

**Honorable Robert S. Huie  
United States District Judge  
Civil Pretrial and Trial Procedures**

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

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

**For criminal matters, contact Loraine Odierno (Courtroom Deputy) at (619) 695-5870.**

**For civil matters, contact Judge Huie's law clerks in chambers at (619) 557-5405.**

**For transcript requests, contact Tricia Rosate (Court Reporter) at [tricia\\_rosate@casd.uscourts.gov](mailto:tricia_rosate@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 this District's website at <https://www.casd.uscourts.gov/rules/localrules.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, and emails to chambers are prohibited, unless specifically requested by the Court. If letters, faxes, or emails are requested, copies of the same shall be simultaneously delivered to all counsel. Copies of correspondence between counsel must not be sent to the Court unless requested.

**B. Telephone Calls.** *Parties seeking a motion date for a noticed motion should refer to Section III below.* In light of the Court's procedure for setting motion dates, telephone calls to Chambers are rarely necessary. Such calls may only be made by counsel with knowledge of the case. Calls from secretaries, legal assistants, paralegals, or parties represented by counsel are prohibited. Counsel should not call Chambers with procedural questions or to inquire whether any action has been taken with regard to a previously-submitted filing. The Court does not provide time estimates for its written rulings. Court personnel are prohibited from giving legal advice or discussing the merits of a case. When calling chambers, be prepared to identify your matter by case name and case number so your call can be directed to the appropriate law clerk. If your call is not answered, you may leave a voicemail, including your name, contact information, case number, and a detailed message.

**C. Courtesy Copies.** Unless otherwise ordered by the Court, for any document which exceeds 20 pages in length (including attachments and exhibits), the filing party must deliver within 24 hours after filing a file-stamped courtesy copy to the Clerk’s Office to be placed in Judge Huie’s box. If a filing has more than three exhibits, the exhibits must be tabbed and listed in a table of exhibits.

## **II. Discovery**

Counsel must contact the 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.** Any party contemplating the filing of any noticed motion before this Court must first contact opposing counsel to discuss thoroughly the substance of the contemplated motion and any potential resolution. The conference must take place 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 anticipated motion, counsel for the moving party must include in the motion papers a statement to the following effect: “This motion is made following the conference of counsel that took place on [date].”

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

**B. Motion Dates.** Parties filing a noticed motion must set the hearing date to be *thirty-five (35) days* from the motion’s filing date.<sup>1</sup> Parties should not contact chambers for a motion hearing date.<sup>2</sup> Opposition and reply briefs are due based on the noticed date. The hearing date on a motion does not indicate a date when appearances are necessary; rather, it sets the briefing schedule for the motion pursuant to the applicable local rules. Consequently, the filing party should not specify a hearing time on its motion, and must include the following language in the caption of the motion: PER CHAMBERS RULES, NO ORAL ARGUMENT UNLESS SEPARATELY ORDERED BY THE COURT. If the Court decides to hear oral argument, the Court will issue an order setting the date and time for oral argument.

**C. Proposed Orders.** Any proposed orders must be submitted simultaneously with all motions. In accordance with Section 2(h) of the ECF Manual, proposed orders must not contain the name and law firm information of the filing party, and must not contain the word “proposed” in the caption. Counsel must email proposed orders in Word format to

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<sup>1</sup> For example, if the motion is filed on June 2, 2022, the motion date should be July 7, 2022.

<sup>2</sup> This rule supersedes the requirement of Civil Local Rule 7.1(b) that a motion date must be obtained from chambers.

efile\_Huie@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.

**D. Briefing.** 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.

**E. Surreplies and Notices of Supplemental Authority.** Surreplies and 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.** 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 schedule 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 be excerpted to include only relevant material. All exhibits must be clearly labeled, dated, tabbed, and indexed. Copies of documents already contained on the electronic docket should not be included as exhibits. Such documents should be cited in the text of the motion as [Doc. No. \_\_\_ at \_\_\_] referencing the docket number of the document cited and using the ECF-generated page number for pinpoint cites. 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 cases cited.

**H. List of Terms/Names.** For technical motions (especially in patent cases), one week prior to the motion hearing, the parties must send an email to chambers (but do not file) with a list of pertinent technical terms and/or proper names, the purpose of which is to assist the court reporter in the transcription of the hearing.

**I. Amended Pleadings.** Any amended pleading—not just those accompanying a motion for leave to amend—must be accompanied by a redline showing how the amended pleading differs from the operative pleading. *Pro se* plaintiffs who are incarcerated are excused from this requirement.

#### **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 *ex parte* 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 general 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. In appropriate cases, the Court may issue a limited restraining order to preserve evidence pending further briefing.

#### **VI. Joint Motions/Stipulations**

Pursuant to Section 2(f)(4) of the ECF Manual, all stipulations must be filed as joint motions. Joint motions must be signed by the Court to have legal effect.

#### **VII. 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 e-file a joint motion with a declaration explaining the reasons for the requested continuance or extension of time. The parties must also e-mail a proposed order in Word format to [efile\\_huie@casd.uscourts.gov](mailto:efile_huie@casd.uscourts.gov). The proposed order must set forth the current date scheduled and the new date proposed.

If the parties are unable to reach an agreement, the requesting party must file an *ex parte* motion satisfying the applicable legal standard, with a particular focus on the diligence of the party seeking delay and any prejudice that may result therefrom. In addition, the *ex parte* motion must state: (1) the original date; (2) the number of previous continuances and requests that have been made; (3) whether previous requests were granted or denied; and (4) opposing counsel's position with regard to their opposition. Such a motion should be filed at least **two (2) days** prior to the event or deadline that the moving party seeks to continue.

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

There is a presumptive right of public access to court records based upon common law and First Amendment grounds.<sup>3</sup> As such, motions to file documents under seal are strongly discouraged. The fact that both sides agree to seal a document or that a stipulated protective order was issued is insufficient cause for sealing. Even where a public right of access exists, such access may be denied by the Court in order to protect sensitive personal or confidential information. The Court may seal documents to protect sensitive information; however, the documents to be filed under seal will be limited by the Court to only those documents, or portions thereof, necessary to protect such sensitive information.

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.

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

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<sup>3</sup> See *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 (1978); *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096 (9th Cir. 2016).

the sealing standard described above. If no response is filed, the Court may order that the document be filed in the public record.

## **IX. Settlement**

If the parties settle a case, counsel must immediately notify this Court and the magistrate judge of the settlement. 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 this Court within *twenty-eight (28) days* of the settlement.

## **X. Pretrial Conference**

Pursuant to Civil Local Rule 16.1(f)(6), the Court requires that the parties lodge by email to chambers a proposed pretrial order at least *seven (7) days* before the pretrial conference. The proposed pretrial order must strictly comply with the requirements set forth in Civil Local Rule 16.1(f)(6)(c). All parties are required to cooperate in completing the proposed pretrial order.

The parties must file proposed jury instructions and verdict forms with their joint pretrial conference order, and email a copy in Word to [efile\\_huie@casd.uscourts.gov](mailto:efile_huie@casd.uscourts.gov). Counsel must meet and confer and submit a joint set of agreed jury instructions, and also submit a separate set of any instructions they propose to which there is an objection.

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

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, as appropriate. Counsel must confirm their good faith attempt to resolve the issues through the meet and confer process in their motion papers.

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

Each side is limited to a maximum of five (5) motions *in limine*. Each motion *in limine* must be filed separately on the docket. Each motion *in limine* and each opposition shall not exceed ten (10) pages in length. Attachments to any motion *in limine* or opposition shall also be limited to ten (10) pages in length. No replies shall be filed unless directed by the Court.

If the case involves multiple plaintiffs or multiple defendants, only one brief per motion *in limine* per side will be accepted. 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**

**A. Jury Selection.** Unless authorized by the Court, parties should not submit jury questionnaires. The courtroom deputy will provide counsel with a list of the jury panel in random order before *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 peremptory challenges using the blind strike method, whereby the parties simultaneously exercise their challenges. After each side has exercised its peremptory challenges, the first eight persons not challenged peremptorily or successfully challenged for cause will constitute the jury. All remaining prospective jurors will be excused at that time unless alternates are selected.

**B. Trial Exhibits.** In preparing trial exhibits, the parties should contact the Clerk's Office for exhibit stickers. Parties may provide their own exhibit stickers as long as 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 trial and jury trials, the parties must submit one (1) courtesy copy of the trial exhibits at least **three (3) days** before trial is set to begin. Counsel should contact the Court's 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 is set to begin.

The parties must also exchange their Final Exhibit and Witness Lists **seven (7) days** before trial, and email a copy of their Final Exhibit and Witness Lists to chambers.

**C. Trial Schedule.** Trial generally proceeds from 9:00 a.m. to 4:30 p.m., Monday through Thursday, unless the Court schedules otherwise. Jury deliberations also generally proceed from 9:00 a.m. to 4:30 p.m., unless the Court schedules otherwise.

**D. 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.

Counsel and witnesses are expected to be present for trial except in case of an emergency. Lawyers must make every effort to have their witnesses available on the day they are 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 argument. 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. 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.

*Revised 7/13/2022*