

Chapter 1: Local Civil Rules

Notice Requirement for Motions

L.R. 6-1 Notice and Service of Motion. Unless otherwise provided by rule or order of the Court, no oral motions will be recognized and every motion shall be presented by written notice of motion. The notice of motion shall be filed with the Clerk not later than twenty-eight (28) days before the date set for hearing, and shall be served on each of the parties electronically or, if excepted from electronic filing, either by deposit in the mail or by personal service. If mailed, the notice of motion shall be served not later than thirty-one (31) days before the Motion Day designated in the notice. If served personally, or electronically, the notice of motion shall be served not later than twenty-eight (28) days before the Motion Day designated in the notice. The Court may order a shorter time. All motions belonging upon the Motion Day calendar shall be placed by the Clerk upon the calendar for hearing upon the day for which the motion is noticed.

L.R. 7-3 Conference of Counsel Prior to Filing of Motions. In all cases not listed as exempt in L.R. 16-12, and except in connection with discovery motions (which are governed by L.R. 37-1 through 37-4) and applications for temporary restraining orders or preliminary injunctions, counsel contemplating the filing of any motion shall first contact opposing counsel to discuss thoroughly, *preferably in person*, the substance of the contemplated motion and any potential resolution. If the proposed motion is one which under the F.R.Civ.P. must be filed within a specified period of time (*e.g.*, a motion to dismiss pursuant to F.R.Civ.P. 12(b), or a new trial motion pursuant to F.R.Civ.P. 59(a)), then this conference shall take place at least five (5) days prior to the last day for filing the motion; otherwise, the conference shall take place at least ten (10) days prior to the filing of the motion. If the parties are unable to reach a resolution which eliminates the necessity for a hearing, counsel for the moving party shall include in the notice of motion a statement to the following effect:

L.R. 7-8 Presence of Declarants - Civil Cases. On motions for and orders to show cause re preliminary injunctions, motions to be relieved from default and other motions where an issue of fact is to be determined (*e.g.*, civil contempt, but excluding motions contesting venue and personal jurisdiction), not later than fourteen (14) days prior to the hearing, a party desiring to cross-examine any declarant who is not beyond the subpoena power of the Court and who is reasonably available to the party offering the declaration may serve by hand (or

facsimile or by electronic filing) and file a notice of request to cross-examine such declarant. If the party offering the declaration disputes that the declarant is within the subpoena power of the Court and reasonably available to the offering party, such party shall serve and file an objection to the notice of request to cross-examine not later than eleven (11) days prior to the hearing. The offering party shall be under no obligation to produce the declarant unless the Court has granted the request to cross-examine by written order not later than three (3) days prior to the hearing. No declaration of a declarant with respect to whom such a request has been granted shall be considered unless such declarant is personally present and available at the hearing for such cross-examination as the Court may permit. The Court may, in the alternative, order that the cross-examination be done by deposition taken on two (2) days' notice with the transcript being lodged five (5) court days prior to the hearing. The Court may impose sanctions pursuant to these Local Rules against any party or counsel who requests the presence of any declarant without a good-faith intention to cross-examine the declarant.

L.R. 7-9 Opposing Papers. Each opposing party shall, not later than ten (10) days after service of the motion in the instance of a new trial motion and not later than twenty-one (21) days before the date designated for the hearing of the motion in all other instances, serve upon all other parties and file with the Clerk either (a) the evidence upon which the opposing party will rely in opposition to the motion and a brief but complete memorandum which shall contain a statement of all the reasons in opposition thereto and the points and authorities upon which the opposing party will rely, or (b) a written statement that that party will not oppose the motion. Evidence presented in all opposing papers shall comply with the requirements of L.R. 7-6, 7-7 and 7-8.

L.R. 7-10 Reply Papers. A moving party may, not later than fourteen (14) days before the date designated for the hearing of the motion, serve and file a reply memorandum, and declarations or other rebuttal evidence. Absent prior written order of the Court, the opposing party shall not file a response to the reply.

L.R. 7-11 Continuance of Hearing Date. Unless the order for continuance shall specify otherwise, the entry of an order continuing the hearing of a motion automatically extends the time for filing and serving opposing papers and reply papers to twenty-one (21) days and fourteen (14) days, respectively, preceding the new hearing date. A stipulation to continue shall provide the date the opposition and reply papers are due to be filed with the Court.

Bill of Costs

L.R. 54-4 Items Taxable as Costs. The following items are taxable as costs:

L.R. 54-4.1 Filing Fees. The Clerk's filing fees (pro hac vice fees are not recoverable).

L.R. 54-4.6 Depositions. Costs incurred in connection with taking oral depositions, including:

(b) The reasonable fees of the deposition reporter, including reporter fees when a deponent fails to appear at a scheduled deposition, the notary, and any other persons required to report or transcribe the deposition, but not including the costs of video or audio technicians unless otherwise ordered by the Court;

L.R. 54-4.9 Docket Fees. Docket fees as provided by 28 U.S.C. § 1923 (only if incurred).

L.R. 54-4.11 Certification, Exemplification and Reproduction of Documents. Document preparation costs, including:

(a) The cost of copies of an exhibit attached to a document necessarily filed and served; other than exhibits, the costs of copies of documents filed and served is generally not taxable;

(b) The cost of copies of documents or records admitted into evidence when the original is not available or the copy is substituted for the original at the request of an opposing party;

(c) Fees for an official certification of proof respecting the non-existence of a document or record;

(d) Patent Office charges for the patent file wrappers and prior art patents necessary to the prosecution or defense of a proceeding involving a patent;

(e) Notary fees incurred in notarizing a document when the cost of the document is taxable; and

(f) Fees for necessary certification or exemplification of any document or record.

Magistrate Judge Pilot Program

L.R. 73-2.4.1 Cases Originally Filed in District Court. Except as provided in L.R. 73-2.4.1.1, a case originally filed in District Court and initially assigned only to a magistrate judge shall be randomly reassigned to a district judge if any defendant has not filed a statement of consent within 30 days after service of the summons and complaint upon that defendant, if the plaintiff has not filed a statement of consent within 30 days after service upon the first-served defendant, if any party applies for a temporary restraining order, or if any party makes a motion that the magistrate judge concludes cannot be decided by the magistrate judge and must be addressed before the period for consent expires.

L.R. 73-2.4.1.1 Exception for United States, its Agencies, Officers and Employees. If the United States, an agency of the United States, or an officer or employee of the United States is a defendant, a case originally filed in District Court and initially assigned only to a magistrate judge shall be randomly reassigned to a district judge if the government defendant has not filed a statement of consent within 60 days after service of the summons and complaint upon that defendant, if any party applies for a temporary restraining order, or if any party makes a motion that the magistrate judge concludes cannot be decided by the magistrate judge and must be addressed before the period for consent expires.

L.R. 73-2.4.2 Cases Removed from State Court. A case initially assigned only to a magistrate judge following removal under 28 U.S.C. § 1441 *et seq.* shall be randomly reassigned to a district judge if, within 11 days after the notice of removal is filed, plaintiff(s) and all defendants upon whom service has been effected have not filed a statement of consent, if any party applies for a temporary restraining order, or if any party makes a motion that the magistrate judge concludes cannot be decided by the magistrate judge and must be addressed before the period for consent expires.

Attorney Admission and Discipline

L.R. 83-2 Attorneys - Admission, Substitution and Withdrawal, Communications With Court

L.R. 83-2.2 Admission to Practice

L.R. 83-2.2.1 In General. Admission to and continuing membership in the Bar of this Court is limited to persons of good moral character who are active members in good standing of the State Bar of California. If the attorney ceases to meet these criteria, the attorney is subject to the disciplinary rules of the court, infra.

L.R. 83-3 Attorney Disciplinary Rules of the Court

L.R. 83-3.1 Discipline

Nothing contained in these Rules shall be construed to deny the Court its inherent power to maintain control over the proceedings conducted before it or to deny the Court those powers derived from statute, rule or procedure, or other rules of court. When alleged attorney misconduct is brought to the attention of the Court, whether by a Judge of the Court, any lawyer admitted to practice before the Court, any officer or employee of the Court, or otherwise, the Court may, in its discretion, dispose of the matter through the use of its inherent, statutory, or other powers; refer the matter to an appropriate state bar agency for investigation and disposition; refer the matter to the Standing Committee on Discipline; or take any other action the Court deems appropriate. These procedures are not mutually exclusive.

L.R. 83-3.1.1 The Standing Committee on Discipline. At all times the Court will maintain a Standing Committee on Discipline (hereinafter "Committee"). The Committee shall consist of 13 attorneys who are members of the Bar of the Court. However, in the event of any vacancy or vacancies, the Committee may continue to perform any of the functions herein authorized so long as there are nine members in office.

Committee members shall be appointed by the Chief Judge with the concurrence of the Executive Committee. The Chief Judge shall designate one member to serve as the chair. A Committee member shall serve for a term of one to

three years but may continue in office, upon order of the Chief Judge, beyond said three-year term until the completion of any disciplinary proceeding (which includes the initial investigation to presentation of disciplinary recommendations to the Court) in which the member is participating. Each committee member's term shall commence on January 1 of the year specified in the appointment, and appointments shall be staggered so that each year the terms of four members, not including the Chair, shall end. Should any Committee member not complete a three-year term, that member's replacement shall complete the length of term remaining. The Chair of the Committee shall serve a term of three years as Chair, regardless of previous time served as a Committee member.

The Chair of the Committee shall organize the Committee into four sections of three members each. Each section shall consist of one member who has one year remaining on his term, one member who has two years remaining on his term, and one member who has three years remaining on his term. The Chair of the Committee may assign any matter before the Committee to one of the sections for initial investigation and further proceedings described in these rules. Except for the requirement of seven affirmative votes for the imposition of discipline as specified in Rule 83-3.1.5, the Committee may perform or decide any matter arising under these rules by a majority vote. For any Committee meeting, a quorum of seven is required.

The Clerk of the Court shall be advised of, and keep a current list of, all matters referred to the Committee and each section, to assist the Court, the Committee, and the affected attorney or complaining person, in recording the status of each matter.

L.R. 83-3.1.3 Possible Disciplinary Penalties. An order imposing discipline under this Rule may consist of any of the following:

- (a) disbarment,
- (b) suspension not to exceed three years,
- (c) public or private reproof,
- (d) monetary penalties (which may include an order to pay the costs of the proceedings), and/or

(e) acceptance of resignation.

In lieu of any of the foregoing disciplinary steps, the Court's Standing Committee on Discipline may issue an admonition as defined by California State Bar Rules, to wit, where the offense is not serious, or not intentional, involved mitigating circumstances, or no significant harm resulted.

Any suspension or reproof imposed, or acceptance of resignation, may be subject to specified conditions, which may include, but are not limited to, continuing legal education requirements, counseling and/or supervision of practice and periods of probation.

L.R. 83-3.1.4 Who May Originate Complaints - Initial and Further Investigation - Hearing and Opportunity for Attorney Involved to Appear and Present Evidence. A complaint that an attorney has violated any of the standards of conduct specified in Rule 83-3.1.2, may come to the Committee from any District, Bankruptcy or Magistrate Judge of the Court or from any other person. The complaint shall be in writing addressed to the Committee in care of the Clerk of Court. Within 10 days of receipt, the Clerk shall serve a copy of the complaint on the Chair of the Committee, the attorney affected and the Clerk of the Bankruptcy Court.

Within 10 days of receipt of any such complaint, the Committee chair shall assign the matter of possible disciplinary action based on the complaint to one of the sections of the Committee for initial investigation and possible disciplinary proceedings. Any attorney of the assigned section who cannot participate shall so notify the Chair within 10 days of assignment so that a replacement can be assigned.

Within 60 days of receipt, the section to which such a complaint is referred shall conduct and complete an initial investigation. If the section determines that the complaint should not be the subject of further disciplinary action, and the Committee concurs in that determination, the matter will thereupon be closed. Notice of closing shall be promptly sent to the complainant, the attorney affected and the Chief Judge. If the Committee determines that the complaint should be further investigated as being one that may result in disciplinary action, the section shall thereupon within 60 days conduct and complete such further investigation and inquiries as it deems necessary. The section, in so doing, may

take the testimony of witnesses and may seek from the Chief Judge, or his or her designee, any subpoena necessary for its investigation and the Clerk shall promptly issue any such requested subpoena. The affected attorney may also apply to the Chief Judge, or his or her designee, for any necessary subpoenas.

All final disciplinary actions will be distributed to the judicial officers of the Court. Final disciplinary action, including the name of the attorney, will be posted on the Court's website when it consists of (a) disbarment; (b) suspension; (c) public reproof; or (d) resignation with charges pending. It may be ordered posted if the disciplinary action consists of monetary penalties.

Other final disciplinary action may be posted, without the name of the attorney, to promote understanding of the level of practice expected in this district.

The deadlines in this paragraph may be extended by the Committee Chair for a period of up to six months, for good cause at the request of the section or the affected attorney. The deadlines may be extended for a longer time in consultation with the Chief Judge.

L.R. 83-3.1.6 Confidentiality of Proceedings. The record in a disciplinary proceeding shall not be public (unless otherwise ordered by the Court) but shall become public if and when a final order imposing discipline is entered. If the final order imposing discipline consists of private reproof, the record shall only be made public upon an order of the Court.

L.R. 83-3.2 Enforcement of Attorney Discipline

L.R. 83-3.2.1 Disbarment or Suspension by Other Courts or Conviction of a Crime. Upon receipt of reliable information that a member of the Bar of this Court or any attorney appearing *pro hac vice* (1) has been suspended or disbarred from the practice of law by the order of any United States Court, or by the Bar, Supreme Court, or other governing authority of any State, territory or possession, or the District of Columbia, or (2) has resigned from the Bar of any United States Court or of any State, territory or possession, or the District of Columbia while an investigation or proceedings for suspension or disbarment was pending, or (3) has been convicted of a crime other than in this Court, the elements or underlying facts of which may affect the attorney's fitness to practice law, this Court shall issue an Order to Show Cause why an order of suspension or disbarment

should not be imposed by this Court.

Upon the filing of a judgment or conviction demonstrating that any attorney admitted to practice before this Court has been convicted in this Court of any serious crime as herein defined, the Chief Judge or his or her designee shall enter an order immediately suspending that attorney, whether the conviction resulted from a plea of guilty, nolo contendere, verdict after trial, or otherwise, and regardless of the pendency of any appeal. The suspension so ordered shall remain in effect until final disposition of the disciplinary proceedings to be commenced upon such conviction. A copy of such order shall be immediately served upon the attorney. Upon good cause shown, the Chief Judge or his or her designee may set aside such order when it appears in the interest of justice to do so.

The term “serious crime” shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction in which it was entered, involves false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, or the use of dishonesty, or an attempt, conspiracy, or solicitation of another to commit a “serious crime.”

If the attorney files a response stating that imposition of an order of suspension or disbarment from this Court is not contested, or if the attorney does not respond to the Order to Show Cause within the time specified, then the Court shall issue an order of suspension or disbarment. The order shall be filed by the Chief Judge or his or her designee.

L.R. 83-3.2.2 Alternatives.

As an alternative to suspension or disbarment, the Committee may consider, and the Court may accept, the attorney’s resignation, if the attorney both:

- (a) Files a written response setting forth his or her status for the practice of law in all other jurisdictions where the attorney was or is admitted; and
- (b) Tenders his or her resignation from the Bar of this Court.

A resignation with charges pending is not effective until accepted by the Court. An attorney will be on inactive status while the Court considers whether to accept the resignation. The acceptance of a resignation may be subject to additional conditions including but not limited to those under L.R. 83-3.1.3 and referral to, or resignation from, the Bar of another jurisdiction.

L.R. 83-3.2.3 Contested Matters. If the attorney files a written response to the Order to Show Cause within the time specified stating that the entry of an order of suspension or disbarment is contested, then the Chief Judge or other district judge who may be assigned shall determine whether an order of suspension or disbarment or other appropriate order shall be entered. Where an attorney has been suspended or disbarred by another Bar, or has resigned from another Bar while disciplinary proceedings were pending, the attorney in the response to the Order to Show Cause, must set forth facts establishing one or more of the following: (a) the procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; (b) there was such an infirmity of proof establishing the misconduct as to give rise to a clear conviction that the Court should not accept as final the other jurisdiction's conclusion(s) on that subject; (c) imposition of like discipline would result in a grave injustice; or (d) other substantial reasons exist so as to justify not accepting the other jurisdiction's conclusion(s). In addition, at the time the response is filed, the attorney must produce a certified copy of the entire record from the other jurisdiction or bear the burden of persuading the Court that less than the entire record will suffice.

83-3.2.4 Reinstatement. Unless stated otherwise by order of the Court, an attorney who has been suspended or disbarred from the Bar of this Court because of his resignation, suspension or disbarment from the Bar of another court will be reinstated upon proof of reinstatement as an active member in good standing in such other Bar.

L.R. 83-3.2.6 Notice of Disciplinary Action to State Bar and Other Courts. The Clerk shall give prompt notice of any order of conviction of any attorney admitted to this bar of a serious crime as herein defined or imposing discipline under this Rule 83-3 to the Circuit Court of Appeals, to the Bankruptcy Court, to the California State Bar, and to the Bar or disciplinary body of those courts to which the attorney involved has been admitted to practice and of which the Clerk is aware.

Chapter II: Rules for Admiralty and Maritime Claims

E.12. (83-E.12.) INTERVENOR'S CLAIMS.

(a) Presentation of Claim. When a vessel or other property has been arrested, attached, or garnished, and is in the hands of the Marshal or custodian substituted therefor, anyone having a claim against the vessel or property is required to present the claim by filing an intervening complaint in paper format, and not by filing an original complaint, unless otherwise ordered by a judicial officer. The Clerk shall forthwith deliver a conformed copy of the complaint in intervention and the intervenor's warrant of arrest or process of attachment or garnishment to the Marshal, who shall deliver the same to the vessel or custodian of the property. Intervenors shall thereafter be subject to the rights and obligations of parties, and the vessel or property shall stand arrested, attached, or garnished by the intervenor. An intervenor shall not be required to advance a security deposit to the Marshal.

E.13. (83-E.13.) CUSTODY OF PROPERTY.

(d) Claims by Suppliers for Payment of Charges. A person who furnishes supplies or services to a vessel, cargo, or other property in custody of the Court who has not been paid and claims the right to payment as an expense of administration shall file an invoice with the Clerk in the form of a verified claim in paper format at any time before the vessel, cargo, or other property is released or sold. The supplier must serve copies of the claim on the Marshal, substitute custodian if one has been appointed, and all parties of record. The Court may consider the claims, individually or schedule a single hearing for all claims.

E.14. (83-E.14.) SALE OF PROPERTY.

(f) Opposition to Sale. A party filing an opposition to the sale, whether seeking the reception of a higher bid or a new public sale by the Marshal, shall give prompt notice to all other parties and to the purchaser. Unless the party has previously appeared on the case, the opposition shall be filed in paper format. Such party shall also, prior to filing an opposition, secure the Marshal's endorsement upon it acknowledging deposit with the Marshal of the necessary expense of keeping the property for at least five (5) days. Pending the Court's determination of the opposition, such party shall also advance any further expense at such times and in such amounts as the Marshal shall request, or as the Court orders upon application of the Marshal or the opposing party. Such expense may

later be subject to taxation as costs. In the event of failure to make such advance, the opposition shall fail without necessity for affirmative action thereon by the Court. If the opposition fails, the expense of keeping the property during its pendency shall be borne by the party filing the opposition.

Chapter III: Local Criminal Rules

L.Cr.R. 7-2 Superseding Indictment or Information. A superseding indictment or information shall be filed promptly with the Clerk in paper format and assigned the same number as the original indictment or information, followed by the letter (A) for the first superseding indictment or information, (B) for the second, etc.

L.Cr.R. 46-3.4 Review of Surety and Documentation by United States Attorney. Any affidavit of surety and any documentation required by this Rule must be presented to the Office of the United States Attorney. Within six (6) office working hours, an attorney employed by that office shall report to the Court approval or disapproval of the documentation presented. If disapproved, the United States Attorney shall specify the reason for disapproval.