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

XXX, ) NO. CV FMO (\_\_\_x)  
Plaintiff(s), )  
v. ) **INITIAL STANDING ORDER**  
XXX, )  
Defendant(s). )  
\_\_\_\_\_ )

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

**The term “Counsel,” as used in this Order, includes parties appearing pro se.**

This case has been assigned to the calendar of Judge Fernando M. Olguin. In an effort to comply with Fed. R. Civ. P. 1's mandate “to secure the just, speedy, and inexpensive determination of every action[,]” the court **orders** as follows.

**I. SERVICE.**

A. This Order: Counsel for plaintiff(s) shall serve this Order immediately on all parties and/or their counsel, including any new parties to the action. If this case was removed from state court, defendant(s) who removed the case shall serve this Order on all other parties.

B. The Complaint: Plaintiff shall promptly serve the complaint in accordance with Fed. R. Civ. P. 4 and 5 and file the proofs of service pursuant to Local Rule 5-3. Any defendant not timely served under Fed. R. Civ. P. 4(m) shall be dismissed from the action without prejudice.

1 II. ASSIGNMENT TO A MAGISTRATE JUDGE.

2 Under 28 U.S.C. § 636, the parties may consent to have a magistrate judge preside over  
3 all proceedings, including trial. The magistrate judges who accept those designations are  
4 identified on the Central District's website, which also contains the consent form.

5 III. DISCOVERY.

6 A. Generally.

7 Discovery is governed by the Federal Rules of Civil Procedure and applicable Local Rules  
8 of the court. Pro se litigants are entitled to discovery to the same extent as are litigants  
9 represented by counsel. The court allows discovery to commence as soon as the answer or first  
10 motion is filed. The parties should note that **discovery shall not be stayed** while any motion is  
11 pending, including any motion to dismiss and/or motion for protective order. **The parties are**  
12 **directed to conduct any necessary discovery as soon as possible, as the court is not**  
13 **inclined to grant any extensions of the discovery or other case-related deadlines.**

14 Counsel are expected to comply with the Federal Rules of Civil Procedure and all Local  
15 Rules concerning discovery. Whenever possible, the court expects counsel to resolve discovery  
16 disputes among themselves in a courteous, reasonable and professional manner. The court  
17 expects that counsel will adhere strictly to the Civility and Professionalism Guidelines (which can  
18 be found on the court's website under Information for Attorneys>Attorney Admissions).

19 B. Discovery Matters Referred to Magistrate Judge.

20 All discovery matters have been referred to the assigned magistrate judge, who will hear  
21 all discovery disputes. The magistrate judge's initials follow the district judge's initials next to the  
22 case number. All discovery-related documents must include the words "DISCOVERY MATTER"  
23 in the caption to ensure proper routing. Counsel are directed to review the magistrate judge's  
24 Procedures and Schedules on the Central District's website to schedule discovery matters for  
25 hearing. Counsel must comply with Local Rule 37 and deliver mandatory chambers copies of  
26 discovery-related papers to the magistrate judge.

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1 C. Review of Magistrate Judge’s Decision.

2 The court will not reverse any order of the magistrate judge unless it has been shown that  
3 the magistrate judge’s order is clearly erroneous or contrary to law. See 28 U.S.C. § 636(b)(1)(A).  
4 Any party may file and serve a motion for review of the magistrate judge’s decision within fourteen  
5 (14) days of service of a written ruling or within fourteen (14) days of an oral ruling that the  
6 magistrate judge states will not be followed by a written ruling. The motion must specify which  
7 portions of the ruling are clearly erroneous or contrary to law and support the contention with  
8 points and authorities. Counsel shall deliver a conformed copy of the moving papers and  
9 responses to the magistrate judge’s courtroom deputy clerk (“CRD”) at the time of filing.

10 Counsel are advised that a motion for review that contains declarations or arguments that  
11 were not presented to the magistrate judge in the first instance will normally not be considered.  
12 See 14 Moore’s Federal Practice § 72.11[1][a], at 72-52 (3d ed. 2012) (“A party’s failure to present  
13 timely arguments, case law, or evidentiary materials to a magistrate judge prior to the magistrate’s  
14 ruling, thereby depriving the magistrate of the opportunity to rectify any alleged errors, waives that  
15 party’s right to present those arguments or materials to the district court on appeal from the  
16 magistrate’s nondispositive order.”); Seven For All Mankind, LLC v. GenX Clothing, Inc., 2006 WL  
17 5720346, at \*3 (C.D. Cal. 2006) (“The district judge will normally not consider arguments, case  
18 law, or evidentiary material which could have been, but was not, presented to the magistrate judge  
19 in the first instance.”) (internal quotation marks and citation omitted).

20 IV. MOTIONS.

21 A. General Requirements.

22 **1. Time for Filing and Hearing Motions.**

23 Motions shall be filed in accordance with Local Rule 7. The court hears motions on  
24 Thursdays at 10:00 a.m. unless otherwise ordered by the court. If a Thursday is a national  
25 holiday, motions will be heard on the next Thursday. It is not necessary to clear a hearing  
26 date with the court’s CRD before filing a motion. If the motion date selected is not  
27 available, counsel should notice the motion for the next available date.

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1                   **2. Compliance with Local Rule 7-3.**

2                   Local Rule 7-3 requires counsel to engage in a prefiling conference “to discuss  
3 thoroughly, **preferably in person**, the substance of the contemplated motion and any  
4 potential resolution.” The court takes this rule seriously, and counsel shall discharge their  
5 obligations under Local Rule 7-3 in good faith. The purpose of the Local Rule 7-3 prefiling  
6 conference is twofold: first, it facilitates possible informal resolution of an issue without court  
7 intervention; second, it enables the parties to brief the remaining disputes in a thoughtful,  
8 concise and useful manner. Even if a motion is still necessary after a good faith pre-filing  
9 conference, counsel should have sufficiently discussed the issues so that the briefing will  
10 be directed to those substantive issues that require resolution by the court. Minor  
11 procedural or other non-substantive matters should be resolved by counsel during the  
12 course of the conference.

13                   a. All Local Rule 7-3 conferences shall take place via a communication  
14 method that, at a minimum, allows all parties to be in realtime communication. In  
15 other words, letters and e-mail are insufficient to satisfy the prefiling conference  
16 requirements of Local Rule 7-3.

17                   b. Notwithstanding Local Rule 16-12(c), the parties in cases in which  
18 plaintiff is appearing pro se are required to meet and confer in compliance with Local  
19 Rule 7-3 unless the pro se plaintiff is incarcerated.

20                   c. Notwithstanding the exception for preliminary injunction motions in  
21 Local Rule 7-3, counsel contemplating a preliminary injunction motion are required  
22 to meet and confer, in substantive compliance with Local Rule 7-3, at least five (5)  
23 days prior to the filing of such a motion.

24                   **3. Length and Format of Motion Papers.**

25                   Local Rule 11-6 limits all memoranda of points and authorities to “25 pages in length,  
26 excluding indices and exhibits, unless permitted by order of the judge.” The court is of the  
27 view that the 25-page limitation is more than adequate for counsel to set forth his/her points  
28 and authorities, especially if counsel carefully reviews and edits the memorandum to

1 ensure a concise and focused presentation. Accordingly, routine requests to exceed the  
2 page limitation will be denied. Leave to exceed the page limitation will be granted only in  
3 extraordinary circumstances where counsel make an adequate showing of specific facts  
4 in support of an application to exceed the page limitation. **Any supplemental briefs filed**  
5 **without prior leave of court will be stricken.**

6 If documentary evidence in support of or in opposition to a motion exceeds 50  
7 pages, the evidence must be separately bound and tabbed and include an index. If such  
8 evidence exceeds 200 pages, the documents shall be placed in a Slant D-Ring binder, with  
9 an index and with each item of evidence separated by a tab divider on the right side.

10 **4. Citations to Case Law.**

11 Citations to case law must identify not only the case cited but the specific page  
12 referenced.

13 **5. Citations to Other Sources.**

14 Statutory references should identify with specificity the sections and subsections  
15 referenced. Citations to treatises, manuals and other materials should include the volume,  
16 section and pages being referenced.

17 **6. Proposed Orders.**

18 Each party filing or opposing a motion or seeking the determination of any matter  
19 shall serve and electronically lodge – at the time the moving or opposition papers are filed  
20 – a proposed order setting forth the relief or action sought and a brief statement of the  
21 rationale for the decision with appropriate citations. In addition, a copy of the proposed  
22 order in WordPerfect 9 (or above) or Word format shall be e-mailed to chambers at  
23 fmo\_chambers@cacd.uscourts.gov on the day the document is e-filed.

24 **7. Oral Argument.**

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

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1 B. Specific Motions.

2 **1. Motions Pursuant to Fed. R. Civ. P. 12.**

3 a. Unless clearly justified under the circumstances of the case, “motions  
4 to dismiss or in the alternative for summary adjudication” are discouraged. These  
5 composite motions tend to blur the legitimate distinctions between the two motions,  
6 which have different purposes. Frequently, the composite motions introduce  
7 evidence that is extrinsic to the pleadings. On the one hand, such evidence is  
8 improper for consideration on a Fed. R. Civ. P. 12(b)(6) motion, while on the other  
9 hand, treatment of the motion as a Rule 56 motion frequently results in reasonable  
10 invocation of Rule 56(d) by the non-moving party.

11 b. Moreover, Rule 12(b)(6) motions are discouraged unless counsel have  
12 a good faith belief that such motions will likely result in dismissal, without leave to  
13 amend, of all or at least some of the claims under applicable law.

14 c. Many motions to dismiss or to strike can be avoided if the parties  
15 confer in good faith (as required by Local Rule 7-3), especially for perceived defects  
16 in a complaint, answer or counterclaim that could be corrected by amendment. See  
17 Eminence Capital, LLC v. Aspeon, Inc., 316 F.3d 1048, 1052 (9th Cir. 2003) (where  
18 a motion to dismiss is granted, a district court should provide leave to amend unless  
19 it is clear that the complaint could not be saved by any amendment). Moreover, a  
20 party has the right to amend the complaint “once as a matter of course[.]” Fed. R.  
21 Civ. P. 15(a)(1). A Rule 12(b)(6) motion is not a responsive pleading and therefore  
22 plaintiff might have a right to amend. See, e.g., St. Michael’s Convalescent Hospital  
23 v. California, 643 F.2d 1369, 1374 (9th Cir. 1981); Nolen v. Fitzharris, 450 F.2d 958,  
24 958-59 (9th Cir. 1971). Even after a complaint has been amended or a responsive  
25 pleading has been served, the Federal Rules of Civil Procedure provide that “[t]he  
26 court should freely give leave to amend when justice so requires.” Fed. R. Civ. P.  
27 15(a)(2). The Ninth Circuit requires that this policy favoring amendment be applied  
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1 with “extreme liberality.” Morongo Band of Mission Indians v. Rose, 893 F.2d 1074,  
2 1079 (9th Cir. 1990).

3 These principles require that plaintiff’s counsel carefully evaluate defendant’s  
4 contentions as to the deficiencies in the complaint. In most instances, the moving party  
5 should agree to any amendment that would cure the defect.

6 **2. Motions to Amend.**

7 In addition to complying with the requirements of Local Rule 15-1, all motions to  
8 amend pleadings shall: (1) state the effect of the amendment; and (2) identify the page and  
9 line number(s) and wording of any proposed change or addition of material. The proposed  
10 amended pleading shall be serially numbered to differentiate it from previously amended  
11 pleadings.

12 In addition to Local Rule 15-1’s requirement of electronic lodging of the proposed  
13 amended pleading as a document separate from the motion, counsel shall attach as an  
14 appendix to the moving papers a “redlined” version of the proposed amended pleading,  
15 indicating all additions and deletions of material.

16 **3. Motions for Class Certification.**

17 Notwithstanding Local Rule 23-3, the deadline for the filing of a motion for class  
18 certification will be set during the Scheduling Conference and/or in a Scheduling Order.  
19 No request for relief from Local Rule 23-3 is necessary.

20 **4. Dispositive Motions.**

21 Each side is allowed one motion for summary judgment pursuant to Fed. R. Civ. P.  
22 56, regardless of whether such motion is denominated as a motion for summary judgment  
23 or summary adjudication. To the extent it is appropriate based on undisputed facts and  
24 controlling principles of law, the court may sua sponte enter summary judgment for the  
25 nonmoving party.

26 Counsel should not wait until the motion cutoff to file their motion for summary  
27 judgment or partial summary judgment. **Whenever possible, the moving party should**  
28 **provide more than the minimum 28-day notice for dispositive motions. All**

1 **potentially dispositive motions shall comply with the requirements set forth in the**  
2 **Court's Order Re: Summary Judgment Motions.**

3 V. EX PARTE APPLICATIONS.

4 Ex parte applications are considered on the papers and are not normally set for hearing.  
5 Counsel are advised to file and serve their ex parte applications as soon as they realize that  
6 extraordinary relief is necessary. The court entertains ex parte applications only in extraordinary  
7 circumstances; sanctions may be imposed for misuse of the ex parte process. McVay v. FedEx  
8 Ground, et al., 2003 WL 22769080, at \*2 (C.D. Cal. 2003); see also In re Intermagnetics Am., Inc.,  
9 101 B.R. 191 (C.D. Cal. 1989).

10 Ex parte applications that fail to conform to Local Rule 7-19 and 7-19.1, **including a**  
11 **statement of opposing counsel's position**, will not be considered except on a specific showing  
12 of good cause. The moving party shall electronically serve the opposing party, if possible. A party  
13 is considered served once the ex parte application has been e-filed (all parties set up for electronic  
14 service are sent a notification of ECF filing each time a document is e-filed with a link to the  
15 document for one free view). For those parties set up for service by fax or mail, the ex parte  
16 application must be served by fax or personal service.

17 Following service of the ex parte papers, the moving party shall notify the opposition that  
18 opposing papers must be filed no later than twenty-four (24) hours (or one court day) following  
19 service, except in cases where the opposing party has not previously appeared (i.e., responded  
20 to the complaint). In those cases where the opposing party has not previously appeared, the  
21 moving party shall, following service of the ex parte papers, notify the opposition that opposing  
22 papers must be filed no later than forty-eight (48) hours following service. If a party does not  
23 intend to oppose an ex parte application, the party must inform the CRD as soon as possible.

24 **On the day the documents are e-filed**, a conformed copy of the moving, opposition or  
25 notice of non-opposition papers must be hand-delivered to the courtesy box outside the entrance  
26 to the court's chambers in the Spring Street Courthouse.

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1 VI. MANDATORY CHAMBERS COPIES.

2 With the exception of papers relating to an ex parte application, a copy of all papers filed  
3 with the court shall be delivered to the drop box outside chambers at Suite 520, Spring Street  
4 Courthouse, 312 North Spring Street, **no later than 12:00 noon the following business day.**

5 All chambers copies shall comply fully with the document formatting requirements of Local Rule  
6 11-3, including the “backing” requirements of Local Rule 11-3.5. Counsel may be subject to  
7 sanctions for failure to deliver a mandatory chambers copy in full compliance with this Order and  
8 Local Rule 11-3.

9 VII. CONTINUANCES OR EXTENSIONS OF TIME.

10 Requests for continuances will not be granted routinely. A stipulation to continue the date  
11 of any matter must be supported by a detailed declaration that demonstrates good cause as to  
12 why the change in the date is essential. The stipulation must also indicate whether there have  
13 been any previous requests for continuances and whether those requests were granted or denied  
14 by the court. Counsel requesting a continuance must electronically file a stipulation and lodge a  
15 proposed order including a detailed explanation of the grounds for the requested continuance.

16 If it is necessary to file an ex parte application seeking an extension of any deadlines, the  
17 application must be accompanied by a declaration setting forth the reasons for the requested  
18 extension of time. The declaration must also indicate whether there have been any previous  
19 requests for continuances and whether those requests were granted or denied by the court.

20 Counsel must submit any request for a continuance or extension of time **no later than five**  
21 **(5) court days prior to the expiration of the scheduled date.**

22 VIII. CASES REMOVED FROM STATE COURT.

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

