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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STANDING ORDER FOR CIVIL CASES BEFORE JUDGE JAMES DONATO

INTRODUCTION

This Standing Order is a guide to counsel and parties on basic requirements for civil cases before Judge Donato. Counsel are required to read and comply with this order, this Court’s Standing Order for Discovery in Civil Cases and the Civil Local Rules.

SERVICE OF THIS ORDER

1. For cases originating in this Court, or reassigned to this Court from other courts, plaintiff(s) must serve this order and the order setting the initial case management conference (along with any other required pleadings) on each defendant. For cases removed from state court, the removing defendant(s) must serve this order and the order setting the initial case management conference (along with any other required pleadings) immediately on each and every party that has previously appeared or that appears within thirty days after removal.

2. Thereafter, in all cases, any existing party to the action that brings a new party into the action must immediately serve a copy of this order and any other required pleadings on the new party.

3. Following service, the responsible party shall file a certificate of service with the Clerk of this Court.

CASE MANAGEMENT CONFERENCES

4. Civil case management conferences will be held on Wednesdays at 1:30 p.m. in Courtroom 11, 19th Floor, United States Courthouse, 450 Golden Gate Avenue, San Francisco, California. Pretrial conferences will be held in the same courtroom on Wednesdays at 3:00 p.m.

1 5. The parties must file a joint case management statement addressing the
2 standardized items as required by the Standing Order For all Judges of the Northern District of
3 California: Contents of Joint Case Management Statements. Parties shall file their joint statement
4 at least seven calendar days prior to the case management conference. Failure to file a joint
5 statement shall be accompanied by a signed declaration setting forth the grounds for that failure.
6 Absent good cause, the parties may be subject to sanctions. If either party is not represented by
7 counsel, separate statements may be filed, but only after the parties have made a good faith effort
8 to prepare a joint statement.

9 6. In proposing a case schedule, the parties should agree on a trial date and work
10 backward from that date to ensure adequate time for dispositive motions, class certification
11 motions, expert discovery and other events. As a general rule, counsel should budget no more
12 than 18 months between the initial case management conference and trial. Counsel requesting
13 longer pretrial periods must be prepared to justify that request at the initial case management
14 conference. A trial date typically will be assigned at the initial case management conference.
15 Once assigned, the trial date will not be changed or continued absent good cause in the interest of
16 justice. Counsel and parties should assume that the trial date will not be moved.

17 7. For parties with counsel, each party shall be represented at the case management
18 conference by lead counsel prepared to address all pertinent matters and with authority to enter
19 stipulations and make admissions. Failure of lead counsel to appear may result in sanctions. For
20 parties without counsel, the party is expected appear. Telephonic appearances are not permitted at
21 case management conferences or motion hearings, except in exceptional circumstances with the
22 Court's prior approval. A request for a telephonic appearance can be made by contacting this
23 Court's Courtroom Deputy, Lisa Clark, at (415) 522-2066.

24 8. Any request to reschedule a case management conference shall be made in writing,
25 by stipulation if possible, not less than 10 calendar days before the conference date. Good cause
26 must be shown. The conference date will not be rescheduled unless the Court grants the request.
27 Parties cannot change the date by stipulation.

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1 of trial lawyers and advocates is an important obligation borne by all members of the bar. The
2 Court strongly encourages parties and senior attorneys to allow younger practitioners the
3 opportunity to argue in court. The parties may advise the Court prior to the hearing if a lawyer of
4 6 or fewer years of experience will be arguing the cause.

5 **FORM OF SUBMISSIONS**

6 14. On summary judgment motions, joint statements of undisputed facts are not
7 required but are helpful if completely agreed upon. Separate statements of “undisputed facts” may
8 not be filed. *See* Civil L.R. 56-2.

9 15. Reply papers should not raise new points that could have been addressed in the
10 opening motion or brief. Sur-replies are not permitted. *See* Civil L.R. 7-3(d).

11 16. The title of a submission must be sufficient to alert the Court to the relief sought;
12 for example, please do not bury a request for continuance in the body of a memorandum.

13 17. All submissions filed with the Court shall include the date and time of the hearing
14 or conference on the cover sheet.

15 18. Except for summary judgment and class certification motions, opening and
16 opposition briefs may not exceed 15 pages, and reply briefs may not exceed 10 pages. For
17 summary judgment and class certification motions, opening and opposition briefs may not exceed
18 25 pages, and reply briefs may not exceed 15 pages.

19 19. Persuasive written advocacy is focused, plainly stated and supported by accurate
20 and reliable authority. Counsel should spare no effort to ensure that their pleadings and motions
21 are succinct and clear. The grab-bag approach to written submissions should be avoided. A
22 complaint should state the material facts and counsel’s best determination of claims. Multiple,
23 repetitive claims are not useful. A motion should be focused on counsel’s best determination of a
24 winning argument. Picking the best arguments and developing them as persuasively as possible is
25 the optimal strategy. Counsel should avoid burying arguments in footnotes or raising them
26 casually with little authority or discussion. For example, an argument that the Court lacks Article
27 III jurisdiction over a case or that a party lacks standing should not be raised in a footnote or a
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1 short paragraph at the end of a brief. If counsel believes a serious question or issue should be
2 decided by the Court, counsel should argue it appropriately.

3 20. The Court requires that all case citations and fact representations be meticulously
4 accurate. A citation to a case, statute or other authority is counsel's representation to the Court
5 that the authority stands for the proposition asserted and is good law. A quotation of a case or
6 other authority is counsel's representation that the quoted language is complete and present in the
7 authority cited. Counsel must ensure that use of ellipses or elisions in quotes does not mislead the
8 Court or misrepresent the substance of the holding or other authority. Counsel's representations of
9 facts are subject to the same requirements of completeness and accuracy.

10 **DISCLOSURES**

11 21. FRCP 26 requires certain automatic disclosures and requires them to be made in a
12 timely manner. Under FRCP 37(c), untimely-disclosed materials may not be used at trial or on
13 summary judgment unless the delay in disclosure is "harmless" or "substantial justification" for
14 the delay is shown.

15 **SEALED DOCUMENTS**

16 22. Any party seeking to file a document under seal must carefully review and comply
17 with Civil Local Rule 79-5.

18 23. In addition, the Administrative Motion to File Under Seal required by Local Rule
19 79-5(d)(1) must also be accompanied by a chart identifying each document or portion of a
20 document proposed to be sealed.

21 24. The declaration and proposed order required by Local Rule 79-5(d)(1) must
22 establish, with reference to appropriate authority, that each of the following requirements is met:

- 23 a. The document or document portion is "privileged, protectable as a trade secret
24 or otherwise entitled to protection under the law." Civil Local Rule 79-5(b).
25 (Note that "[r]eference to a stipulation or protective order that allows a party to
26 designate certain documents as confidential is not sufficient to establish that a
27 document, or portions thereof, are sealable." Civil Local Rule 79-5(d)(1)(A).)

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b. The “strong presumption of access to judicial records” may be rebutted under the appropriate legal standard, i.e., the “good cause” or “compelling reasons” standards. *See Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178-82 (9th Cir. 2006) (discussing “good cause” and “compelling reasons” standards with respect to dispositive and non-dispositive motions). The declaration and proposed order must identify the appropriate standard and articulate why the materials to be sealed satisfy that standard.

COMMUNICATIONS WITH CHAMBERS

25. Please do not send any letters to the Court (except for requests for discovery relief as detailed in the Court’s Standing Order for Civil Discovery). When corresponding with the Court by letter, always identify the party you represent. Do not messenger anything to chambers without advance permission specific to the item.

26. You may contact the Courtroom Deputy, Lisa Clark, at (415) 522-2066 with appropriate inquiries. Except for the letters described above, please do not attempt to make contact by telephone or any other ex parte means with chambers staff.

COURTROOM CONDUCT

27. Counsel and parties are required to conduct themselves with the highest level of decorum and respect for each other and court and chambers personnel while in the courtroom. Cell phones and all other electronic devices must be turned off; no texting, emailing, or other electronic communications are permitted. While sitting in the gallery, counsel and parties should avoid conversation unless absolutely necessary for the appearance. Once a case is called and counsel appear, all communications must be directed only to the Court. Counsel shall not address each other directly unless the Court expressly permits them to do so. All statements and citations made to the Court during oral argument will be held to the same standards stated as those set forth above in Paragraph 20.

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CROSS REFERENCE TO OTHER STANDING ORDERS AND GUIDELINES

28. The Court has separate standing orders for final pretrial conferences and trial, civil discovery, as well as separate standing orders for patent cases. They are available for review at the website for the United States District Court for the Northern District of California at www.cand.uscourts.gov/donato.

IT IS SO ORDERED.



JAMES DONATO
United States District Judge