

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Case No.: SACV - JLS(XXXx)

Plaintiff/s,

v.

Defendant/s.

**INITIAL STANDING ORDER FOR
CIVIL CASES ASSIGNED TO JUDGE
JOSEPHINE L. STATON**

**PLEASE READ THIS ORDER CAREFULLY. IT GOVERNS THIS CASE
AND DIFFERS IN SOME RESPECTS FROM THE LOCAL RULES.**

This case has been assigned to the calendar of Judge Josephine L. Staton. Both the Court and counsel bear responsibility for the progress of this litigation in federal court. To “secure the just, speedy, and inexpensive determination” of this case, as called for in Federal Rule of Civil Procedure 1, all parties or their counsel are ordered to become familiar with the Federal Rules of Civil Procedure, the Local Rules of the Central District of California, and this Court’s Orders.

1 **THE COURT ORDERS AS FOLLOWS:**

2 Judge Staton’s Procedures web page is incorporated in this Order.

3 The parties and counsel are ORDERED to review and comply with those
4 procedures and notices, which may be accessed at:

5 <http://www.cacd.uscourts.gov/honorable-josephine-l-staton>

6 **1. Filing of Civil Cases**

7 The initiating documents (*e.g.*, complaints and notices of removal) of most civil
8 cases must be e-filed. *See* Local Rule 3-2.

9 **2. Service of the Complaint**

10 Service is governed by Federal Rule of Civil Procedure 4. The plaintiff shall
11 promptly serve the complaint in accordance with Fed. R. Civ. P. 4 and file the proofs of
12 service. Although Fed. R. Civ. P. 4(m) allows 90 days for service of the summons and
13 complaint, the Court expects service to be effectuated more promptly. The Court will
14 require plaintiffs to show good cause to extend the service deadline beyond 90 days.

15 **3. TROs and Injunctions**

16 Parties seeking emergency or provisional relief shall comply with Fed. R. Civ. P.
17 65 and Local Rule 65. The Court will not rule on any application for such relief for at
18 least twenty-four (24) hours after the party subject to the requested order has been served,
19 unless service is excused. Such party may file opposing or responding papers in the
20 interim.

21 **4. Cases Removed from State Court**

22 All documents filed in state court, including documents appended to the
23 complaint, answers, and motions, must be refiled in this Court as a supplement to the
24 notice of removal. *See* 28 U.S.C. § 1447(b). If the defendant has not yet answered or
25 filed a pre-answer motion, the defendant’s answer or motion must be filed in this Court
26 and must comply with the Federal Rules of Civil Procedure and the Local Rules. If a
27 motion was pending in state court before the case was removed, it must be re-noticed for
28

1 hearing in accordance with Local Rule 6-1. Counsel shall file with their first appearance
2 a Notice of Interested Parties in accordance with Local Rule 7.1-1.

3 If the complaint, answer, or any similar pleading in an action that is removed to
4 this Court consists of only a form pleading in which boxes are checked, the party or
5 parties utilizing the form pleading must file an appropriate pleading with this Court
6 within thirty (30) days of the filing of the Notice of Removal. The new pleading must
7 comply with the requirements of Federal Rules of Civil Procedure 7 through 11.

8 **5. Status of Fictitiously Named Defendants**

9 This Court intends to adhere to the following procedures where a matter is
10 removed to this Court on diversity grounds with fictitiously named defendants. *See* 28
11 U.S.C. §§ 1441(b)(1) and 1447.

12 **a.** Plaintiff is normally expected to ascertain the identity of and serve any
13 fictitiously named defendants within 90 days of the removal of the action to this Court.

14 **b.** If plaintiff believes (by reason of the necessity for discovery or otherwise)
15 that fictitiously named defendants cannot be fully identified within the 90-day period, an
16 *ex parte* application or stipulation requesting permission to extend that period to
17 effectuate service may be filed with the Court. Such application or stipulation shall state
18 the reasons therefor, and will be granted only upon a showing of good cause. An *ex parte*
19 application seeking such relief shall be served upon all appearing parties, and shall state
20 that appearing parties may comment within seven (7) days of the filing of the *ex parte*
21 application.

22 **c.** If plaintiff wants to substitute a defendant for one of the fictitiously named
23 defendants, plaintiff shall first seek the consent of counsel for all defendants (and counsel
24 for the fictitiously named party, if that party has separate counsel). If consent is withheld
25 or denied, plaintiff should file a motion on regular notice. The motion and opposition
26 should address whether the matter should thereafter be remanded to the superior court if
27 diversity of citizenship is destroyed by the addition of the newly substituted party. *See*
28 U.S.C. § 1447(c), (d).

1
2 **6. Discovery**

3 **a. Discovery Matters Referred to Magistrate Judge**

4 All discovery matters have been referred to the assigned United States Magistrate
5 Judge, who will hear all discovery disputes. Any party may move for review and
6 reconsideration of a discovery ruling within fourteen days after such ruling. *See* Local
7 Rule 72-2. However, in accordance with 28 U.S.C. § 636(b)(1)(A), the Court will not
8 reverse any order of the Magistrate Judge unless the moving party demonstrates that the
9 ruling is clearly erroneous or contrary to law. The motion must specify which portions of
10 the ruling are clearly erroneous or contrary to law and support the contention with points
11 and authorities. As to all filings related to motions for review and reconsideration of a
12 discovery order, counsel shall deliver mandatory chambers copies to both the District
13 Judge and the Magistrate Judge.

14 **b. Compliance with Fed. R. Civ. P. 26(a)**

15 The parties shall comply fully with the letter and spirit of Fed. R. Civ. P. 26(a).
16 The Court's Scheduling Order will impose firm deadlines to complete discovery.

17 **7. Applications to Seal**

18 Counsel are directed to consider carefully whether to seek leave to file documents
19 under seal. The procedure for obtaining leave is lengthy. Applications must in all
20 instances be supported by good cause, and at times are subjected to an even higher
21 standard. Most of the time, documents may not be filed under seal in their entirety, and
22 appropriately redacted documents must still be filed on the public docket.

23 When seeking leave to file any material under seal in a civil case, the parties and
24 counsel are directed to fully comply with all steps of the multi-step procedure set forth in
25 Local Rule 79-5. The parties are directed to carefully review the Court's Local Rule 79-5
26 Overview and to follow the instructions in the Guide to Electronically Filing Under-Seal
27 Documents in Civil Cases, both of which are attached in PDF format to Judge Staton's
28 Procedures web page.

1
2 Counsel are reminded that there is a strong presumption that the public has a right
3 of access to records in civil cases. For materials related to non-dispositive motions, the
4 Designating Party must show good cause for the materials to be filed and maintained
5 under seal. For materials related to dispositive motions, the standard is higher, and the
6 Designating Party must articulate compelling reasons for maintaining the confidentiality
7 of the document(s) and must seek relief that is narrowly tailored to the protected interest.
8 *See Pintos v. Pacific Creditors Ass'n*, 605 F.3d 665, 667-79 (9th Cir. 2010).

9 **8. Motions**

10 **a. Time for Filing and Hearing Motions**

11 Motions shall be filed in accordance with Local Rule 7. This Court hears motions
12 on **Fridays**, beginning at 2:30 p.m. It is not necessary to clear a hearing date with the
13 Court Clerk before filing a motion in a civil motion. Counsel must check the Court's
14 website for Closed Motion Dates.

15 **b. Pre-Filing Requirement To Meet and Confer**

16 Counsel must comply with Local Rule 7-3, which requires counsel to engage in a
17 pre-filing conference "to discuss thoroughly . . . the substance of the contemplated
18 motion and any potential resolution." Counsel should discuss the issues to a sufficient
19 degree that if a motion is still necessary, the briefing may be directed to those substantive
20 issues requiring resolution by the Court. Counsel should resolve minor procedural or
21 other non-substantive matters during the conference. This provision applies even to self-
22 represented parties; there is no exception to this rule for parties who appear *pro se*.

23 **c. Supporting Evidence**

24 Parties shall not proffer evidence other than the specific items of evidence or
25 testimony in support of or in opposition to a motion. For example, the parties should
26 provide excerpts rather than entire deposition transcripts or entire sets of interrogatory
27 responses. Where a motion must be supported by *admissible* evidence, authenticity must
28 be established by stipulation of the parties, declaration, or other appropriate means.

1 **d. Citations to Legal Authority**

2 Citations to legal authority should include pinpoint citations to specific page(s),
3 section(s), and subsection(s) referenced. Citations to secondary sources such as treatises,
4 manuals, and other materials should include the volume, section, and page(s) cited.

5 **9. Specific Motions**

6 **a. Motions Pursuant to Rule 12**

7 Many motions to dismiss or to strike can be avoided if the parties confer in good
8 faith (as required by Local Rule 7-3), especially for pleading deficiencies that could be
9 corrected by amendment. *See Chang v. Chen*, 80 F.3d 1293, 1296 (9th Cir. 1996) (where
10 a motion to dismiss is granted, a district court should provide leave to amend unless it is
11 clear that the complaint could not be saved by any amendment). Moreover, a party has
12 the right to amend the complaint “once as a matter of course” within 21 days after service
13 of the answer or Rule 12(b) motion. Fed. R. Civ. P. 15(a)(1)(A)-(B).

14 **b. Motions to Amend**

15 In addition to meeting the requirements of Local Rule 15-1, counsel shall attach as
16 an appendix to the moving papers a “redlined” version of the proposed amended pleading
17 indicating all additions and deletions of material. All motions to amend pleadings shall:
18 (1) state the effect of the amendment and (2) identify the page and line number(s) and
19 wording of any proposed change or addition of material. The proposed amended
20 pleading shall be serially numbered to differentiate it from previously amended pleadings
21 (*e.g.*, “Second Amended Complaint” or “Third Amended Answer and Counterclaims”).
22 If leave to amend is granted, the filing party must comply with Local Rule 15-1 through
23 15-3 in filing the amended pleading.

24 **c. Summary Judgment Motions**

25 A party may file only one summary judgment motion in a case. Parties need not
26 wait until the motion cutoff date to bring motions for summary judgment or partial
27 summary judgment. The parties should prepare papers in a fashion that will assist the
28

1 Court in absorbing the facts (*e.g.*, generous use of tabs, tables of contents, headings,
2 indices, etc.).

3 **i. Statements of Uncontroverted Facts and Genuine Issues**

4 The Statement of Uncontroverted Facts and Conclusions of Law (“Statement of
5 Uncontroverted Facts”), as required by Local Rule 56-1 shall be formatted based on the
6 following example:

7

8 1. (Moving party’s first uncontroverted fact)	(Supporting evidence citation(s))
9 2. (Moving party’s second undisputed fact)	(Supporting evidence citation(s))

10 The opposing party’s Statement of Genuine Disputes of Material Fact (required by
11 Local Rule 56-2) must be in two columns and track the movant’s Statement of
12 Uncontroverted Facts exactly as prepared, but must combine the moving party’s fact
13 statements and the supporting evidence into one column. Thus, the first column must
14 restate the allegedly undisputed fact ***and the alleged supporting evidence***, and the second
15 column must state either that the fact proffered by the moving party is undisputed or
16 disputed. The opposing party may dispute all or only a portion of the statement, but if
17 disputing only a portion, it must clearly indicate what part is being disputed. Whenever
18 all or part of a proffered fact is disputed, the opposing party must ***briefly*** state why it
19 disputes the moving party’s proffered fact, cite to the relevant exhibit(s) or other
20 evidence, and must describe what it is in that exhibit or evidence that refutes the
21 proffered fact. To illustrate:

22

23 1. (Moving party’s first uncontroverted fact). (Supporting evidence citation(s)).	1. Undisputed.
24 2. (Moving party’s second undisputed fact). (Supporting evidence citation(s)).	2. Disputed. Plaintiff’s Rule 30(b)(6) witness testified to the contrary. (Pltf’s Ex. 14, Clark Depo. at 24:5-26:17.)

25
26

27 The opposing party may submit additional material facts that bear on or relate to
28 the issues raised by the movant. Presentation of those additional material facts by the

1 non-moving party shall follow the format described above for the moving party's
2 Statement of Uncontroverted Facts. These additional facts shall continue in sequentially
3 numbered paragraphs and shall set forth in the right hand column the evidence that
4 supports that statement. A Reply fact statement may be filed by the moving party.

5 *No legal argument should be set forth in the Statement of Uncontroverted Facts*
6 *or the Statement of Genuine Disputes of Material Fact. Legal argument should be*
7 *reserved for the parties' briefs. Objections and the relevant Federal Rule of Evidence*
8 *or other basis therefor may be noted, but citations to case law and/or legal argument*
9 *should be presented in the separate document described below.*

10 **ii. Objections to Evidence**

11 If a party relies in whole or in part on an evidentiary objection to dispute a
12 material fact, the ground(s) of the objection(s) shall be succinctly stated in a separate
13 statement of evidentiary objections in a two-column format. The left column should
14 identify and describe the item(s) objected to (including page and line number if
15 applicable) and the right column should set forth a concise objection (*e.g.*, hearsay, lacks
16 foundation, etc.) with a citation to the Federal Rules of Evidence or, where applicable, a
17 case citation. Any response to the objections shall incorporate and build upon the two-
18 column format set forth in the objections in the same manner as the Statement of Genuine
19 Disputes of Material Fact incorporates and builds upon the Statement of Uncontroverted
20 Facts.

21 The Court will expressly rule on objections only when it deems it necessary to do.
22 Generally, the Court will expressly rule on objections only as to evidence that factors into
23 the Court's rationale for its rulings.

24 **d. Daubert Motions**

25 Unlike other motions *in limine*, *Daubert* motions are usually due to be filed
26 within seven days after the expert discovery cut-off date set in the Scheduling Order.¹

27
28

¹ In some instances, a later date may be set.

1 The parties shall notice *Daubert* motions for hearing on the first available motions date
2 at the time of their filing, unless that date is after the final pretrial conference date, in
3 which case the *Daubert* motions will be heard at the final pretrial conference.

4 **10. Notice of This Order**

5 Plaintiff's counsel or plaintiff (if appearing on his or her own behalf) shall
6 immediately serve this Order on all parties, including any new parties to the action. If
7 this case was removed from state court, the removing defendant(s) shall serve this Order
8 on all other parties.

9 **IT IS SO ORDERED.**

10 Dated:

11 **JOSEPHINE L. STATON**
12 United States District Judge

13
14 Revised: March 31, 2017
15
16
17
18
19
20
21
22
23
24
25
26
27
28