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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10

11 [PLAINTIFF’S NAME],

12 Plaintiff,

13 v.

14 [DEFENDANT’S NAME],

15 Defendant.
16
17

Case No.

**STANDING ORDER FOR
NEWLY ASSIGNED CIVIL CASES**

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

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

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

1 this Order. Counsel should obtain the latest version of this Order under Orders &
2 Additional Documents at the bottom of Judge Murillo's webpage on the Court's
3 website. (<https://www.cacd.uscourts.gov/honorable-serena-r-murillo>). The version date
4 appears in the electronic file name.

5 **A. GENERAL REQUIREMENTS**

6 **1. Service of Order.**

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

13 **2. *Pro Se* Litigants.**

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

25 **3. Presence of Lead Trial Counsel.**

26 Lead trial counsel shall attend all proceedings set by this Court, including
27 scheduling, settlement, pretrial conferences, and trial unless lead trial counsel is
28 engaged in trial. Lead trial counsel must be prepared to address and resolve all matters

1 within the scope of the proceeding. Only one attorney for a party may be designated as
2 lead trial counsel unless otherwise permitted by the Court. If a second lead trial counsel
3 is permitted by the Court, both counsels must attend the pretrial conference. The Court
4 does not permit special appearances; only counsel of record may appear at any
5 proceeding. To provide more experience to the next generation of practitioners, the
6 Court encourages lead trial counsel to permit junior counsel to fully participate in Court
7 proceedings, including to arguing motions and examining witnesses at trial.

8 **4. Counsel Calendar Conflicts.**

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

18 **5. Communications with Chambers.**

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

26 **6. Civility.**

27 All counsel who appear in this action must immediately review and comply with
28 the Civility and Professionalism Guidelines, which can be found on the Court's website

1 at [http://www.cacd.uscourts.gov/attorneys/admissions/civility-and-professionalism-](http://www.cacd.uscourts.gov/attorneys/admissions/civility-and-professionalism-guidelines)
2 [guidelines](http://www.cacd.uscourts.gov/attorneys/admissions/civility-and-professionalism-guidelines). The Court expects everyone in the courtroom to treat each other with
3 dignity and respect. At a minimum, the Court expects the following from counsel: (1)
4 Being punctual and prepared for all court appearances; (2) being civil and respectful in
5 all oral and written communications with the Court and other parties; (3) being civil and
6 respectful to court personnel, including the CRD, court reporters, law clerks, and
7 marshals; (4) refraining from interrupting any person in the courtroom when that
8 person is speaking; (5) refraining from making gestures, facial expressions, or audible
9 comments indicating approval or disapproval of testimony or argument; and (6) being
10 considerate of the time constraints and pressures on the Court and court staff inherent in
11 their efforts to administer justice.

12 **B. PLEADINGS REQUIREMENTS**

13 **1. Service of the Complaint.**

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

21 **2. Removed Actions.**

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

1 this instruction shall be deemed an amended complaint with “the court’s leave”
2 pursuant to Fed. R. Civ. P. 15(a)(2).

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

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

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

12 **C. FILING REQUIREMENTS**

13 **1. Electronic Filing.**

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

24 **2. Documents with Declarations, Exhibits, and other Attachments.**

25 If a filed or lodged document has declarations, exhibits, or other attachments,
26 each attachment must be filed as a separately docketed attachment to the main docket
27 entry with a description of the attachment (e.g., Dkt. 29-1 Smith Declaration, 29-2 Ex. 1
28 - License Agreement, 29-3 Request for Judicial Notice). The Court may strike or

1 decline to consider motions, stipulations, or other documents with attachments that are
2 not filed in accordance with this Order.

3 **3. Proposed Orders.**

4 **(a) Proposed Orders Must be Lodged and Served.**

5 Each party filing or opposing a motion or seeking the determination of any matter
6 shall serve and lodge a proposed order setting forth the relief or action sought and a
7 brief statement of the rationale for the decision with appropriate citations.

8 **(b) Use Applicable Templates.**

9 Use the “Proposed Order” template located on the Court’s website under “Orders
10 & Additional Documents” at the bottom of the webpage.

11 (<https://www.cacd.uscourts.gov/honorable-serena-r-murillo>). Failure to do so may
12 result in the striking of the request. Proposed orders must be on pleading paper.
13 Proposed orders should NOT contain any of the following: (1) attorney names,
14 addresses, etc. on the caption page; (2) a footer with the document name or other
15 information; or (3) a watermark or designation of the firm name. Proposed orders
16 should be formatted in the same fashion as motions. *See infra* paragraph G.4.

17 **(c) Email Proposed Orders to Chambers.**

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

28 **4. Mandatory Chambers Copies:**

1 **(a) Motions, Pleadings, and Trial Documents.**

2 The parties must not provide chambers copies unless specifically ordered by the
3 court, or in case of an *ex parte* application for a temporary restraining order (TRO). If
4 required, chambers copies are to be submitted pursuant to Local Rule 5-4.5. The Court
5 does require copies of materials that have not been filed on the electronic docket for the
6 case (e.g., CD-ROMs, DVDs, USB drives, documents electronically filed in other cases
7 or other districts). Please do not send paper copies of any other documents unless
8 requested by the Court.

9 **(b) Delivery Location, Timeliness, and Form.**

10 If ordered, Chambers Copies or materials must be delivered to Judge
11 Murillo's mailbox on the Fourth Floor of the First Street Courthouse, 350 West First
12 Street, Los Angeles, California 90012. Where applicable, any exhibits or
13 declarations attached to chambers copies must be tabbed. Mandatory Chambers
14 Copies need NOT be blue backed.

15 Chambers copies must be delivered no later than 12:00 p.m. (noon) the following
16 business day after the document is electronically filed. "Chambers copies must be
17 printed from CM/ECF and must include: (1) the CM/ECF-generated header (consisting
18 of the case number, document control number, date of filing, page number, etc.) at the
19 top of each page; and (2) the NEF [notice of electronic filing] (*see* L.R. 5-3.2.1) as the
20 last page of the document." Local Rule 5-4.5 (emphasis added). Chambers Copies need
21 not be blue backed. For security reasons, do not leave chambers copies in envelopes or
22 folders.

23 **(c) Chambers Copy Exhibits.**

24 If chambers copies are ordered, all exhibits should be separated by a tab divider
25 on the right or bottom of the document. If the evidence exceeds 50 pages, the
26 Chambers Copy must (1) include a table of contents and (2) be in a tabbed binder with
27 each exhibit separated by a tab divider on the right or the bottom. All documents in the
28 binder must be three-hole punched, preferably with a larger hole size (13/32") rather

1 than the standard hole size (9/32”), to facilitate ease of review. If the evidence exceeds
2 200 pages, the table of contents and evidence must be placed in a Slant D-Ring binder.
3 Binders should be no larger than 4 inches. Binders must have both a cover sheet and a
4 spine label that includes the case name, case number, and a description of the contents.

5 **5. Filings Under Seal.**

6 **(a) Local Rule 79-5.**

7 Local Rule 79-5 governs applications to file under seal. Parties must comply
8 with all sections of Local Rule 79-5. There is a “strong presumption of access to court
9 records” in civil cases. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135
10 (9th Cir. 2003). For each document or other type of information a party seeks to file
11 under seal, the party must identify and discuss the factual and/or legal justification, see
12 (c) below, that establishes “good cause” or “compelling reasons” for the document’s
13 protection. *Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1179-80 (9th Cir.
14 2006).

15 **(b) Redacted Version and Unredacted Version.**

16 Documents that are not confidential or privileged in their entirety should not be
17 filed under seal if the confidential portions can be redacted and filed separately with a
18 reasonable amount of effort. The parties should file an unredacted version of the
19 document under seal, and a redacted version for public viewing, omitting only the
20 portions the Court has ordered may be filed under seal.

21 **(c) Justification.**

22 Sealing must be justified for each individual confidential matter; blanket claims
23 of confidentiality will result in the application to seal being denied. All applications
24 must provide the reason(s) the parties’ interest in maintaining the confidentiality of the
25 document(s) outweighs the public’s right to access materials submitted in connection
26 with a judicial proceeding. Counsel is strongly encouraged to consider carefully
27 whether sealing or redaction is required for a given piece of evidence or argument. An
28 application to seal that includes clearly meritless requests to seal or redact documents

1 may be denied in its entirety. The parties must also meet and confer before filing an
2 application to seal.

3 **(d) Meet and Confer.**

4 Counsel is ordered to meet and confer in person or by telephone at least seven (7)
5 calendar days prior to the filing of an application in which the basis for the requested
6 sealing is stated to determine if they can agree on the proposed under seal filing. Not
7 later than two (2) calendar days after the meet and confer process has concluded, the
8 non-proposing party shall confirm whether it agrees to having such information
9 designated as confidential or whether it opposes an under seal filing. Any application
10 for under seal filing, whether or not opposed, shall contain the dates and method by
11 which the parties met and conferred. If such information is not provided, the application
12 will be denied without prejudice to an amended application being filed that complies
13 with the foregoing terms. *The parties are further advised that email correspondence*
14 *alone is insufficient to satisfy this requirement.*

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

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

26 [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-
27 list-civil-cases-magistrate-judges-program).

28 **E. DISCOVERY**

1 **1. Magistrate Judge Referral for All Discovery Matters.**

2 All discovery matters are referred to the assigned United States Magistrate Judge.
3 The Magistrate Judge's initials follow the Judge's initials next to the case number. All
4 documents relating to discovery matters must include the words "DISCOVERY
5 MATTER" in the caption to ensure proper routing. Counsel should not deliver
6 chambers copies of discovery matters. Counsel must follow the Magistrate Judge's
7 procedures for scheduling matters for hearing. These procedures are stated on each
8 Magistrate Judge's webpage.

9 **2. Limited District Court Review of Discovery Matters.**

10 The decision of the Magistrate Judge on all discovery matters shall be final,
11 subject to limited review requiring a showing that the decision is clearly erroneous or
12 contrary to law. *See* 28 U.S.C. § 636(b)(1)(A). Any motion for review of a Magistrate
13 Judge's decision must be noticed before the District Court Judge within fourteen (14)
14 days of service of the Magistrate Judge's written ruling or within fourteen (14) days of
15 an oral ruling that the Magistrate Judge states will not be followed by a written ruling.
16 The motion must specify which portions of the ruling are clearly erroneous or contrary
17 to law, and the claim must be supported by points and authorities. Counsel shall
18 provide copies of the moving papers and responses to the Magistrate Judge chambers.

19 **3. Timing of Discovery.**

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

1 **4. Discovery Protective Orders.**

2 Proposed protective orders for discovery
3 must be submitted to the assigned Magistrate Judge. Such orders should not purport to
4 allow, without further order of the Court, the filing under seal of pleadings or
5 documents filed in connection with a dispositive motion, a class certification motion, or
6 trial before the Court. The existence of a protective order does not alone justify the
7 filing of pleadings or other documents under seal, in whole or in part.

8 **F. SCHEDULING CONFERENCE**

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

12 **G. MOTIONS – GENERAL REQUIREMENTS APPLICABLE TO ALL**
13 **MOTIONS**

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

15 **(a) Scope.**

16 The Court strictly enforces Local Rule 7-3, which requires counsel to engage in a
17 prefiling conference “to discuss thoroughly . . . the substance of the contemplated
18 motion and any potential resolution.” This requirement applies in all cases, including
19 those with *Pro Se* Litigants. This Court requires parties through Counsel to meet and
20 confer about any potentially disputed matter (except those identified in Local Rules 7-3
21 and 16-12) before presenting it to the Court, including requests to continue any matter,
22 applications to file under seal, and other filings seeking a court order. The purpose of
23 meeting and conferring is to attempt to obviate the need for a motion and thus avoid
24 unnecessary Court intervention. If the parties are unable to fully resolve the dispute,
25 they shall attempt to narrow the scope of contested issues. Counsel must meet and
26 confer in good faith. *The parties are further advised that email correspondence alone*
27 *is insufficient to satisfy this requirement.*

28 **(b) Method.**

1 Parties must meet and confer either by videoconference or in person. Email
2 correspondence is insufficient.

3 **(c) Compliance Statement Required.**

4 The moving party must include a truthful representation of full compliance with
5 Local Rule 7-3 in the signed notice of motion, stating that the parties “thoroughly
6 discussed the substance and potential resolution of the filed motion [by videoconference
7 or in person].”

8 **(d) Non-Compliance.**

9 If an opposing party refuses to participate in good faith, the moving party shall
10 explain the refusal in detail. Failure by any party to comply in good faith with the
11 “meet and confer” requirement may result in an order to show cause re: sanctions—
12 including, as appropriate, striking or denying the motion, deeming the motion
13 unopposed, and/or awarding monetary sanctions.

14 **2. Scheduling Motions Hearings.**

15 Motions must be filed in accordance with Local Rules 6 and 7. Judge Murillo
16 hears civil motions on Thursday beginning at 1:30 p.m. It is not necessary to clear a
17 hearing date with the CRD before filing a motion. Immediately before filing the
18 motion, parties must check the closed motion dates column located on the right side of
19 Judge Murillo’s Procedures and Schedules Page on the Court’s website to ensure the
20 hearing date has not been closed. The closed date column is typically updated on a
21 weekly and sometimes daily basis. If a motion is noticed for a date that is not available,
22 the Court may strike or reset the motion.

23 **3. Briefing Schedule.**

24 To allow Chambers enough time to prepare, the parties must adhere to the
25 briefing schedule set forth in Local Rules 7-9 and 7-10 for all motions, except Rule 56
26 motions. For Rule 56 motions, the parties should review and comply with Judge
27 Murillo’s Standing Order for Motions for Summary Judgment located on the Court’s
28 website. (<https://www.cacd.uscourts.gov/honorable-serena-r-murillo>). When

scheduling motion hearing dates, professional courtesy dictates that the parties should accommodate each other's schedules, including vacation and holiday schedules, whenever possible.

4. Length and Format of Motion Papers.

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

5. Citations to Authority.

Statutes should be cited in accordance with the Bluebook. Citations that support a statement in the main text must be included in the main text, not in footnotes.

(a) Case citations.

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

(b) Statutory references.

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

(c) Citations to Other Sources.

1 Citations to treatises, manuals, and other materials should include the volume,
2 section, and relevant pages. Attach copies if these materials are not accessible on
3 Westlaw, especially for historical materials (e.g., older legislative history).

4 **6. Oral Argument.**

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

7 **H. MOTIONS - SPECIFIC REQUIREMENTS**

8 **1. Motions Pursuant to Federal Rule of Civil Procedure 12:**

9 Many motions to dismiss or strike can be avoided if the parties confer in good
10 faith as required by Local Rule 7-3, especially for perceived defects in a complaint,
11 answer, or counterclaim that can be corrected by amendment. *See Polich v. Burlington*
12 *N., Inc.*, 942 F.2d 1467, 1472 (9th Cir. 1991) (noting that where a motion to dismiss is
13 granted, a district court should grant leave to amend unless it is clear the complaint
14 cannot be saved by amendment). Moreover, a party has the right to amend the
15 complaint “once as a matter of course no later than (A) 21 days after serving it, or (B) if
16 the pleading is one to which a responsive pleading is required, 21 days after service of a
17 responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f),
18 whichever is earlier.” Fed. R. Civ. P. 15(a). Further, the Federal Rules of Civil
19 Procedure provide that leave to amend should be “freely given when justice so
20 requires.” Fed. R. Civ. P. 15(a). Indeed, the Ninth Circuit requires that this policy
21 favoring amendment be applied with “extreme liberality.” *Morongo Band of Mission*
22 *Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990). Consequently, parties should
23 carefully consider and weigh an opponent’s contentions as to the deficiencies in a
24 pleading to determine if an amendment would cure the defects. The moving party, in
25 turn, should agree to any amendment that would cure the defect.

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

1 **2. Motions to Amend.**

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

10 **3. Motions and Stipulations to Continue.**

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

21 **4. Motions *In Limine*.**

22 Motions *in limine* are heard at the date and time of the Final Pretrial Conference
23 and shall be e-filed twenty-eight (28) calendar days before the Final Pretrial
24 Conference. Unless leave of Court is granted, each party is limited to five motions *in*
25 *limine*. The motions shall be prepared and filed consistent with Local Rule 6-1, and
26 Local Rule 7 shall be numbered sequentially by each party who presents them. The
27 supporting memorandum shall not exceed ten (10) pages. Any opposition(s) shall be e-
28 filed fourteen (14) calendar days before the Final Pretrial Conference and shall not

1 exceed 10 pages. The Court will permit oral argument on motions *in limine*; therefore, a
2 reply is not required. The Court hears all motions *in limine*, which shall be numbered
3 sequentially by each party who presents them, at the time of the Final Pretrial
4 Conference.

5 **5. Daubert Motions:**

6 *Daubert* motions shall be noticed for hearing no later than eight (8) weeks before
7 the Final Pretrial Conference date.

8 **6. Motions for Class Certification**

9 If this action is a putative class action, the parties are to act diligently and begin
10 discovery immediately, so that the motion for class certification can be filed
11 expeditiously. This Court requires an extended briefing schedule for motions for class
12 certification. Parties are advised to refer to the Court's Scheduling Order for additional
13 guidance as to filing and timing of motions for class certification.

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

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

20 **8. Motions for Attorneys' Fees.**

21 Motions for attorneys' fees shall be electronically filed and set for hearing
22 according to Local Rule 6-1 and this Order. Any motion or request for attorneys' fees
23 shall attach two summaries, in table form, of the hours worked by and billing rate of
24 each attorney with title (e.g., partner, counsel, associate, etc.). The first table shall
25 include a summary of the hours worked by each attorney, organized by task (e.g.,
26 discovery, motion to dismiss, motion for summary judgment). The second table shall
27 include a summary of the hours worked by each attorney, organized by attorney. Both
28 tables shall list all the tasks on which the attorney worked, the hours worked on each

task, and the hourly rate of each attorney. If the hourly rate charged by any individual attorney changes while the action is ongoing, the party shall provide separate calculations for the total number of hours the attorney spent in connection with each task at each hourly rate. All tables shall be attached to the motion and electronically filed. The courtesy copies of the tables shall be prepared in Excel, with all restrictions removed so the spreadsheets can be edited, and emailed to the Court's chambers email address at SRM_Chambers@cacd.uscourts.gov.

9. Motions to Reconsider.

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

10. PLRA Exhaustion Motions.

The issue of exhaustion under the Prison Litigation Reform Act (PLRA) must be raised at the beginning of the litigation. *Albino v. Baca*, 747 F.3d 1162, 1170 (9th Cir. 2014). A party seeking to obtain a judicial determination of any material fact dispute precluding summary judgment on the exhaustion issue must file before this Court a request for a hearing within fourteen (14) days of the filing of the order denying

summary judgment. The failure to file a timely request may be construed as a waiver of the exhaustion issue.

I. HEARINGS

1. Submission Without Oral Argument.

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

2. Oral Argument Time Limits.

If oral argument is permitted, the parties will have ten (10) minutes each for oral argument, unless the Court states otherwise. If the Court believes the matter warrants less or more time, it will advise counsel at the hearing.

3. Remote Appearances.

Remote appearances are disfavored absent good cause shown in a filed declaration.

4. Telephonic Hearings.

The Court seldom permits telephonic appearances. The Court strongly prefers counsel to appear in person for motion hearings and pretrial and settlement conferences. If exceptional circumstances exist, counsel may file an application to appear telephonically detailing such circumstances.

5. Settlement.

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

J. EX PARTE APPLICATIONS (INCLUDING TEMPORARY RESTRAINING ORDERS AND APPLICATIONS FOR INJUNCTIVE RELIEF).

1. *Ex Parte* Applications Generally:

1 *Ex parte* applications are solely for extraordinary relief and should be used with
2 discretion. *See Mission Power Eng'g Co. v. Cont'l Cas. Co.*, 883 F. Supp. 488 (C.D.
3 Cal. 1995). *Ex parte* applications that fail to conform to Local Rule 7-19, including a
4 statement of opposing counsel's position, will not be considered, except on a specific
5 showing of good cause. Concurrently with service of the *ex parte* papers by electronic
6 service and telephonic notice, counsel shall also serve the moving party by either
7 facsimile, email, or personal service, and give notice to the moving party that opposing
8 papers must be filed no later than 24 hours (or one court day) following service. If
9 counsel does not intend to oppose the *ex parte* application, counsel must inform the
10 Courtroom Deputy Clerk by telephone or email as soon as possible.

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

24 If, on the rare occasion and with a party's demonstration of due diligence during
25 the entire period leading up to the deadline, compliance with a Court deadline is not
26 possible, a party may file an *ex parte* application and propose a hearing date. The
27 moving party must support the application *with facts* showing that its "cause will be
28 irreparably prejudiced if the underlying motion is heard according to regular noticed

1 motion procedures” and “that the moving party is without fault in creating the crisis that
2 requires *ex parte* relief, or that the crisis occurred as a result of excusable neglect.” *Id.*
3 at 492. Merely reciting these requirements is not sufficient. Further, the moving party
4 should not assume that an unopposed *ex parte* application will be granted; and a last-
5 minute application (or stipulation) that is denied will not serve to relieve a party of an
6 underlying obligation (e.g., a soon-to-expire deadline).

7 **2. *Ex Parte* Applications for TROs.**

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

25 **K. OTHER MATTERS**

26 **1. Class Actions**

27 If this action is a putative class action, the parties are to act diligently and begin
28 discovery immediately so that the motion for class certification can be filed

1 expeditiously. A motion for class certification must be filed not later than 120 days
2 from the date initially set for the scheduling conference, unless the Court orders
3 otherwise.

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

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

20 **3. Bankruptcy Appeals.**

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

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

26 If, without satisfactory explanation, counsel fails to file the required Joint Rule
27 26(f) Report or the required pretrial documents, fails to appear at any scheduled
28 proceeding, or otherwise fails to comply with the Court's Orders or rules, the Court

1 shall take any action it deems appropriate, including: (i) dismissal of the case for failure
2 to 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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