

HONORABLE ANTHONY J. BATTAGLIA
U.S. DISTRICT JUDGE
CIVIL CASE PROCEDURES
(Last Updated December 2025)

Please Note: The Court provides this information for general guidance to counsel.¹ However, the Court may vary these procedures as appropriate in any case.

I. Communications with Chambers

- A. Letters or Emails:** Letters or emails to chambers are prohibited unless specifically requested by the Court. If letters or emails are requested, copies of the same must be simultaneously delivered to all counsel. Copies of correspondence between counsel may *not* be sent to the Court unless specifically requested by the Court.
- B. Faxes:** Faxes to chambers are prohibited unless specifically requested by the Court. If faxes are requested, copies of the document(s) must be simultaneously delivered to all counsel.
- C. Telephone Calls:** *Telephone calls to chambers are permitted only for matters such as scheduling and calendaring. Procedural questions should be directed to the Clerk’s Office after first consulting the Local Rules and Electronic Case Filing Administrative Policies & Procedures Manual (“CASD ECF Policies & Procedures”).*² Court personnel are prohibited from giving legal advice or discussing the merits of a case. When calling chambers, be prepared to identify your case based on the case number. Only counsel of record with knowledge of the case may contact chambers. Chambers staff may be reached at 619-557-3446.
- D. Document Submissions:** Please refer to the Local Rules for a complete list of deadlines and compliance requirements. The CASD ECF Policies & Procedures can be found on the Court’s website. Consistent with CASD ECF Policies & Procedures, documents must be electronically filed. Judge Battaglia will not accept exhibits submitted via

¹ Counsel refers to attorneys of record and any party proceeding pro se.

² The Local Rules and CASD ECF Policies & Procedures can be found on the Court’s website at <https://www.casd.uscourts.gov/rules/local-rules.aspx>.

USB/thumb drive, CD, videotape, MP3, or any other physical medium. Pursuant to CASD ECF Policies and Procedures Section 2.k., as adopted pursuant to Civil Local Rule 5.4.f, exhibits must be submitted electronically in CM/ECF as attachments. If the entire exhibit exceeds 35 megabytes, it must be submitted in multiple segments, not to exceed 35 megabytes each. Courtesy copies must **not** be provided unless ordered by the Court.

II. Appearances

- A. **In-Person Default:** Unless otherwise ordered, all law and motion hearings will be conducted **in person** in Courtroom 4A of the Edward J. Schwartz U.S. Courthouse, located at 221 West Broadway San Diego, CA 92101.
- B. **Requests for Remote Appearances:** The Court will not grant requests to excuse a required party from appearing in person absent good cause. **Avoiding the cost and time of travel or mere convenience is not good cause.** If counsel believes there are sufficient grounds to request permission to appear remotely, they must confer with opposing counsel prior to making the request. All requests to appear remotely must be made by joint or *ex parte* motion **filed at least 7 calendar days before the scheduled hearing.** Failure to appear in person without prior court approval will be grounds for sanctions.
- C. **Restrictions on Remote Appearances:** Persons granted remote access to court proceedings by video- or tele-conference are strictly prohibited from photographing, including “screen-shots,” recording, and rebroadcasting the court proceeding. **The same level of professionalism, formality, and civility is required regardless of method of appearance.**

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—preferably in person—the substance of the contemplated motion and any potential resolution. The conference must take place **at least 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 notice of motion 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) for 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. Hearing Dates:** Counsel must obtain all hearing dates from chambers before filing any motion. Motion papers **MUST** be filed and served *the same day* of obtaining a motion hearing date from chambers. A briefing schedule will be issued once a motion has been filed. ***Objections relating to the motion should be set forth in the parties’ opposition or reply. Separate statements of objections will NOT be allowed. The inclusion of objections does not expand the page limits set.*** The parties must obtain leave of Court by filing an *ex parte* request before filing any sur-replies.
- C. Oral Argument:** Although the Court often decides motions based on the papers submitted by the parties, it is the Court’s policy to schedule oral argument for dispositive motions or when all counsel request oral argument. If oral argument is not necessary, the Court will electronically inform the parties via CM/ECF, or chambers will contact the parties. The Court tries to inform the parties whether oral argument will be required at least a week before the scheduled hearing date.

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, and

supplemental authority must be submitted 7 days in advance of the hearing, with notice to all other counsel or unrepresented parties.

For lawyers with less than 5 years admission to the bar, the Court will hold argument on civil motions where: (1) the motion will be argued by attorneys with less than 5 years of admission to the bar for at least two opposing sides; or (2) where the motion will be argued by an attorney with less than 5 years of admission to the bar on one side and the opposing attorney, notwithstanding their time admitted to the bar, also requests oral argument. Counsel must meet and confer on this issue and advise the Court of their request for oral argument no less than 7 days before the hearing by written pleading.

- D. Continuances:** Parties must meet and confer to discuss the requested change to any date or deadline before contacting the Court. Requests to continue or reschedule a conference, hearing, briefing schedule, or other date or deadline must be made by a motion filed **no less than 7 days prior to the date the parties seek to change** and include **specific details** addressing (1) the original date and proposed date; (2) good cause for the requested change; (3) the number of previous continuances and requests that have been made; (4) whether previous requests were granted or denied; (5) how this request will impact other dates or deadlines, and (6) how the parties fulfilled the Court's meet-and-confer requirement. Such a motion must be supported by a detailed declaration, explaining the specific reasons and averring that the meet and confer requirement was met.

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 include all of the criteria listed above plus opposing counsel's position with regard to their opposition.

Requests made fewer than 7 days prior to the date the party seeks to change must address excusable neglect for the request's untimeliness.

- E. Proposed Orders:** Proposed orders must be submitted simultaneously with the filing of all joint motions or *ex parte* motions. The proposed order should be emailed to efile_battaglia@casd.uscourts.gov in Word. Counsel are not required to submit proposed orders on motions requiring legal analysis, i.e., motions for summary judgment, 12(b) motions, etc.
- F. Sur-Replies:** Sur-replies must *not* be filed unless leave of Court has been granted.
- G. Separate Statements of Fact:** Separate Statements of Fact must *not* be filed unless leave of Court has been granted pursuant to CivLR 7.1.f.1.
- H. Motions for Reconsideration.**

The following procedures apply to all reconsideration motions:

1. Counsel must seek reconsideration within the timing limitation of CivLR 7.1.i.1;
2. Movant must file the motion for reconsideration as a noticed motion;
3. The motion for reconsideration must be no more than 10 pages in length and may not include attachments or exhibits;
4. The motion for reconsideration will specifically address the federal standard applicable to motions for reconsideration, and will not reallege arguments previously considered and ruled upon by the Court;
5. The Court will set dates for a hearing and filing of opposition briefs if the Court finds they are warranted following an initial review of the merits of the motion; and

6. All dates and deadlines in the case will remain as set and discovery and other proceedings will go forward until otherwise ordered by the Court.

I. Daubert Motions: Motions addressing the qualifications or testimony of a proposed expert must be brought by the dispositive motion hearing cut-off. They will not be entertained as motions in limine.

IV. Ex Parte Proceedings

Appropriate *ex parte* motions may be made at any time after first contacting the law clerk, but must ultimately be filed electronically on CM/ECF. 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 will be accompanied by a declaration from counsel documenting; (1) efforts to contact opposing counsel; (2) counsel's meet and confer efforts; 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 facsimile, electronic mail with return receipt requested, or overnight mail.

After service of the *ex parte* motion, opposing counsel will ordinarily be given until 5:00 p.m. on the next business day to respond. If more time is needed, opposing counsel must call chambers to modify the schedule. *Ex parte* motions that are not opposed 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 requires a hearing, the parties will be contacted to set a date and time.

V. Seeking Leave to File Documents Under Seal

A. Standard: There is a presumptive right of public access to court records based upon common law and First Amendment grounds.³ Thus,

³ See *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006). The legal standard in our circuit is, if a court decides to seal judicial documents and records in either a civil or criminal case, it must identify the compelling interest and articulate the factual basis for its finding "without relying on hypothesis or conjecture." *Id.* at 1179. There's a strong presumption in favor of public access to judicial records and against sealing. *Id.*; see also *Nixon v. Warner*

motions to file documents under seal are discouraged. The fact that both sides agree to seal a document or that a stipulated protective order was issued is independently not sufficient cause to warrant 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.⁴ 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.

- B. Procedure:** Any party seeking to file documents under seal must comply with the procedures set forth in the CASD ECF Policies & Procedures, including the requirements for lodging the unredacted version of the filing it seeks to seal.

Any motion to seal must set forth: (1) a description of the particular documents or part of the document(s) the party seeks to seal; (2) the correct legal standard; (3) an analysis of why the standard has been satisfied with respect to each proposed redaction; and (4) affidavits or declarations in support of the motion.

Parties should not seek to file under seal entire pleadings, or entire attachments, unless the party can establish that the entire document satisfies the standard for sealing. Unless the entire document satisfies

Comm., Inc., 435 U.S. 589, 597 (1978); *Globe Newspaper Co. v. Superior Ct.*, 457 U.S. 596, 603 (1982); *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1212 (9th Cir. 2002).

⁴ Although courts may be more likely to order the protection of the information listed in Rule 26(c)(7) of the Federal Rules of Civil Procedure, courts have consistently prevented disclosure of many types of information, such as letters protected under attorney-client privilege which revealed the weaknesses in a party's position and was inadvertently sent to the opposing side, *see KL Group v. Case, Kay, & Lynch*, 829 F.2d 909, 917–19 (9th Cir. 1987); medical and psychiatric records confidential under state law, *see Pearson v. Miller*, 211 F.3d 57, 62–64 (3d Cir. 2000); and federal and grand jury secrecy provisions, *see Krause v. Rhodes*, 671 F.2d 212, 216 (6th Cir. 1982). Most significantly, courts have granted protective orders to protect confidential settlement agreements. *See Hasbrouck v. BankAmerica Housing Serv.*, 187 F.R.D. 453, 455 (N.D.N.Y. 1999); *Kalinauskas v. Wong*, 151 F.R.D. 363, 365–67 (D. Nev. 1993).

the standard for sealing, a redacted version of the document must be publicly filed on the docket with only those portions of the document appropriately subject to filing under seal redacted.

Parties are not to contact chambers for a hearing date on a motion to seal. In the motion's caption, in lieu of a hearing date and time, the caption should instead state: **NO ORAL ARGUMENT UNLESS ORDERED BY THE COURT.**

- C. Responses to Motions to Seal:** Oppositions or notices of non-opposition must be filed **within 7 days** of the motion to seal's filing.

Where the movant seeks to seal a document because another party designated it 'confidential' or "attorneys' eyes only," the movant must meet and confer with the designating party prior to filing the motion to determine whether the designating party still maintains that any portion of the document warrants sealing. The designating party's response to the sealing motion must provide any additional justification, namely specific details supported by a declaration, necessary to satisfy the applicable sealing standard described above.

Any member of the public may challenge the sealing of any particular document. *See Citizens First Nat'l Bank of Princeton v. Cincinnati Ins. Co.*, 178 F.3d 943, 944–45 (7th Cir. 1999).

- D. Replies:** Any reply must be filed **within 3 days** of the filing of the opposition. No sur-reply will be accepted.
- E. Recommendation:** The Court recommends that parties seeking to seal documents that will be filed in conjunction with noticed motions, or in opposition or reply to noticed motions, do so before filing the respective documents. This will allow the Court to consider the merits of the motion to seal, and if the motion is denied, allow the parties an opportunity to decide whether to include the documents in the subsequent motion, opposition, or reply. If a party files a motion to seal in conjunction with a noticed motion, and the Court thereafter denies the motion to seal, the documents may be publicly filed on CM/ECF.

VI. 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.

VII. Trial Procedures

A. Trial Schedule: In general, civil trials are scheduled from 8:30 a.m. to 4:30 p.m., Tuesdays through Fridays. The Court will notify the parties of deviations from this schedule, and when possible will attempt to accommodate jurors, witnesses, and counsel, should conflicts arise. There will be morning and afternoon breaks of 15 minutes each.

B. Motions in Limine.

1. Motions in Limine will typically be heard in advance of the first day of trial. Each side is allowed a maximum of 5 motions in limine. Each motion must be limited to a single subject. Each motion and each opposition are limited to 5 pages in length. Attachments are also limited to a maximum of 5 pages for any motion or opposition;
2. Prior to filing motions in limine, counsel must meet and confer and discuss their intended motions in attempt to resolve issues without court intervention, as appropriate;
3. Counsel must confirm their good faith attempt to resolve the issues through the meet and confer process in their motion papers;
4. Motions in limine must be limited in scope to evidentiary issues where attempts to unring the bell would be unduly prejudicial or futile. Motions for judgment on the pleadings, summary

judgment or summary adjudication, *Daubert*, and leave to amend or for bifurcation are not proper in limine motions; and

5. The Court will grant motions to exclude witnesses under Federal Rule of Evidence 615 to allow electronic equipment and to shackle inmate civil litigants on oral motion at or before trial. These motions do not count against counsels' in limine motion limit.

C. Trial Briefs: The parties may file trial briefs **7 days** prior to the date of trial. Trial briefs are limited to 25 pages. Attachments or exhibits may not be appended.

D. Voir Dire: If counsel wish to expand the scope of the judge's initial *voir dire*, they may file proposed *voir dire* questions no later than **7 days before** the date of trial, unless otherwise ordered by the Court.

The Court will conduct the initial *voir dire*. The Court will generally permit follow-up *voir dire* conducted by the attorneys. Ten minutes per side will generally be allowed on routine cases. Attorney conducted *voir dire* should be supplemental and not duplicative of the Court's questions. The limited attorney *voir dire* should be directed to follow up on answers to the questions asked by the judge and should be calculated to discover bias or prejudice with regard to circumstances of a particular case. No attempts to use the questioning to precondition the jury to a party's case will be allowed.

E. Proposed Jury Instructions: The parties must file proposed jury instructions and verdict forms with their joint pretrial conference order, unless otherwise ordered by the Court ***and email a copy in Word to efile_battaglia@casd.uscourts.gov***. Counsel must meet and confer and submit a joint set of agreed jury instructions. Counsel must also submit a separate set of any instructions they propose to which there is an objection. The Court prefers to use the Model Jury Instructions for the Ninth Circuit whenever possible. The parties should consult Criminal Local Rule 30.1 regarding proper form and content.

- F. Witness and Exhibit Lists:** The parties must file witness and exhibit lists **7 days** prior to the date of the trial, unless otherwise ordered by the Court.
- G. Side Bar Conferences:** The Court prefers no side bar conferences during the trial. If there is an issue to discuss outside the presence of the jury, whenever possible, it will be taken up on a recess. In the meantime, move on with your examination.
- H. Use of the Well/Examining and Approaching Witnesses:** Counsel may freely use the well for opening statement or closing argument. Witness examination must be done from the podium. You need to ensure, in all instances, that you can be heard. Lapel microphones are available upon request.
- I. Exhibits:** All exhibits, including audio and video exhibits, are to be digitized wherever possible. The digitized exhibits must be submitted on a thumb drive. CDs and DVDs are no longer be accepted.

Counsel are jointly responsible for creating one thumb drive of all admitted exhibits to be given to the jury for deliberation. A table of contents of the exhibits on the thumb drive must be submitted by counsel as well.

Counsel are also jointly responsible for creating a thumb drive of all exhibits marked for identification but not received in evidence, along with illustrative only exhibits. Exhibits may not be passed among the jury during trial.

VIII. Use of Electronic Equipment in the Courtroom

The Court has audio/visual equipment for counsels' use. In brief, the podium is wired to connect with counsel's computers, laptops, and tablets. A VGA or HDMI connector is required for your devices. There is a Document Camera (Elmo) in place, with an annotation feature, and a Blu Ray player. Finally, the jury box is equipped with digital monitors, as are counsel tables, and a gallery

monitor. Counsel should contact the CRD for details and instructions and to schedule a preview of the equipment. Counsel should contact the CRD with any questions regarding the use of any other equipment not provided for by the Court.