

1 II. CONSENT 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. **If the parties**
5 **indicate in their Rule 26(f) report that they wish to consent to a magistrate judge, they**
6 **should, if possible, indicate to which judge the parties will consent.**

7 III. DISCOVERY.

8 A. Generally.

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

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

22 B. Discovery Matters Referred to Magistrate Judge.

23 All discovery matters have been referred to the assigned magistrate judge, who will hear
24 all discovery disputes. The magistrate judge's initials follow the district judge's initials next to the
25 case number. All discovery-related documents must include the words "DISCOVERY MATTER"
26 in the caption to ensure proper routing. Counsel are directed to review the magistrate judge's
27 Procedures and Schedules on the Central District's website to schedule discovery matters for
28

1 hearing. Counsel must comply with Local Rule 37 and deliver mandatory chambers copies of
2 discovery-related papers to the magistrate judge.

3 C. Review of Magistrate Judge’s Decision.

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

12 Counsel are advised that a motion for review that contains declarations or arguments that
13 were not presented to the magistrate judge in the first instance will normally not be considered.
14 See 14 Moore’s Federal Practice § 72.11[1][a], at 72-53 (3d ed. 2016) (“A party’s failure to present
15 timely arguments, case law, or evidentiary materials to a magistrate judge prior to the magistrate’s
16 ruling, thereby depriving the magistrate of the opportunity to rectify any alleged errors, waives that
17 party’s right to present those arguments or materials to the district court on appeal from the
18 magistrate’s nondispositive order.”); Seven For All Mankind, LLC v. GenX Clothing, Inc., 2006 WL
19 5720346, *3 (C.D. Cal. 2006) (“The district judge will normally not consider arguments, case law,
20 or evidentiary material which could have been, but was not, presented to the magistrate judge in
21 the first instance.”) (internal quotation marks omitted).

22 IV. MOTIONS.

23 A. General Requirements.

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

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

1 available, counsel should notice the motion for the next available date. Any motion that is
2 noticed more than 35 days beyond the date the motion is filed shall be stricken or advanced
3 to an earlier motion date. If the motion is advanced to an earlier motion date, counsel shall
4 comply with the briefing schedule dictated by the new hearing date. See Local Rules 7-9
5 & 7-10.

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

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

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

22 *b.* Notwithstanding Local Rule 16-12(c), the parties in cases in which a
23 party is appearing pro se are required to meet and confer in compliance with Local
24 Rule 7-3 unless the pro se party is incarcerated.

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

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

2 Local Rule 11-6 limits all memoranda of points and authorities to “25 pages in length,
3 excluding indices and exhibits, unless permitted by order of the judge.” Leave to exceed
4 the page limitation will be granted only in extraordinary circumstances where counsel make
5 an adequate showing of specific facts in support of an application to exceed the page
6 limitation. **Any supplemental briefs filed without prior leave of court will be stricken.**

7 If documentary evidence in support of or in opposition to a motion exceeds 50
8 pages, the evidence must be separately bound and tabbed and include an index. If such
9 evidence exceeds **300 pages**, the documents shall be placed in a **three-ring binder**, with
10 an index and with each item of evidence separated by a tab divider on the right side. In
11 addition, counsel shall provide an electronic copy (i.e., cd, dvd, or flash drive) of the
12 documents in a single, OCR-scanned, .pdf file with each item of evidence separated by
13 labeled bookmarks. Counsel shall ensure that all documents are legible.

14 **4. Citations to Case Law and Other Sources.**

15 Citations to case law must identify not only the case cited but the specific page
16 referenced. Statutory references should identify with specificity the sections and
17 subsections referenced. Citations to treatises, manuals and other materials should include
18 the volume, section and pages being referenced.

19 **5. Citations to the Record.**

20 Counsel should cite to docket numbers (and sub-numbers) when citing to the record.

21
22 **6. Proposed Orders.**

23 Each party filing or opposing a motion or seeking the determination of any matter
24 shall serve and electronically lodge – at the time the moving or opposition papers are filed
25 – a proposed order setting forth the relief or action sought and a brief statement of the
26 rationale for the decision with appropriate citations. In addition, a copy of the proposed
27 order in WordPerfect (the court’s preference) or Word format shall be e-mailed to chambers
28 at fmo_chambers@cacd.uscourts.gov on the day the document is e-filed.

1 **7. Oral Argument.**

2 If the court deems a matter appropriate for decision without oral argument, the court
3 will notify the parties in advance. See Local Rule 7-15. The court strongly encourages
4 parties to permit less experienced lawyers, including lawyers from historically under-
5 represented groups, to actively participate in the proceedings by presenting argument at
6 motion hearings or examining witnesses at trial. The court is amenable to permitting a
7 number of lawyers to argue for one party if this creates an opportunity for such attorneys
8 to participate.

9 **B. Specific Motions.**

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

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

19 b. Motions to dismiss or to strike are discouraged unless counsel have
20 a good faith belief that such motions will likely result in dismissal, without leave to
21 amend, of all or at least some of the claims or counterclaims under applicable law.

22 Many motions to dismiss or to strike can be avoided if the parties confer in
23 good faith (as required by Local Rule 7-3), especially for perceived defects in a
24 complaint, answer or counterclaim that could be corrected by amendment. See
25 Eminence Capital, LLC v. Aspeon, Inc., 316 F.3d 1048, 1052 (9th Cir. 2003) (where
26 a motion to dismiss is granted, a district court should provide leave to amend unless
27 it is clear that the complaint could not be saved by any amendment). Moreover, a
28 party has the right to amend the complaint “once as a matter of course[.]” Fed. R.

1 Civ. P. 15(a)(1). Even after a complaint has been amended or a responsive
2 pleading has been served, the Federal Rules of Civil Procedure provide that “[t]he
3 court should freely give leave [to amend] when justice so requires.” Fed. R. Civ. P.
4 15(a)(2). The Ninth Circuit requires that this policy favoring amendment be applied
5 with “extreme liberality.” Owens v. Kaiser Found. Health Plan, Inc., 244 F.3d 708,
6 712 (9th Cir. 2001).

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

10 **2. Motions to Amend.**

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

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

20 **3. Motions for Class Certification.**

21 Notwithstanding Local Rule 23-3, the deadline for the filing of a motion for class
22 certification will be set either during the Scheduling Conference or in the Court’s Case
23 Management and Scheduling Order issued after the Scheduling Conference. No request
24 for relief from Local Rule 23-3 is necessary. **All class certification motions shall comply**
25 **with the requirements set forth in the Court’s Order Re: Motions for Class**
26 **Certification, which will be issued at the time the court issues its Case Management**
27 **and Scheduling Order, i.e., after the Scheduling Conference.**

28 **4. Dispositive Motions.**

1 Each side is allowed one motion for summary judgment pursuant to Fed. R. Civ. P.
2 56, regardless of whether such motion is denominated as a motion for summary judgment
3 or summary adjudication. To the extent it is appropriate based on undisputed facts and
4 controlling principles of law, the court may sua sponte enter summary judgment for the
5 nonmoving party.

6 Counsel should not wait until the motion cutoff to file their motion for summary
7 judgment or partial summary judgment. **All potentially dispositive motions shall comply**
8 **with the requirements set forth in the Court's Order Re: Summary Judgment**
9 **Motions, which will be issued at the time the court issues its Case Management and**
10 **Scheduling Order, i.e., after the Scheduling Conference.**

11 V. EX PARTE APPLICATIONS.

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

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

25 Following service of the ex parte papers, the moving party shall notify the opposition that
26 opposing papers must be filed no later than twenty-four (24) hours (or one court day) following
27 service, except in cases where the opposing party has not previously appeared (i.e., responded
28 to the complaint). In those cases where the opposing party has not previously appeared, the

1 moving party shall, following service of the ex parte papers, notify the opposition that opposing
2 papers must be filed no later than forty-eight (48) hours following service. If a party does not
3 intend to oppose an ex parte application, the party must inform the CRD as soon as possible.
4 Unless otherwise ordered, reply briefs are not allowed and will be stricken.

5 **On the day the documents are e-filed**, a conformed copy of the moving, opposition or
6 notice of non-opposition papers must be hand-delivered to the Clerk's Office window on the 4th
7 Floor of the First Street Courthouse, 350 W. 1st Street, Los Angeles, CA 90012.

8 VI. MANDATORY CHAMBERS COPIES.

9 A copy of all papers filed with the court shall be delivered to the Clerk's Office window on
10 the 4th Floor of the First Street Courthouse, **no later than 12:00 noon the following business**
11 **day**. All chambers copies shall comply fully with the document formatting requirements of Local
12 Rule 11-3, including the "backing" requirements of Local Rule 11-4.1, and this Order. See supra
13 at § IV.A.3. Counsel may be subject to sanctions for failure to deliver a mandatory chambers copy
14 in full compliance with this Order and Local Rules 11-3 and 11-4.1.

15 VII. CONTINUANCES OR EXTENSIONS OF TIME.

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

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

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

28 VIII. CASES REMOVED FROM STATE COURT.

1 All documents filed in state court, including documents appended to the complaint, answers
2 and motions, must be re-filed in this court as a supplement to the notice of removal. See 28
3 U.S.C. § 1447(a)-(b). If defendant has not yet answered or filed a motion in response to the
4 complaint, the answer or responsive pleading filed in this court must comply with the Federal
5 Rules of Civil Procedure and the Local Rules. If, before the case was removed, a motion or
6 demurrer in response to the complaint was pending in state court, it must be re-filed and
7 re-noticed in accordance with the applicable Local Rules. Counsel shall file with their first
8 appearance an original and two copies of a Notice of Interested Parties in accordance with Local
9 Rule 7.1.

10 If the removed action contains a form pleading (i.e., a pleading in which boxes are
11 checked), the party or parties using the form pleading must file an appropriate pleading with this
12 court within twenty-one (21) days of receipt of the notice of removal. The appropriate pleading
13 referred to must comply with the requirements of Fed. R. Civ. P. 7, 7.1, 8, 9, 10 and 11.

14 IX. CASES TRANSFERRED FROM ANOTHER DISTRICT.

15 All documents filed in the transferor court **must** be re-filed with this court, within twenty (20)
16 days of transfer, by the party that sought transfer. Such filing shall be submitted as a “Notice of
17 Filing of Documents from Other District” (“Notice”), with a compilation of all documents, individually
18 tabbed, attached as an appendix. The Notice shall bear a title page containing the information
19 required by Local Rule 11-3.8 and shall otherwise conform with Local Rule 11-3.5 and all other
20 relevant Local Rules. The Notice shall also contain a table of contents.

21 Date: December, 2017.

22 /s/

23 _____
Fernando M. Olguin
United States District Judge