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

[PLAINTIFF’S NAME],  
Plaintiff,  
v.  
[DEFENDANT’S NAME],  
Defendant.

Case No.

**STANDING ORDER FOR  
NEWLY ASSIGNED CIVIL CASES**

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

This case has been assigned to United States District Judge Serena Murillo.<sup>1</sup>  
Both the Court and all counsel bear responsibility for the progress of litigation in this  
Court. “Counsel,” as used in this Order, includes attorneys and parties who have elected  
to appear without an attorney and are representing themselves in this civil litigation  
(hereinafter referred to as “*Pro Se* Litigants”).

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<sup>1</sup> Judge Murillo periodically updates this Order so make sure you are reviewing the latest copy of the Order.

1 To secure the “just, speedy, and inexpensive determination of every action,” as  
2 called for in the Fed. R. Civ. P., all parties and their counsel are ordered to comply with  
3 this Order, the Federal Rules of Civil Procedure, and the Local Rules of the Central  
4 District of California. *See* Local Rules 1-3 and 83-2.2.3.

5 **A. GENERAL REQUIREMENTS**

6 **1. Service of Order.** Counsel for the plaintiff must immediately serve this  
7 Order on all parties, including any new parties to the action. If this case was removed  
8 from state court, the defendant that removed the case must serve this Order on all other  
9 parties. Any document that is e-filed shall be served by mail that same day on any party  
10 or attorney who is not permitted or has not consented to electronic service, with a proof  
11 of service to be filed within 24 hours.

12 **2. *Pro Se* Litigants.** Only individuals may represent themselves. A  
13 corporation or other entity must be represented by counsel. If counsel seeks to  
14 withdraw, counsel must advise the entity of the dire consequences of failing to obtain  
15 substitute counsel before seeking withdrawal—i.e., a plaintiff entity’s case will be  
16 dismissed, or a defendant entity will default. *See* Local Rule 83-2.3.4. The following  
17 links may be helpful to *Pro Se* Litigants: (a) General information on how parties may  
18 represent themselves in civil cases in the Central District of California can be found at  
19 <https://prose.cacd.uscourts.gov/>; (b) Local Civil Rules for the Central District of  
20 California can be found at <http://www.cacd.uscourts.gov/court-procedures/local-rules>;  
21 (c) Federal Rules of Civil Procedure can be found at  
22 <https://www.law.cornell.edu/rules/frcp>.

23 **3. Presence of Lead Trial Counsel.** Lead trial counsel shall attend all  
24 proceedings set by this Court, including scheduling, settlement, pretrial conferences,  
25 and trial, unless lead trial counsel is engaged in trial. Lead trial counsel must be  
26 prepared to address and resolve all matters within the scope of the proceeding. Only  
27 one attorney for a party may be designated as lead trial counsel unless otherwise  
28 permitted by the Court. If a second lead trial counsel is permitted by the Court, both

1 counsels must attend the pretrial conference. The Court does not permit special  
2 appearances; only counsel of record may appear at any proceeding. To provide more  
3 experience to the next generation of practitioners, the Court encourages lead trial  
4 counsel to permit junior counsel to fully participate in Court proceedings, including to  
5 argue motions and to examine witnesses at trial.

6 **4. Counsel Calendar Conflicts.** If any counsel discovers a calendar conflict  
7 due to lead counsel's engagement in trial, counsel must inform opposing counsel and  
8 the Court's courtroom deputy (CRD) via Chambers email at  
9 [SRM\\_chambers@cacd.uscourts.gov](mailto:SRM_chambers@cacd.uscourts.gov) as soon as possible and not later than three (3) days  
10 before the scheduled appearance. Counsel should attempt to agree on a new date to  
11 accommodate the calendar conflict. Counsel must propose a new date by Stipulation  
12 and Proposed Order. A "Notice of Unavailability" has no legal effect and should not be  
13 filed. The Court expects that counsel will conduct themselves professionally and will  
14 not deliberately schedule any proceeding when counsel is unavailable.

15 **5. Communications with Chambers.**

16 Neither counsel nor a party shall initiate contact with the Court or its Chambers  
17 staff by telephone, or by any other improper *ex parte* means. Counsel may contact the  
18 CRD with appropriate inquiries. Contacting the CRD to inquire about the status of a  
19 ruling or to continue a proceeding is not appropriate. The preferred method of  
20 communication with the CRD is by email at [SRM\\_chambers@cacd.uscourts.gov](mailto:SRM_chambers@cacd.uscourts.gov).  
21 Counsel must copy all parties on any such email. To facilitate communication with the  
22 CRD, counsel should list their email addresses along with their telephone numbers on  
23 all papers.

24 **6. Civility.** All counsel who appear in this action must immediately review  
25 and comply with the Civility and Professionalism Guidelines, which can be found on  
26 the Court's website at [http://www.cacd.uscourts.gov/attorneys/admissions/civility-and-](http://www.cacd.uscourts.gov/attorneys/admissions/civility-and-professionalism-guidelines)  
27 [professionalism-guidelines](http://www.cacd.uscourts.gov/attorneys/admissions/civility-and-professionalism-guidelines). The Court expects everyone in the courtroom to treat each  
28 other with dignity and respect. At a minimum, the Court expects the following from

1 counsel: (1) Being punctual and prepared for all court appearance; (2) being civil and  
2 respectful in all oral and written communications with the Court and other parties; (3)  
3 being civil and respectful to court personnel, including the CRD, court reporters, law  
4 clerks, and marshals; (4) refraining from interrupting any person in the courtroom  
5 when that person is speaking; (5) refraining from making gestures, facial expressions,  
6 or audible comments indicating approval or disapproval of testimony or argument; and  
7 (6) being considerate of the time constraints and pressures on the Court and court staff  
8 inherent in their efforts to administer justice.

9 **B. PLEADINGS REQUIREMENTS**

10 **1. Service of the Complaint.** The Plaintiff(s) shall promptly serve the  
11 Complaint in accordance with Fed. R. Civ. P. 4 and file the proofs of service pursuant  
12 to Fed R. Civ. P. 4(l). Any Defendant(s), including “DOE” or fictitiously named  
13 Defendant(s), not served within 90 days after the case is filed shall be dismissed  
14 pursuant to Fed. R. Civ. P. 4(m) and by operation of this Order without further notice,  
15 unless plaintiff requests and justifies the need for additional time in the joint report and  
16 the Court grants an extension. The Court will require plaintiff to show good cause to  
17 extend the service deadline beyond 90 days.

18 **2. Removed Actions.** Any Answers filed in state court must be refiled in this  
19 Court as a supplement to the Notice of Removal. Any pending motions must be re-  
20 noticed in accordance with Local Rule 7. If an action removed to this Court contains a  
21 form pleading, i.e., a pleading in which boxes are checked, the party or parties that filed  
22 the form pleading must file in this Court within thirty (30) days of receipt of the Notice  
23 of Removal a revised pleading that complies with Fed. R. Civ. P. 7, 7.1, 8, 9, 10 and 11.  
24 An amended complaint filed within 30 days after removal to replace a form complaint  
25 pursuant to this instruction shall be deemed an amended complaint with “the court’s  
26 leave” pursuant to Fed. R. Civ. P. 15(a)(2).

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1           **3. Status of Fictitiously Named Defendants.**

2           (a). Plaintiff must identify and serve any fictitiously named or “Doe”  
3 defendant(s) before the deadline set forth in the Court’s Order Setting Scheduling  
4 Conference.

5           (b). Before moving to substitute a defendant for a Doe defendant,  
6 plaintiff must seek the consent of counsel for all defendants, including counsel for a  
7 represented Doe defendant. If denied consent, plaintiff must file a regularly noticed  
8 motion. In diversity cases, plaintiff’s motion must address whether the addition of the  
9 newly named party destroys diversity jurisdiction. *See* 28 U.S.C. § 1447(c), (e).

10 **C. FILING REQUIREMENTS**

11           **1. Electronic Filing.** Pursuant to Fed. R. Civ. P. 5(d)(3), Local Rule 5-4, and  
12 General Order 10-07, counsel shall electronically file (“e-file”) all filings. Items that do  
13 not require the Court’s signature shall be e-filed in text searchable portable document  
14 format (PDF). Proposed orders shall be e-filed in text searchable PDF format as an  
15 attachment to the main documents. *Pro Se* Litigants may submit documents for filing  
16 through the Court’s Electronic Document Submission System (EDSS) instead of  
17 mailing or bringing documents to the Clerk’s Office. Only internet access and an email  
18 address are required. Documents are submitted in PDF format through an online portal  
19 on the Court’s website. To access EDSS and for additional information, visit the  
20 Court’s website at <https://apps.cacd.uscourts.gov/edss>.

21           **2. Documents with Declarations, Exhibits, and other Attachments.** If a  
22 filed or lodged document has declarations, exhibits, or other attachments, each  
23 attachment must be filed as a separately docketed attachment to the main docket entry  
24 with a description of the attachment (e.g., Dkt. 29-1 Smith Declaration, 29-2 Ex. 1 -  
25 License Agreement, 29-3 Request for Judicial Notice). The Court may strike or decline  
26 to consider motions, stipulations, or other documents with attachments that are not filed  
27 in accordance with this Order.

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1           **3. Proposed Orders.**

2           **(a) Proposed Orders Must be Lodged and Served:** Each party filing  
3 or opposing a motion or seeking the determination of any matter shall serve and lodge a  
4 proposed order setting forth the relief or action sought and a brief statement of the  
5 rationale for the decision with appropriate citations.

6           **(b) Use Applicable Templates.** Use the “Proposed Order” template  
7 located on the Court’s website under “Orders & Additional Documents” at the bottom  
8 of the webpage. (<https://www.cacd.uscourts.gov/honorable-serena-r-murillo>). Failure  
9 to do so may result in the striking of the request. Proposed orders must be on pleading  
10 paper. Proposed orders should NOT contain any of the following: (1) attorney names,  
11 addresses, etc. on the caption page; (2) a footer with the document name or other  
12 information; or (3) a watermark or designation of the firm name. Proposed orders  
13 should be formatted in the same fashion as motions. *See infra* paragraph G.4.

14           **(c) Email Proposed Orders to Chambers.** The Court enforces strict  
15 compliance with Local Rule 5-4.4.2, which instructs: “After a document requiring a  
16 judge’s signature has been lodged in accordance with L.R. 5-4.4.1 . . . , a Microsoft  
17 Word copy of the proposed document, along with a PDF copy of the electronically filed  
18 main document, shall be e-mailed to the assigned judge’s generic chambers e-mail  
19 address using the CM/ECF System,” namely, [SRM\\_chambers@cacd.uscourts.gov](mailto:SRM_chambers@cacd.uscourts.gov). The  
20 Court will not consider a stipulation, *ex parte* application, or other request for relief  
21 until a compliant proposed order is received by email. If the proposed order is based on  
22 a stipulation or an *ex parte* application, counsel must email both the order and the  
23 stipulation or *ex parte* application. Otherwise, accompanying documents (such as  
24 motions) should not be emailed to Chambers.

25           **4. Mandatory Chambers Copies:**

26           **(a) Motions, Pleadings, and Trial Documents.** The parties must not  
27 provide chambers copies unless specifically ordered by the court, or in case of an *ex*  
28 *parte* application for a temporary restraining order (TRO). If required, chambers copies

1 are to be submitted pursuant to Local Rule 5-4.5. The Court does require copies of  
2 materials that have not been filed on the electronic docket for the case (e.g., CD-ROMs,  
3 DVDs, USB drives, documents electronically filed in other cases or other districts).

4 Please do not send paper copies of any other documents unless requested by the Court.

5 **(b) Delivery Location, Timeliness, and Form.** If ordered, Chambers  
6 Copies or materials must be delivered to Judge Murillo’s chambers copy box, which is  
7 located outside of Courtroom 9B on the ninth floor of the United States District Court,  
8 411 W. 4th Street, Santa Ana, California 92701. Chambers copies must be delivered no  
9 later than 12:00 p.m. (noon) the following business day after the document is  
10 electronically filed. “Chambers copies must be printed from CM/ECF and must  
11 include: (1) the CM/ECF-generated header (consisting of the case number, document  
12 control number, date of filing, page number, etc.) at the top of each page; and (2) the  
13 NEF [notice of electronic filing] (*see* L.R. 5-3.2.1) as the last page of the document.”  
14 Local Rule 5-4.5 (emphasis added). Chambers Copies need not be bluebacked. For  
15 security reasons, do not leave chambers copies in envelopes or folders.

16 **(c) Chambers Copy Exhibits.** If chambers copies are ordered, all  
17 exhibits should be separated by a tab divider on the right or bottom of the document. If  
18 the evidence exceeds 50 pages, the Chambers Copy must: (1) include a table of  
19 contents; and (2) be in a tabbed binder with each exhibit separated by a tab divider on  
20 the right or the bottom. All documents in the binder must be three-hole punched,  
21 preferably with a larger hole size (13/32”), rather than the standard hole size (9/32”), to  
22 facilitate ease of review. If the evidence exceeds 200 pages, the table of contents and  
23 evidence must be placed in a Slant D-Ring binder. Binders should be no larger than 4  
24 inches. Binders must have both a cover sheet and a spine label that includes the case  
25 name, case number, and a description of the contents.

## 26 **5. Filings Under Seal.**

27 **(a) Local Rule 79-5.** Local Rule 79-5 governs applications to file under  
28 seal. Parties must comply with all sections of Local Rule 79-5. There is a “strong

1 presumption of access to court records” in civil cases. *Foltz v. State Farm Mut. Auto.*  
2 *Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003). For each document or other type of  
3 information a party seeks to file under seal, the party must identify and discuss the  
4 factual and/or legal justification, see (c) below, that establishes “good cause” or  
5 “compelling reasons” for the document’s protection. *Kamakana v. City and Cnty. of*  
6 *Honolulu*, 447 F.3d 1172, 1179-80 (9th Cir. 2006).

7           **(b) Redacted Version and Unredacted Version.** Documents that are  
8 not confidential or privileged in their entirety should not be filed under seal if the  
9 confidential portions can be redacted and filed separately with a reasonable amount of  
10 effort. The parties should file an unredacted version of the document under seal, and a  
11 redacted version for public viewing, omitting only the portions that the Court has  
12 ordered may be filed under seal.

13           **(c) Justification.** Sealing must be justified for each individual  
14 confidential matter; blanket claims of confidentiality will result in the application to  
15 seal being denied. All applications must provide the reason(s) the parties’ interest in  
16 maintaining the confidentiality of the document(s) outweighs the public’s right of  
17 access to materials submitted in connection with a judicial proceeding. Counsel is  
18 strongly encouraged to consider carefully whether sealing or redaction is required for a  
19 given piece of evidence or argument. An application to seal that includes clearly  
20 meritless requests to seal or redact documents may be denied in its entirety. The parties  
21 must also meet and confer before filing an application to seal.

22           **(d) Meet and Confer.** Counsel are ordered to meet and confer in person  
23 or by telephone at least seven (7) calendar days prior to the filing of an application in  
24 which the basis for the requested sealing is stated to determine if they can agree on the  
25 proposed under seal filing. Not later than two (2) calendar days after the meet and  
26 confer process has concluded, the non-proposing party shall confirm whether it agrees  
27 to having such information designated as confidential or whether it opposes an under  
28 seal filing. Any application for under seal filing, whether or not opposed, shall contain



1 the dates and method by which the parties met and conferred. If such information is not  
2 provided, the application will be denied without prejudice to an amended application  
3 being filed that complies with the foregoing terms.

4 **D. CONSENT TO MAGISTRATE FOR ENTIRE CIVIL CASE**

5 Under 28 U.S.C. § 636, the parties may consent to have a Magistrate Judge  
6 preside over the entire civil case, including trial, rather than just discovery. *See* General  
7 Order 12-01 and General Order 12-02. One benefit to giving such consent is that the  
8 parties will likely be able to proceed to trial sooner than on a District Court Judge’s  
9 calendar. Additionally, the parties are free to select from among all Magistrate Judges  
10 available for this purpose, not just the Magistrate Judge assigned to the parties’ case.  
11 The Magistrate Judges have experience and expertise in a variety of areas, including  
12 patent and trademark litigation. If the parties agree to consent to proceed before a  
13 Magistrate Judge, the parties should consult the Central District website for the list of  
14 available Magistrate Judges and should submit the appropriate consent form.

15 [http://www.cacd.uscourts.gov/judges-requirements/court-programs/voluntary-consent-  
list-civil-cases-magistrate-judges-program](http://www.cacd.uscourts.gov/judges-requirements/court-programs/voluntary-consent-<br/>16 list-civil-cases-magistrate-judges-program).

17 **E. DISCOVERY**

18 **1. Magistrate Judge Referral for All Discovery Matters.** All discovery  
19 matters are referred to the assigned United States Magistrate Judge. The Magistrate  
20 Judge’s initials follow the Judge’s initials next to the case number. All documents  
21 relating to discovery matters must include the words “DISCOVERY MATTER” in the  
22 caption to ensure proper routing. Counsel should not deliver chambers copies of  
23 discovery matters. Counsel must follow the Magistrate Judge’s procedures for  
24 scheduling matters for hearing. These procedures are stated on each Magistrate Judge’s  
25 webpage.

26 **2. Limited District Court Review of Discovery Matters.** The decision of  
27 the Magistrate Judge on all discovery matters shall be final, subject to limited review  
28 requiring a showing that the decision is clearly erroneous or contrary to law. *See* 28

1 U.S.C. § 636(b)(1)(A). Any motion for review of a Magistrate Judge’s decision must  
2 be noticed before the District Court Judge within fourteen (14) days of service of the  
3 Magistrate Judge’s written ruling, or within fourteen (14) days of an oral ruling that the  
4 Magistrate Judge states will not be followed by a written ruling. The motion must  
5 specify which portions of the ruling are clearly erroneous or contrary to law, and the  
6 claim must be supported by points and authorities. Counsel shall provide the  
7 Magistrate Judge chambers copies of the moving papers and responses.

8 **3. Timing of Discovery.** Unless there is a likelihood that, upon motion by a  
9 party, the Court would order that discovery be stayed, the parties should begin to  
10 propound discovery before the Scheduling Conference. The parties must comply fully  
11 with the letter and spirit of Fed. R. Civ. P. 26(a) and produce discovery promptly.  
12 Discovery is not stayed prior to the Scheduling Conference or after dates have been set  
13 unless otherwise ordered by the Court. At the Scheduling Conference, the court will  
14 impose firm deadlines governing the completion of discovery.

15 **4. Discovery Protective Orders.** Proposed protective orders for discovery  
16 must be submitted to the assigned Magistrate Judge. Such orders should not purport to  
17 allow, without further order of the Court, the filing under seal of pleadings or  
18 documents filed in connection with a dispositive motion, a class certification motion, or  
19 trial before the Court. The existence of a protective order does not alone justify the  
20 filing of pleadings or other documents under seal, in whole or in part.

21 **F. SCHEDULING CONFERENCE**

22 Pursuant to Fed. R. Civ. P.16(b), the Court will issue an Order Setting Scheduling  
23 Conference. The parties are required to strictly comply with Fed. R. Civ. P. 16 and 26,  
24 as well as this Court’s Orders.

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1 **G. MOTIONS – GENERAL REQUIREMENTS APPLICABLE TO ALL**  
2 **MOTIONS**

3 **1. Local Rule 7-3 Pre-Filing Meet and Confer Requirement.**

4 (a) **Scope.** The Court strictly enforces Local Rule 7-3, which requires  
5 counsel to engage in a prefiling conference “to discuss thoroughly . . . the substance of  
6 the contemplated motion and any potential resolution.” This requirement applies in all  
7 cases, including those with *Pro Se* Litigants. This Court requires parties through  
8 Counsel to meet and confer about any potentially disputed matter (except those  
9 identified in Local Rules 7-3 and 16-12) before presenting it to the Court, including  
10 requests to continue any matter, applications to file under seal, and other filings seeking  
11 a court order. The purpose of meeting and conferring is to attempt to obviate the need  
12 for a motion and thus avoid unnecessary Court intervention. If the parties are unable to  
13 fully resolve the dispute, they shall attempt to narrow the scope of contested issues.  
14 Counsel must meet and confer in good faith.

15 (b) **Method.** Parties must meet and confer either by videoconference or  
16 in person. Email correspondence is insufficient.

17 (c) **Compliance Statement Required.** The moving party must include  
18 in the signed notice of motion a truthful representation of full compliance with Local  
19 Rule 7-3, stating that the parties “thoroughly discussed the substance and potential  
20 resolution of the filed motion [by videoconference or in person].”

21 (d) **Non-Compliance.** If an opposing party refuses to participate in  
22 good faith, the moving party shall explain the refusal in detail. Failure by any party to  
23 comply in good faith with the “meet and confer” requirement may result in an order to  
24 show cause re: sanctions—including, as appropriate, striking or denying the motion,  
25 deeming the motion unopposed, and/or awarding monetary sanctions.

26 **2. Scheduling Motions Hearings:** Motions must be filed in accordance with  
27 Local Rules 6 and 7. Judge Murillo hears civil motions on Thursday beginning at 1:30  
28 p.m. It is not necessary to clear a hearing date with the CRD before filing a motion.

1 Immediately before filing the motion, parties must check the closed motion dates  
2 column located on the right side of Judge Murillo’s Procedures and Schedules Page on  
3 the Court’s website to make sure the hearing date has not been closed. The closed date  
4 column is typically updated on a weekly and sometimes daily basis. If a motion is  
5 noticed for a date that is not available, the Court may strike or reset the motion.

6 **3. Briefing Schedule.** To allow Chambers enough time to prepare, the parties  
7 must adhere to the briefing schedule set forth in Local Rule 7-9 and 7-10 for all  
8 motions, except Rule 56 motions. For Rule 56 motions, the parties should review and  
9 comply with Judge Murillo’s Standing Order for Motions for Summary Judgment  
10 located on the Court’s website. ([https://www.cacd.uscourts.gov/honorable-serena-r-](https://www.cacd.uscourts.gov/honorable-serena-r-murillo)  
11 [murillo](https://www.cacd.uscourts.gov/honorable-serena-r-murillo)). When scheduling motion hearing dates, professional courtesy dictates that the  
12 parties should accommodate each other’s schedules, including vacation and holiday  
13 schedules, whenever possible.

14 **4. Length and Format of Motion Papers.** Memoranda of points and  
15 authorities in support of or in opposition to motions shall not exceed twenty-five (25)  
16 pages. Replies shall not exceed ten (10) pages. Only rarely and for good cause shown  
17 will the Court grant an application to extend these page limitations. Pursuant to Local  
18 Rule 11-3.1.1, either a proportionally spaced or monospaced face may be used.  
19 Typeface shall comply with Local Rule 11-3.1.1. Times New Roman font must be no  
20 less than 14 point. Footnotes shall be in the same font and the same size as the body of  
21 the memorandum. Counsel shall adhere to Local Rule 5-4.3 with respect to the  
22 conversion of all documents to PDF format so that when a document is electronically  
23 filed, it is in proper size and is PDF searchable. Further, all documents shall be filed in  
24 a format so that text can be selected, copied, and pasted directly from the document. See  
25 Local Rule 5-4.3.1.

26 **5. Citations to Authority.** Statutes should be cited in accordance with the  
27 Bluebook. Citations that support a statement in the main text must be included in the  
28 main text, not in footnotes.

1           **(a) Case citations.** Case citations must identify both the case cited and  
2 the specific page referenced. Parties should not use string cites without a good reason.  
3 When using string cites, a party should include a parenthetical explanation for each  
4 cited case. When citing to legal databases (which is not encouraged), cite to Westlaw  
5 whenever possible.

6           **(b) Statutory references.** Statutory references should identify with  
7 specificity the sections and subsections referenced. Citations should be to the relevant  
8 official statutory code (e.g., the U.S. Code) and should not merely reference the popular  
9 name of an act.

10           **(c) Citations to Other Sources.** Citations to treatises, manuals, and  
11 other materials should include the volume, section, and relevant pages. Attach copies if  
12 these materials are not accessible on Westlaw, especially for historical materials (e.g.,  
13 older legislative history).

14           **6. Oral Argument.** If the court deems a matter appropriate for decision without  
15 oral argument, the Court will notify the parties in advance. Local Rule 7-15.

## 16 **H. MOTIONS - SPECIFIC REQUIREMENTS**

17           **1. Motions Pursuant to Federal Rule of Civil Procedure 12:** Many  
18 motions to dismiss or strike can be avoided if the parties confer in good faith as  
19 required by Local Rule 7-3, especially for perceived defects in a complaint, answer, or  
20 counterclaim that can be corrected by amendment. *See Polich v. Burlington N., Inc.*,  
21 942 F.2d 1467, 1472 (9th Cir. 1991) (noting that where a motion to dismiss is granted, a  
22 district court should grant leave to amend unless it is clear the complaint cannot be  
23 saved by amendment). Moreover, a party has the right to amend the complaint “once as  
24 a matter of course no later than (A) 21 days after serving it, or (B) if the pleading is one  
25 to which a responsive pleading is required, 21 days after service of a responsive  
26 pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is  
27 earlier.” Fed. R. Civ. P. 15(a). Further, the Federal Rules of Civil Procedure provide  
28 that leave to amend should be “freely given when justice so requires.” Fed. R. Civ. P.

1 15(a). Indeed, the Ninth Circuit requires that this policy favoring amendment be  
2 applied with “extreme liberality.” *Morongo Band of Mission Indians v. Rose*, 893 F.2d  
3 1074, 1079 (9th Cir. 1990). Consequently, parties should carefully consider and weigh  
4 an opponent’s contentions as to the deficiencies in a pleading to determine if an  
5 amendment would cure the defects. The moving party, in turn, should agree to any  
6 amendment that would cure the defect.

7 If a motion to dismiss is granted with leave to amend, counsel shall attach as an  
8 appendix to an amended pleading a “redline” version of the amended pleading showing  
9 all additions and deletions of material.

10 **2. Motions to Amend:** In addition to the requirements of Local Rule 15-1, all  
11 motions to amend pleadings shall: (1) state the effect of the amendment; (2) be serially  
12 numbered to differentiate the amendment from previous amendments; and (3) state the  
13 page and line number(s) and wording of any proposed change or addition of material.  
14 Counsel shall electronically file a “Notice of Lodging” attaching the proposed amended  
15 pleading as a document separate from the motion, as well as a “redlined” version of the  
16 proposed amended pleading identifying all additions and deletions of material as an  
17 appendix to the moving papers. Local Rule 15.

18 **3. Motions and Stipulations to Continue.** Continuances are granted only on  
19 a showing of good cause. Requests for continuances must be made sufficiently in  
20 advance of the date to be continued and by motion or stipulation, along with a proposed  
21 order. Motions and stipulations must be accompanied by a detailed declaration setting  
22 forth the specific reasons for the requested continuance. The declaration also should  
23 state whether there have been any previous requests for continuances; whether these  
24 requests were granted or denied by the Court; what efforts were made to meet the  
25 existing deadline; and what, if any, prejudice would result if the request is denied.  
26 Stipulations extending dates set by this Court are not effective unless approved by the  
27 Court. Continuances will not be granted routinely.

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1           **4. Motions *In Limine*:** Motions *in limine* are heard at the date and time of  
2 the Final Pretrial Conference and shall be e-filed twenty-eight (28) calendar days before  
3 the Final Pretrial Conference. Unless leave of Court is granted, each party is limited to  
4 five motions *in limine*. The motions shall be prepared and filed consistent with Local  
5 Rule 6-1 and Local Rule 7 shall be numbered sequentially by each party who presents  
6 them. The supporting memorandum shall not exceed ten (10) pages. Any opposition(s)  
7 shall be e-filed fourteen (14) calendar days before the Final Pretrial Conference and  
8 shall not exceed 10 pages. The Court will permit oral argument on motions *in limine*  
9 and, therefore, a reply is not required. The Court hears all motions *in limine*, which shall  
10 be numbered sequentially by each party who presents them, at the time of the Final  
11 Pretrial Conference.

12           **5. *Daubert* Motions:** *Daubert* motions shall be noticed for hearing not later  
13 than eight (8) weeks before the Final Pretrial Conference date.

14           **6. Motions for Class Certification:** If this action is a putative class action,  
15 the parties are to act diligently and begin discovery immediately, so that the motion for  
16 class certification can be filed expeditiously. This Court requires an extended briefing  
17 schedule for motions for class certification. Parties are advised to refer to the Court's  
18 Scheduling Order for additional guidance as to filing and timing of motions for class  
19 certification.

20           **7. Motions Pursuant to Federal Rule of Civil Procedure 56 (Summary  
21 Judgment/Summary Adjudication Motions):**

22           For the requirements specific to Rule 56 motions, the parties shall refer to the  
23 Court's Standing Order for Motions for Summary Judgment located on the Court's  
24 website. (<https://www.cacd.uscourts.gov/honorable-serena-r-murillo>). The parties are  
25 expected to comply with all the Court's requirements.

26           **8. Motions for Attorneys' Fees:** Motions for attorneys' fees shall be  
27 electronically filed and set for hearing according to Local Rule 6-1 and this Order. Any  
28 motion or request for attorneys' fees shall attach two summaries, in table form, of the

1 hours worked by and billing rate of each attorney with title (e.g., partner, counsel,  
2 associate, etc.). The first table shall include a summary of the hours worked by each  
3 attorney, organized by task (e.g., discovery, motion to dismiss, motion for summary  
4 judgment). The second table shall include a summary of the hours worked by each  
5 attorney, organized by attorney. Both tables shall list all the tasks on which the attorney  
6 worked, the hours worked on each task, and the hourly rate of each attorney. If the  
7 hourly rate charged by any individual attorney changed while the action was ongoing,  
8 the party shall provide separate calculations for the total number of hours the attorney  
9 spent in connection with each task at each hourly rate. All tables shall be attached to  
10 the motion and electronically filed. The courtesy copies of the tables shall be prepared  
11 in Excel, have all restrictions removed so the spreadsheets can be edited, and be  
12 emailed to the Court’s chambers email address at [SRM\\_Chambers@cacd.uscourts.gov](mailto:SRM_Chambers@cacd.uscourts.gov).

13 **9. Motions to Reconsider.** Motions for reconsideration must meet the  
14 requirements for reconsideration set forth in the Federal Rules of Civil Procedure and/or  
15 Local Rules. A motion for reconsideration will “not be granted, absent highly unusual  
16 circumstances, unless the district court is presented with newly discovered evidence,  
17 committed clear error, or if there is an intervening change in the controlling law.” *See*  
18 *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 880 (9th  
19 Cir. 2009) (quoting *389 Orange St. Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir.  
20 1999)); *see also* C.D. Cal. Civ. L.R. 7–18 (listing other requirements). Motions for  
21 reconsideration should not be filed to rehash arguments or “raise arguments or present  
22 evidence for the first time when they could reasonably have been raised earlier in the  
23 litigation.” *Id.* (quoting *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th  
24 Cir. 2000)). Filing motions for reconsideration that do not adhere to the above  
25 requirements may result in sanctions being imposed.

26 **10. PLRA Exhaustion Motions.** The issue of exhaustion under the Prison  
27 Litigation Reform Act (PLRA) must be raised at the beginning of the litigation. *Albino*  
28 *v. Baca*, 747 F.3d 1162, 1170 (9th Cir. 2014). A party seeking to obtain a judicial



1 determination of any material fact dispute precluding summary judgment on the  
2 exhaustion issue must file before this Court a request for a hearing within fourteen (14)  
3 days of the filing of the order denying summary judgment. The failure to file a timely  
4 request may be construed as a waiver of the exhaustion issue.

5 **I. HEARINGS**

6 **1. Submission Without Oral Argument.** Pursuant to Fed. R. Civ. P. 78 and  
7 Local Rule 7-15, the Court may deem a matter appropriate for decision without oral  
8 argument. If the Court does so, it will notify the parties before the hearing.

9 **2. Oral Argument Time Limits.** If oral argument is permitted, the parties  
10 will have ten (10) minutes each for oral argument, unless the Court states otherwise. If  
11 the Court believes that the matter warrants less or more time, it will advise counsel at  
12 the hearing.

13 **3. Remote Appearances.** Remote appearances are disfavored absent good  
14 cause shown in a filed declaration.

15 **4. Telephonic Hearings.** The Court seldom permits telephonic appearances.  
16 The Court strongly prefers counsel to appear in person for motion hearings and pretrial  
17 and settlement conferences. If exceptional circumstances exist, counsel may file an  
18 application to appear telephonically detailing such circumstance.

19 **5. Settlement.** Counsel must notify the Court at least two weeks before the  
20 scheduled hearing if the parties are conducting settlement discussions that may render  
21 the **motion moot and must notify the Court immediately if a settlement is reached.**  
22 **A belated notice of settlement wastes scarce judicial resources.**

23 **J. EX PARTE APPLICATIONS (INCLUDING TEMPORARY**  
24 **RESTRAINING ORDERS AND APPLICATIONS FOR INJUNCTIVE**  
25 **RELIEF).**

26 **1. Ex Parte Applications Generally:** *Ex parte* applications are solely for  
27 extraordinary relief and should be used with discretion. *See Mission Power Eng'g Co. v.*  
28 *Cont'l Cas. Co.*, 883 F. Supp. 488 (C.D. Cal. 1995). *Ex parte* applications that fail to

1 conform to Local Rule 7-19, including a statement of opposing counsel’s position, will  
2 not be considered, except on a specific showing of good cause. Concurrently with  
3 service of the *ex parte* papers by electronic service and telephonic notice, counsel shall  
4 also serve the moving party by either facsimile, email, or personal service, and give  
5 notice to the moving party that opposing papers must be filed no later than 24 hours (or  
6 one court day) following service. If counsel do not intend to oppose the *ex parte*  
7 application, counsel must inform the Courtroom Deputy Clerk by telephone or email as  
8 soon as possible.

9 Applications seeking relief on an *ex parte* basis—either requesting not to give  
10 proper notice to an opposing party and/or requesting an expedited briefing schedule—  
11 are highly disfavored. This is especially true when the *ex parte* relief is sought due to  
12 (1) the applicant’s lack of diligence; (2) a crisis of the applicant’s own making; (3) an  
13 applicant’s unwillingness to work through issues with the opposing party; or (4) an  
14 applicant’s last minute or half-hearted attempt to meet and confer. Even when the  
15 opposing party is given the opportunity to respond, such *ex parte* motions “are  
16 inherently unfair,” “pose a threat to the administration of justice,” “debilitate the  
17 adversary system,” and force both the opposing counsel and the Court “to drop all other  
18 work to respond on short notice.” *Mission Power Engineering Co. v. Continental*  
19 *Casualty Co.*, 883 F. Supp. 488, 490 (C.D. Cal. 1995). As such, *ex parte* applications  
20 are strongly discouraged, and frivolous *ex parte* motions may result in sanctions being  
21 imposed on the moving party.

22 If, on the rare occasion and with a party’s demonstration of due diligence during  
23 the entire period leading up to the deadline, compliance with a Court deadline is not  
24 possible, a party may file an *ex parte* application and propose a hearing date. The  
25 moving party must support the application *with facts* showing that its “cause will be  
26 irreparably prejudiced if the underlying motion is heard according to regular noticed  
27 motion procedures” and “that the moving party is without fault in creating the crisis that  
28 requires *ex parte* relief, or that the crisis occurred as a result of excusable neglect.” *Id.*

1 at 492. Merely reciting these requirements is not sufficient. Further, the moving party  
2 should not assume that an unopposed *ex parte* application will be granted; and a last-  
3 minute application (or stipulation) that is denied will not serve to relieve a party of an  
4 underlying obligation (e.g., a soon-to-expire deadline).

5 **2. *Ex Parte* Applications for TROs:** An *ex parte* application for a temporary  
6 restraining order or preliminary injunction under Fed. R. Civ. P. 65, seeks an  
7 “extraordinary remedy that may only be awarded upon a clear showing that the plaintiff  
8 is entitled to such relief.” *Winter v. NRDC, Inc.*, 555 U.S. 7, 22 (2008) (citation  
9 omitted). Such applications must comply with Local Rule 7-19 (and Local Rule 65 for  
10 temporary restraining orders and preliminary injunctions). The moving party must  
11 serve the opposing party by email, fax, or personal service, and notify that party that  
12 opposing papers must be filed not later than forty-eight (48) hours following service or  
13 by 3:00 p.m. on the first court day after the service, whichever is later, or certify  
14 pursuant to Rule 65 and Local Rule 65-1 the efforts made to give notice and reasons  
15 why it should not be required under the circumstances. The opposing party should  
16 advise the CRD as soon as possible whether it intends to oppose the *ex parte*  
17 application. For TROs, the parties must provide Mandatory Chambers Copies of TRO-  
18 related documents on the same day they are filed. The application will not be  
19 considered until a Mandatory Chambers Copy has been provided. Unless the  
20 application presents a true emergency, the Court generally will not rule on the  
21 application for relief for at least forty-eight (48) hours (or two court days) after the party  
22 subject to the requested order has been served.

23 **K. OTHER MATTERS**

24 **1. Class Actions**

25 If this action is a putative class action, the parties are to act diligently and begin  
26 discovery immediately so that the motion for class certification can be filed  
27 expeditiously. A motion for class certification must be filed not later than 120 days  
28

1 from the date initially set for the scheduling conference, unless the Court orders  
2 otherwise.

3 **2. ERISA Cases (Benefits Claims)**

4 The Court will hear motions to determine the standard of review, whether  
5 discovery will be permitted, and the scope of the administrative record. Counsel are  
6 discouraged from filing motions for summary judgment or partial summary judgment  
7 on any other issue. If they choose to do so, they must distinguish *Kearney v. Standard*  
8 *Insurance Co.*, 175 F.3d 1084, 1093-95 (9th Cir. 1999) (en banc) in the moving papers  
9 and explain why summary judgment is not precluded. The parties may receive a  
10 scheduling conference order as a matter of course. Because the ordinary pretrial and  
11 trial schedule does not apply to these ERISA cases, the parties need only submit a joint  
12 status report identifying any special issues that should be considered. The parties  
13 should proceed with the preparation of the administrative record and briefing without  
14 delay upon service of the complaint. A court trial, ordinarily limited to oral argument  
15 on the administrative record, will be scheduled within six (6) months from the filing of  
16 the original complaint, unless good cause for additional time is shown in the status  
17 report. If the Court concludes that the decision would not benefit from oral argument,  
18 the matter may be submitted for decision on the papers.

19 **3. Bankruptcy Appeals.** Counsel must comply with the Notice Regarding  
20 Appeal from Bankruptcy Court issued at the time the appeal is filed in the district court.  
21 The matter is deemed under submission on the filing of the appellant's reply brief. The  
22 Court considers bankruptcy appeals on the papers and usually does not set these matters  
23 for hearing.

24 **L. CONSEQUENCES FOR NONCOMPLIANCE WITH THIS ORDER.**

25 If, without satisfactory explanation, counsel fail to file the required Joint Rule  
26 26(f) Report or the required pretrial documents, fail to appear at any scheduled  
27 proceeding, or otherwise fail to comply with the Court's Orders or rules, the Court shall  
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1 take any action it deems appropriate, including: (i) dismissal of the case for failure to  
2 prosecute, if the failure occurs on the part of the plaintiff; (ii) striking the answer  
3 resulting in default if such failure occurs on the part of the defendant; and/or (iii)  
4 imposing monetary sanctions against the offending party and counsel.

5 **IT IS SO ORDERED.**

6  
7 DATED:

8 HON. SERENA MURILLO  
9 UNITED STATES DISTRICT JUDGE

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