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

,
v. Plaintiff,
,
Defendant.

No.
**SCHEDULING AND CASE
MANAGEMENT ORDER**

This case has been assigned to the calendar of Magistrate Judge Brianna Fuller Mircheff pursuant to the parties' consent to have the magistrate judge conduct all further proceedings herein, including trial and the entry of judgment.

Judge Mircheff is located in Courtroom 780, on the 7th floor of the Roybal Federal Building and United States Courthouse, 255 E. Temple Street, Los Angeles, CA 90012. The courtroom deputy clerk, Ms. Christianna Howard, can be reached by email at Christianna_Howard@cacd.uscourts.gov or by telephone at (213) 894-7103.

The Court expects full compliance with the Federal Rules of Civil Procedure, the Local Rules for the Central District of California, this Court's

1 Procedures and Schedules, and the scheduling order in this case. Any
2 ambiguities will be construed to secure the just, speedy, and inexpensive
3 determination of each action.

4 The purpose of this Order is to enable counsel to know well in advance the
5 schedule and requirements to which they will be expected to adhere. **Please**
6 **read this Order carefully, it governs this case and differs in some**
7 **respects from the Local Rules.**

8 9 I. Scheduling Order

10 The Court has issued a Scheduling Order, setting forth dates for the
11 completion of fact and expert discovery, pre-trial and trial dates. No stipulation
12 to extend the Scheduling Order shall be effective unless approved by the Court.
13 Applications to extend any deadline must set forth:

- 14 (i) the existing deadline or hearing date;
- 15 (ii) specific, concrete reasons supporting good cause for granting the
16 extension;
- 17 (iii) whether there have been prior requests for extensions; and
- 18 (iv) if filed as an application, whether the other parties agree to the
19 request and the proposed new dates or schedule.

20 The party or parties requesting the extension must provide the Court with
21 a proposed order setting forth the proposed new dates and/or proposed new
22 schedule.

23 24 II. Discovery Cut-off

25 All discovery shall be completed by the discovery cut-off dates for non-
26 expert and expert discovery. This is not the date by which discovery requests

1 must be *served*; it is the date by which all non-expert and expert discovery is to
2 be completed. Any discovery dispute must be raised sufficiently in advance that
3 the Court can hold an informal discovery conference, the motion can be heard
4 and decided, and, if the motion is granted, any discovery can be exchanged
5 before the discovery cut-off.

6 The Court encourages the parties to review the Court's procedure for
7 informal discovery conferences. See [http://www.cacd.uscourts.gov/judges-](http://www.cacd.uscourts.gov/judges-schedules-procedures)
8 [schedules-procedures](http://www.cacd.uscourts.gov/judges-schedules-procedures). The parties are reminded that they may contact the
9 Courtroom Deputy to schedule an informal discovery conference only after they
10 have met and conferred to try to resolve the dispute without Court involvement.
11 If, after reviewing the parties' explanation of the issue or an informal discovery
12 conference, the Court finds that further briefing is required, the Court will set
13 a briefing schedule. Except in the case of an emergency not created by the party
14 or counsel bringing the motion, discovery motions will not be heard on ex parte
15 basis.

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17 **III. Motions and Motion Cut-off Date**

18 **A. General Provisions**

19 All law and motion matters, except for discovery motions and motions in
20 limine, must be filed by the date set in the attached trial Scheduling Order.

21 The parties must adhere to the requirements of the Local Rules
22 concerning motion practice. See Local Rules 7-1 et seq. If any party does not
23 oppose a motion, that party shall submit a written statement in accordance with
24 Local Rule 7-16 that it does not oppose the motion. Failure to meet the time
25 limits set forth in Local Rule 7 may be deemed consent to the granting of the
26 motion. Local Rule 7-12.

1 Motions are heard on Tuesdays and Thursdays at 10:00 a.m. unless
2 otherwise ordered by the Court. Even if a motion is still necessary after a good
3 faith pre-filing conference, counsel should have sufficiently discussed the issues
4 so that the briefing will be directed to those substantive issues which require
5 resolution by the Court. Hearings are presumptively held in person, but may be
6 conducted by videoconference at the request of the parties and with leave of
7 Court.

8 Ex parte practice is strongly discouraged. *See Mission Power Eng. Co. v.*
9 *Cont'l Cas. Co.*, 883 F. Supp. 488 (C.D. Cal. 1995). Counsel must adhere to
10 proper ex parte procedures for any ex parte application filed with the Court. *Id.*
11 at 492; *see also* Local Rule 7-19.

12 **B. Page Limitations**

13 Memoranda of points and authorities in support of or in opposition to any
14 motion shall not exceed 25 pages. Replies shall not exceed 12 pages. Only in rare
15 instances and for good cause shown will the Court grant an application to file a
16 brief in excess of those page limitations.

17 **C. Summary Judgment Motions**

18 Absent leave of Court, no party may file more than one motion pursuant
19 to Fed. R. Civ. P. 56, whether such motion is denominated as a motion for
20 summary judgment or summary adjudication.

21 To increase efficiency and to assist counsel in structuring and focusing
22 these motions, the following requirements apply when filing motions for
23 summary judgment.

- 24 1. Separate Statement of Undisputed Facts and Statement of Genuine
25 Issues

26 The separate statement of undisputed facts is to be prepared in a two-

1 statement.

2 The moving party, in its reply, shall respond to the additional facts in the
3 same manner and format that the opposition party is required to adhere to in
4 responding to the statement of undisputed facts, as described above.

5 2. Supporting Evidence

6 No party should submit any evidence other than the specific items of
7 evidence or testimony necessary to support or controvert a proposed statement
8 of undisputed fact. Thus, for example, the entire transcript of a deposition,
9 entire sets of interrogatory responses, and documents that do not specifically
10 support or controvert material in the separate statements, should not be
11 submitted in support or opposition to a motion for summary judgment.

12 Evidence submitted in support or opposition to a motion should be
13 submitted either by way of stipulation or as exhibits to declarations sufficient
14 to authenticate the proffered evidence and should not be attached to the
15 memorandum of points and authorities. The Court will accept counsel's
16 authentication of deposition transcripts, written discovery responses, and the
17 receipt of documents in discovery if the fact that the document was in the
18 opponent's possession is of independent significance. Documentary evidence as
19 to which there is no stipulation regarding foundation must be accompanied by
20 the testimony, either by declaration or properly authenticated deposition
21 transcript, of a witness who can establish its authenticity.

22 3. Objections to Evidence

23 If a party disputes a fact based in whole or in part on an evidentiary
24 objection, the ground of the objection, as indicated above, should be stated in the
25 separate statement but not argued in that document. Evidentiary objections are
26 to be addressed in a separate memorandum to be filed with the opposition or

1 reply brief of the party. This memorandum should be organized to track the
2 paragraph numbers of the separate statement in sequence. It should identify
3 the specific item of evidence to which objection is made, identify the ground of
4 the objection, and make a very brief argument with citation to authority as to
5 why the objection is well taken. The following is an example of the format
6 contemplated by the Court:

7 Separate Statement Paragraph 1: Objection to the supporting deposition
8 transcript of Jane Smith at 60:1-10 on the grounds that the statement
9 constitutes inadmissible hearsay and no exception is applicable. To the
10 extent it is offered to prove her state of mind, it is irrelevant since her
11 state of mind is not in issue. Fed. R. Evid. 801, 802.

12 Blanket or boilerplate objections to the Opponent's Statements of Undisputed
13 Facts will be disregarded.

14 4. The Memorandum of Points and Authorities

15 The moving party's memorandum of points and authorities should be in
16 the usual form required under Local Rule 7 and should contain a narrative
17 statement of facts as to those aspects of the case that are before the Court. All
18 facts should be supported with citation to the paragraph number in the separate
19 statement that supports the factual assertion and not to the underlying
20 evidence.

21 Unless the case involves some unusual application of Fed. R. Civ. P. 56,
22 the motion need only contain a brief statement of the Fed. R. Civ. P. 56 standard.
23 The argument should be organized to focus on the pertinent elements of the
24 claim(s) or defense(s) in issue, with the purpose of showing the existence or non-
25 existence of a genuine issue of material fact for trial on that element of the claim
26 or defense.

1 Likewise, the opposition memorandum of points and authorities should be
2 in the usual form required by Local Rule 7, and where the opposition
3 memorandum sets forth facts, the memorandum should cite to paragraphs in
4 the separate statement if they are not in dispute, to the evidence that
5 contravenes the fact where the fact is in dispute, or, if the fact is contravened
6 by an additional fact in the statement of genuine issues, the citation should be
7 to such fact by paragraph number.

8 5. Timing and Format

9 The Court expects that the moving party will provide more than the
10 minimum twenty-one day notice for such motions. The moving party should
11 email, or if email is impracticable, deliver to the Courtroom Deputy a USB flash
12 drive, containing the statement of uncontroverted facts and conclusions of law
13 in Word format.

14 **D. Motions in Limine**

15 The parties must file any motions in limine addressing the admissibility
16 of evidence in accordance with Local Rule 7-3 by the date specified in the
17 Scheduling Order that has been issued for this case.

18 Before filing any motion in limine, counsel for the parties shall confer in
19 a good faith effort to eliminate the necessity for the filing of the motion in limine
20 or to eliminate as many of the disputes as possible. At least five days in advance
21 of such a conference, counsel for the moving party must send a letter requesting
22 such conference, and shall identify the testimony, exhibits, or other specific
23 matters alleged to be inadmissible and/or prejudicial, shall state thoroughly
24 with respect to each such matter the moving party's position (and provide any
25 legal authority which the moving party believes as dispositive), and shall specify
26 the terms of the order to be sought.

1 no later than the deadline set forth below. The reply memorandum shall not
2 exceed five pages, unless otherwise ordered by the Court.

3 The Court will not consider any motion in limine in the absence of a joint
4 motion or a declaration from counsel for the moving party establishing that
5 opposing counsel (A) failed to confer in a timely manner; (B) failed to provide
6 the opposing party's portion of the joint motion in a timely manner; or (C)
7 refused to sign and return the joint motion after the opposing party's portion
8 was added.

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VI. Settlement

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11 The Court has directed the parties to participate in the ADR option
12 identified in the scheduling order; however, the parties are encouraged to
13 explore an earlier settlement proceeding after exchanging initial disclosures
14 and preliminary discovery. The parties must file a status report re settlement
15 within seven days of each settlement proceeding.

16 The Court does not conduct settlement conferences in non-jury cases that
17 are to be tried before the Court.

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19 Dated:

BRIANNA FULLER MIRCHEFF
UNITED STATES MAGISTRATE JUDGE

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