

Honorable James E. Simmons Jr.  
United States District Judge  
Civil Chambers Rules

**For questions regarding filing or docketing, contact:**

- the Clerk’s Office at (619) 557-5600,
- the CM/ECF Helpline at (866) 233-7983, or
- the CASD CM/ECF Helpdesk at [ecfhelp@casd.uscourts.gov](mailto:ecfhelp@casd.uscourts.gov)

**For criminal matters or courtroom technology, contact:**

- Emily Blase, Courtroom Deputy at [Emily\\_Blase@casd.uscourts.gov](mailto:Emily_Blase@casd.uscourts.gov)

**For civil hearing dates only, contact:**

- Judge Simmons’ law clerks in chambers at (619) 557-7666

**For transcripts requests, contact:**

- Amanda LeGore, Court Reporter at [Amanda\\_LeGore@casd.uscourts.gov](mailto:Amanda_LeGore@casd.uscourts.gov)

Unless otherwise ordered by the Court, counsel and *pro se* litigants are expected to follow the Federal Rules of Civil Procedure, the Civil Local Rules for the Southern District of California (the “Civil Local Rules”), the Electronic Case Filing Administrative Policies and Procedures Manual (the “ECF Manual”), and any other applicable rules. The Civil Local Rules and the ECF Manual are available on the District Court’s website at <https://www.casd.uscourts.gov/rules/local-rules.aspx>. Failure to comply with the applicable Orders and rules, including the ECF Manual, may result in the Court striking non-compliant documents from the record pursuant to ECF Manual Section 2(a) and/or imposing sanctions pursuant to Civil Local Rule 83.1.

**I. Communications with Chambers**

**A. Letters, faxes, or emails.**

Letters, faxes, or emails to chambers or chambers staff are prohibited unless required by Local Rule or specifically requested by the Court. If requested by the Court, letters, faxes or emails shall simultaneously copy all counsel and unrepresented parties. Copies of correspondence between counsel must not be sent to the Court unless requested by the Court.

**B. Telephone Calls**

Telephone calls to chambers are permitted only for obtaining a hearing date for a civil motion, temporary restraining order, or preliminary injunction. Parties seeking a motion date for a noticed motion may contact chambers if (1) they are ready to file within **three (3) calendar days** and (2) have satisfied the meet and confer requirements set forth below. Such calls may only be made by counsel with knowledge of the case or an unrepresented party. Calls from secretaries, legal assistants, paralegals, or parties represented by counsel are prohibited. Counsel or unrepresented parties should not call chambers with procedural questions or to inquire whether any action has been taken on a motion or other filing. Court personnel are prohibited from giving legal advice or discussing the timing or merits of a case. Requests regarding access to courtroom technology prior to a hearing should be directed to Courtroom Deputy Emily Blase by email.

### **C. Courtesy Copies**

Courtesy copies of filings that exceed 20 pages in length, including attachments and exhibits, shall be submitted in accordance with Section 2(e) of the ECF Manual via United States Postal Service mail, courier, or delivery to the Clerk's Office. The courtesy copy shall contain the CM/ECF document header on the top of each page. The Court prefers courtesy copies to be printed double-sided. If a filing has more than three (3) exhibits, the exhibits must be tabbed.

### **D. Failure to Oppose**

An opposing party's failure to file an opposition to any motion may be construed as consent to the granting of the motion pursuant to Civil Local Rule 7.1(f)(3)(c).

## **II. Discovery**

Counsel must contact the assigned Magistrate Judge's chambers directly for all matters pertaining to discovery. Any objection to a discovery ruling of the Magistrate Judge must be filed as a motion pursuant to Civil Local Rule 7.1.

## **III. Noticed Motions**

### **A. Conference of Counsel Prior to Filing Noticed Motions**

Unless one of the below exceptions applies, any party contemplating the filing of any noticed motion before this Court must first contact opposing counsel to thoroughly discuss the substance of the motion and attempt to resolve the matter informally. For example, a party desiring to file a Rule 12(b)(6) motion shall meet and confer to determine the feasibility of stipulating to an amended complaint that resolves the moving party's concerns. The conference must take place by telephone or in person at least **seven (7) days** prior to the filing of the motion. If the parties are unable to reach a resolution that eliminates the need to file the motion, counsel for the moving party must include in the motion papers a declaration to the following effect: "This motion is made following the conference of counsel that took place on [date]." Parties will not obtain a hearing date until they have satisfied this meet and confer requirement. Failure to meet and confer in good faith will result in the Court issuing an order to show cause why sanctions should not be issued.

The only exceptions to this meet-and-confer requirement are (1) cases where any party is appearing *pro se* and is not an attorney, (2) applications for temporary restraining orders or preliminary injunctions and (3) motions and cross-motions for summary judgments. *Ex parte* applications, which have separate requirements below, and joint motions are exempt from this rule as they are not noticed motions.

### **B. Hearing Dates**

Motion hearing dates are generally set on Wednesdays beginning at 9:00 a.m. Pursuant to Civil Local Rule 7.1(b), all dates for motion hearings must be obtained by calling the appropriate law clerk in chambers before filing any motion. Motion papers **MUST** be filed and served within **three (3) calendar days** of obtaining a motion hearing date from chambers. Failure to comply with this requirement may result in the forfeiture of the assigned hearing date.

### **C. Oral Argument**

The Court prefers to hear oral argument on all civil motions. If the Court determines that a matter may be resolved on the papers without oral argument in accordance with Civil Local Rule 7.1(d)(1), the Court will issue an Order vacating the hearing at least a week before the scheduled hearing date.

In the event the moving party desires to submit on the papers, the phrase “No Oral Argument Requested” should appear on the caption. If the moving party indicates that no oral argument is requested, the non-moving party may request that the Court hold oral argument in its opposition.

The Court views argument as an opportunity to have counsel answer questions on the facts and law that remain despite the briefing. Typically, the hearing will begin with the Court expressing its tentative ruling or areas where questions remain. Counsel need not prepare for or expect to, restate the arguments from the briefs or elaborate on the facts in general. Lengthy presentations are discouraged.

### **D. Briefing & Briefing Schedule**

The schedule for filing briefs must be in accordance with Civil Local Rule 7.1(e), unless ordered otherwise by the Court.

If multiple parties are moving for substantially the same relief or opposing a motion seeking substantially the same relief against them, they must make every effort to coordinate the timing of the filing of their motions, and to coordinate and consolidate the briefing to avoid duplication in briefing. Parties may file a notice of joinder to another party’s papers in support of or in opposition to a motion.

### **E. Sur-Replies and Notices of Supplemental Authority**

The parties must obtain leave of Court by filing an *ex parte* request before filing any sur-replies. Notices of supplemental authority may not be filed unless leave of court has been granted. The only exception to this requirement is if there is a change in binding intervening law that is directly on point issued after the filing. Under these circumstances, parties may file a notice of supplemental authority that includes the case citation and a copy of the order or opinion. Counsel may not include any argument in the notice.

### **F. Motions and Cross-Motions for Summary Judgment**

Consistent with Civil Local Rule 7.1(f)(1), separate Statements of Fact may not be filed unless leave of Court has been granted. Rather, the parties must meet and confer to arrive at a joint statement of undisputed material facts, which must be filed no later than the reply brief.

To the extent possible, the parties must coordinate the filings of a motion and cross-motion for summary judgment so that a consolidated briefing may be applied. No later than **fifteen (15) days** before the deadline for filing dispositive motions, all parties on the same side of the case (i.e., all defendants or all plaintiffs), must meet and confer about whether they intend to file a motion for summary judgment, and if so, the bases for that motion.

### **G. Exhibits & Unreported Cases**

All exhibits submitted in support of motions should include only relevant material. All exhibits must be clearly labeled, dated, tabbed, and indexed. Copies of documents already contained on the electronic docket in any United States district court **should not be** included as exhibits. Such documents should be cited in the text of the motion with case name, docket number, filing date, and any other information (*e.g.*, pages or paragraph numbers) that aids the Court (*e.g.*, *Doe v. Does*, No. 22cv306 (N.D. Cal. Jan. 13, 2022), ECF \_\_ at \_\_). For cases not assigned to a reporter for publication. Westlaw or Lexis citations should be given, if available. Citations to cases not available in Westlaw or Lexis should be accompanied by copies of the cited cases attached as exhibits.

### **H. Objections**

Objections to evidence submitted in support of a motion must be contained within the opposition brief, and objections to evidence submitted in support of an opposition must be contained within the reply brief. No separate statements of objections will be allowed.

### **I. Proposed Orders**

Proposed orders must be submitted simultaneously with all motions. Proposed orders should contain “[PROPOSED]” in the caption. This Chambers Rule mandating the addition of “[PROPOSED]” supersedes Section 2(h) of the ECF Manual. However, in accordance with Section 2(h) of the ECF Manual, proposed orders shall not contain the name and law firm information of the filing party. Counsel must email proposed orders in Word (.doc) format to [efile\\_simmons@casd.uscourts.gov](mailto:efile_simmons@casd.uscourts.gov) and include the case number and case name in the subject line of the email. Proposed orders or other documents requiring the Judge’s signature must not be filed on the docket.

### **J. List of Terms/Names**

For technical motions, the parties must send an email to chambers **one (1) week** prior to the hearing with a list of pertinent technical terms and/or proper names to assist the court reporter.

### **K. Telephonic/Video Appearances**

The Court strongly prefers that noticed hearings be held in-person in open court. However, the Court recognizes that telephonic or video appearances may be necessary for many reasons. Any party requesting to appear telephonically or on video should email the Courtroom Deputy, Emily Blase to obtain the appropriate link at least **three (3) court days** prior to the hearing. Any individual requesting to observe telephonically must contact Ms. Blase at least **two (2) calendar days** before the hearing to obtain the public dial-in information.

## **IV. *Ex Parte* Motions**

Before filing any *ex parte* motion, counsel must contact the opposing party to meet and confer regarding the subject of the motion. All *ex parte* motions must be accompanied by a declaration from the movant documenting (1) efforts to contact opposing counsel, (2) counsel’s good faith efforts, in person or by telephone, to meet and confer to resolve differences with opposing counsel, and (3) opposing counsel’s position regarding the *ex parte* motion. Any *ex parte* motion filed with the Court must be served on opposing counsel via email, fax, or overnight mail.

*Ex parte* motions that are not opposed within **two (2) Court days** will be considered unopposed and may be granted on that ground. After receipt, moving and opposing *ex parte* papers will be reviewed and a decision will be made without a hearing. If the Court decides to hear oral argument, the Court will issue an order setting the date and time for oral argument.

## **V. Temporary Restraining Orders**

All motions for temporary restraining orders must be briefed. While temporary restraining orders may be heard *ex parte*, the Court will do so only in extraordinary circumstances. The Court's strong preference is for the opposing party to be served and afforded a reasonable opportunity to file an opposition.

## **VI. Continuances**

Parties requesting a continuance of any conference, scheduled motion, hearing date, deadline, briefing schedule, or any other procedural change must meet and confer prior to contacting the Court. If the parties reach an agreement, they must file a joint motion with a declaration explaining the reasons for the requested continuance or extension of time. The parties must also email a proposed order in Word (.doc) format to [efile\\_simmons@casd.uscourts.gov](mailto:efile_simmons@casd.uscourts.gov). See Chambers Civil Rule III.I. The proposed order must set forth the currently scheduled date and the new proposed date.

If the parties are unable to reach an agreement, the requesting party must file an *ex parte* motion satisfying the applicable legal standard. The *ex parte* motion must include opposing counsel's position with regard to their opposition. Such a motion should be filed at least **two (2) Court days** prior to the event or deadline that the moving party seeks to continue.

## **VII. Protective Orders and Requests to File Under Seal**

The public enjoys a presumptive right of public access to court records based upon the First Amendment and the common law; therefore, motions to file documents under seal are strongly discouraged. The fact that both sides agree to seal a document is insufficient cause for sealing.

Any document submitted for filing under seal (including motions, responses, declarations, exhibits, etc.) must be accompanied by a motion authorizing such filing. The motion to seal will be a public entry on the docket and will be available to the public, in accordance with Section 2(j) of the ECF Manual.

The motion to seal must provide the Court with a specific description of the particular documents or categories of documents to be protected, including, for each document subject to the motion, whether the moving party seeks to seal the document in full or in part (i.e., with redactions). The motion to seal must be accompanied by declaration(s) from individual(s) with knowledge of the content of the documents demonstrating a compelling reason or good cause to protect those documents from disclosure. The standard for filing documents under seal will be strictly applied.

After filing a motion to seal, the moving party must immediately file the proposed sealed documents in CM/ECF using the “Sealed Lodged Proposed Document” in accordance with Section 2(j) of the ECF Manual. If the moving party seeks to seal the document in full, the document should be lodged in full, without redactions. If the moving party seeks to seal only portions of the document by using redactions, the document should be lodged with the alleged confidential or privileged information highlighted in yellow for the Court’s consideration.

The party requesting a sealing order must also file a “public” version of the document(s) it seeks to file under seal. For each document the moving party seeks to seal, the party may redact only that information that is deemed confidential or privileged. If the moving party has sought an order to seal the document in full, the party should file a slip sheet making clear for the Court that the document is subject to the motion to seal. If the moving party has sought an order to seal only portions of the document, the party should file the document with the alleged confidential or privileged information redacted.

Motions to seal must be narrowly tailored to the documents or portions of documents which require protection for good cause in accordance with legal standards. Parties shall not request the wholesale sealing of documents where only portions require protection.

Parties often seek to seal a document only because another party designated the document as sensitive under a protective order, including with a “confidential” or “attorneys’ eyes only” designation. In these circumstances, the moving party must first meet and confer with the designating party to determine whether the designating party maintains that any portion of the document must be filed under seal. If so, the moving party must file a motion to seal. In addition, the designating party must file a response to the sealing motion within **seven (7) days** that satisfies the sealing standard described above. If no response is filed, the Court may order that the document be filed in the public record.

### **VIII. Settlement**

If the parties settle a case, counsel must immediately notify this Court and the magistrate judge. Unless a notice of dismissal is filed under Federal Rule of Civil Procedure 41(a)(1) for which a court order is not required, the parties must file a joint motion to dismiss and email the proposed order to the Court within **twenty-eight (28) days** of the settlement.

### **IX. Pretrial Conference**

Pursuant to Civil Local Rule 16.1(f)(6), the Court requires that the parties lodge by email a proposed pretrial order in Word (.doc) format to [efile\\_simmons@casd.uscourts.gov](mailto:efile_simmons@casd.uscourts.gov) at least **seven (7) days** before the pretrial conference. The proposed pretrial order must strictly comply with the requirements of Civil Local Rule 16.1(f)(6)(c). All parties are required to cooperate in completing the proposed pretrial order.

The Court will set a trial date and a motion *in limine* hearing date during the pretrial conference. The Court will also set deadlines by which to file final witness and exhibit lists and

—in jury cases— proposed *voir dire* questions. The Court will set reasonable time limits in consultation with counsel. *See* Chambers Civil Rule XII.F.

The parties must also meet and confer and submit a joint set of proposed jury instructions, a separate set of any instructions they propose to which there is an objection, a joint statement of the case to be read for the jury, and verdict forms with their joint pretrial conference order and email a copy in Word (.doc) to chambers. Any modification to a standard jury instruction must be identified by specifying the modification to the original instruction and the authority supporting the modification. The listed items must be submitted at least **seven (7) days** before the pretrial conference.

## **X. Trial Date**

Trial will generally be set for approximately a month after the final pretrial conference. Trial may be set at a later time depending on the circumstances of the case and the Court's schedule.

## **XI. Motions *in limine***

Motions *in limine* must be limited in scope to evidentiary issues. Daubert motions, motions for judgment on the pleadings, summary judgment, leave to amend, or to bifurcate are not proper *in limine* motions.

Prior to filing motions *in limine*, counsel must meet and confer and discuss their intended motions, in an attempt to resolve issues without court intervention. Counsel must confirm their good faith attempt to resolve the issues in their motion papers. Failure to meet and confer in good faith will result in the Court issuing an order to show cause why sanctions should not be issued.

A briefing schedule for motions *in limine* will be set at the final pretrial conference. Generally, motions *in limine* will be heard two weeks before trial. Motions must be filed and served three weeks before the scheduled hearing date, with oppositions due two weeks before the hearing. Unless the Court grants permission otherwise, each side is limited to a maximum of **five (5)** motions *in limine*. Each motion *in limine* and each opposition **shall not exceed ten (10) pages in length**. Attachments to any motion *in limine* or opposition are included in the ten-page limit. *Each* motion *in limine* must be filed separately on the docket. No replies to motions *in limine* are permitted. Unless the parties obtain leave of Court to exceed the limitations contained herein prior to filing, multiple filings and filings that exceed the page limitations will be stricken.

## **XII. Trial Procedures**

### **A. Bench Trial – Specific Procedures**

**Fourteen (14) days** before trial, counsel must serve and file the proposed Findings of Fact and Conclusions of Law and an electronic copy of the proposed Findings of Fact and Conclusions of Law must be emailed to [efile\\_simmons@casd.uscourts.gov](mailto:efile_simmons@casd.uscourts.gov) in Word format.

The Court will permit opening statements. Rather than hear closing arguments, unless otherwise ordered, the parties will be permitted to file closing briefs not to exceed **twenty-five (25) pages** within **four (4) weeks** of the date on which all relevant transcripts become available.

### **B. Jury Selection**

Unless authorized by the Court, parties should not submit jury questionnaires. On the day set for jury selection, the courtroom deputy will provide counsel with a numerical list of the prospective jurors (“strike sheet”) at the start of *voir dire*. The courtroom deputy will seat all prospective jurors (22 prospective jurors will generally be summoned for civil cases). The Court will conduct the initial jury *voir dire*. In appropriate cases, the Court may permit follow-up *voir dire* by the attorneys.

Counsel will exercise their respective challenges using the “blind strike” method. That is, each side will exercise their peremptory challenges simultaneously and confidentially by marking those jurors they wish to excuse on the provided strike sheet. The Courtroom Deputy Clerk (“CRD”) will collect the parties’ strike sheets and, after reconciling those sheets, the CRD will then inform the parties of the first eight (8) remaining (non-challenged) jurors. All remaining prospective jurors will be excused at that time unless alternates are selected.

### **C. Trial Exhibits and Witness Lists**

In preparing trial exhibits, the parties should contact the Clerk’s Office or the CRD for exhibit stickers. Parties may provide their own exhibit stickers if the stickers include the exhibit number and case number. Civil trials must only use numbers for identifying exhibits and not letters, unless otherwise ordered by the Court.

For both bench trials and jury trials, the parties must submit two (2) courtesy copies of the trial exhibits at least **three (3) days** before trial begins. Counsel should contact the courtroom deputy to arrange a time to deliver the courtesy copies. The parties must also submit the trial exhibits in an electronic-media format (e.g., CD, DVD, or USB flash drive) at least **three (3) days** before trial.

The parties must also exchange their Final Exhibit and Witness Lists **one (1) week** before trial and email a copy of their Final Exhibit and Witness Lists to chambers **one (1) week** before trial.

### **D. Trial Schedule**

Trial generally proceeds from 9:00 a.m. to 4:00 p.m., Monday through Thursday, unless the Court schedules otherwise. There will be a **one-hour** break over the noon hour and two **15-minute** breaks, one in the morning, one in the afternoon. Jury deliberations also generally proceed from 9:00 a.m. to 4:00 p.m., including Fridays, unless the Court schedules otherwise.

### **E. Trial Briefs**

The parties may file trial briefs **one (1) week** prior to the date of trial. Trial briefs are limited to **twenty-five (25) pages**. Attachments or exhibits may not be appended.

## **F. Trial Procedures**

In civil trials, it is the practice of the Court to set a reasonable time limit for the entire trial. The time limit set by the Court includes opening statements, arguments, testimony, closing arguments, and any other matters that occur over the course of the trial, excluding jury selection. The Court will keep track of time limits, and upon request, the courtroom deputy will inform the parties of the time spent and remaining for trial. The time limit is subject to exception for good cause shown.

Lawyers must make every effort to have their witness available on the day the witness is to testify. The Court attempts to accommodate witnesses' schedules and may permit counsel to call them out of sequence if warranted. Counsel must anticipate any such possibility and discuss it with opposing counsel and the Court. Counsel must promptly alert the Court to any scheduling problems involving witnesses.

Counsel should not enter the well, except during *voir dire*, opening statements, and closing arguments. Counsel should conduct all examination of witnesses from the podium, seek permission from the Court before approaching a witness, and keep any visit to the witness stand brief, e.g., by quickly orienting the witness with an exhibit and returning to the podium. After first asking for permission to approach a witness, counsel does not need to seek permission again for the remainder of that witness' examination. When objecting, counsel should state only the legal ground for the objection (e.g., "objection, hearsay"). Speaking objections are not permitted unless the Court requests further information from counsel. When a party has more than one lawyer, only one lawyer may conduct the examination of a given witness and that lawyer alone may make objections concerning that witness.

## **G. Bench Conferences**

Sidebar conferences are disfavored. If counsel desires to speak to the Court outside the jury's presence, counsel may request to do so at the start of a recess or at the end of the day. Requests for sidebar conference will only be granted if the matter cannot wait until the next recess.

## **XIII. Courtesy**

Be courteous and respectful at all times, in all settings. Counsel may expect such from the Court, and the Court expects such from counsel. Please be familiar with and abide by Civil Local Rule 2.1.