. The form must be received on or before the date **and time** set for the arraignment in order to avoid the issuance of a warrant or civil assessment, the filing of failure to appear charges, and/or the forfeiture of bail.
7. Once the counter/fax arraignment form is received, the clerk will recall any outstanding warrant on the case. Any cash bail or bail bond posted will remain in full force and effect from the date of the arraignment to the next hearing.
8. Discovery must have been completed, key witnesses interviewed, the case evaluated and negotiated with the District Attorney or City Attorney by the week preceding the settlement conference.
9. The attorney will, by signing and submitting the Counter/Fax Arraignment form (SDSC Form #CRM-141), be deemed to have made the representations, acknowledgments, and agreements set forth in these criteria
 - The attorney is the attorney of record and understands that the counter/fax arraignment constitutes a general appearance.
 - The defendant has specifically authorized the attorney to act as the defendant's agent for the purpose of waiving time and receiving the hearing/pre-trial/trial date.
 - The defendant and attorney have agreed that notice of the hearing/pre-trial hearing/trial date received at the counter or by fax will be deemed full, complete and valid notice to the defendant.
 - The attorney has advised the defendant that failure of the defendant to appear timely at the hearing/pre-trial/trial date will constitute the crime of failure to appear.
 - The attorney has advised the defendant of, and the defendant understands, the rights set forth in the Acknowledgement of Constitutional Rights form (SDSC Form #CRM-22/22S).
10. ALL FAX ARRAIGNMENT FORMS MUST BE TRANSMITTED TO THE DIVISION WHERE THE DEFENDANT IS SCHEDULED TO APPEAR FOR ARRAIGNMENT. The fax numbers for each location are as follows:

Central Division – Criminal (619) 844-5505
Central Division – Minor Offense (858) 634-1735
East County Division – El Cajon (619) 456-4083

North County Division – Criminal (760) 201-8118
North County Division – Minor Offense (760) 201-8638
South County Division (619) 746-6161