

Chamber Rules of Judge Michael M. Anello

Unless otherwise ordered, matters before Judge Anello shall be conducted in accordance with the following practices:

I. LOCAL RULES

Except as otherwise provided herein or as specifically ordered by the Court, all parties are expected to strictly comply with this District's Local Rules. The Local Rules of Practice for the Southern District of California may be found on the Court's website:

<http://www.casd.circ9.dcn/index.php?page=local-rules>.

II. RULE 12(b) MOTIONS: INFORMAL CONFERENCE REQUIRED

Any party desiring to file a Rule 12(b) motion first shall attempt to resolve the matter informally, in accordance with the mandatory procedures outlined below. If the non-moving party has appeared *pro se* in the matter, the requirement is waived, and the moving party shall contact Chambers directly in order to obtain a hearing date.

1. Counsel for all parties shall meet and confer regarding the matter before contacting the Court. If all attorneys are local, the meet and confer must take place in person. If one or all attorneys are located outside of San Diego County, the meet and confer must take place by telephone.

Under no circumstances will the meet and confer requirement be satisfied by written correspondence.

2. If no informal resolution is achieved during the meet and confer, the moving party shall serve and file a "Request for Telephonic Conference Re: Proposed Motion to Dismiss." **A Declaration of Compliance with the meet and confer requirement must be attached as an exhibit or the Court shall deny the Request.**
3. If the Court is satisfied that the above-stated requirements have been met, the Court shall grant the Request and set a telephonic conference by minute order. The moving party shall be responsible for coordinating the telephonic conference. The contact number for chambers is **(619) 557-5960**.
4. The moving party, no later than **two court days** prior to the date of the conference, shall email to chambers [efile_anello@casd.uscourts.gov] and serve on the opposing party an informal statement explaining why a motion to dismiss is warranted. The informal statement should be in letter format and shall not exceed three (3) pages in length. The statement should not have any exhibits or other supplemental documents attached. The Court shall not accept submissions from opposing parties.

The time prescribed by the Federal Rules of Civil Procedure for the moving party's first responsive pleading shall be tolled until after the Court holds the telephonic conference. At the conclusion of the conference, the parties may stipulate to the filing of an amended complaint, or, alternatively, if the court is satisfied that there is good cause for the motion, the moving party shall be permitted to file and serve a Rule 12(b) motion within a reasonable period of time, to be set at the conference.

III. MOTIONS FOR SUMMARY JUDGMENT

Chambers will not accept for filing any motion for summary judgment that fails to comply with Civil Local Rule 7.1(f)(1). All motions for summary judgment shall be accompanied by a separate statement of material facts. If the moving party fails to submit a separate statement of material facts with the moving papers, the Court shall reject the filing as discrepant for failing to comply with Chambers Rules.

IV. RECONSIDERATION MOTIONS

Motions for reconsideration brought pursuant to Federal Rules of Civil Procedure 59(e) and 60(b) are disfavored unless a party shows that there is new evidence, a change in controlling law, or establishes that the Court committed clear error in its earlier ruling. No motion for reconsideration shall be filed without leave of the court.

No later than the time provided in Civil Local Rule 7.1(i)(2), the party seeking to move for reconsideration shall file an ex parte motion for leave to file a motion to reconsider. The ex parte motion shall be accompanied by a declaration as required by Civil Local Rule 7.1(i)(1). The motion shall contain a brief summary of the argument the party intends to present in a motion for reconsideration, and shall not exceed **four pages in length.**

The Court shall consider the ex parte motion immediately upon filing, and shall not accept for filing any opposition(s) to the ex parte motion. Upon review of the ex parte motion, the Court will issue either an order granting leave to file a fully-noticed motion for reconsideration, including a briefing schedule, or an order denying leave. The time prescribed by the Federal Rules of Civil Procedure for the motion shall be tolled pending the Court's ruling on the ex parte motion.

V. TEMPORARY RESTRAINING ORDERS

All motions for temporary restraining orders shall be briefed. While temporary restraining orders may be heard ex parte, the Court will do so only in extraordinary circumstances. The Court's strong preference is for the opposing party to be served and afforded a reasonable opportunity to file an opposition. In appropriate cases, the Court may issue a limited restraining order to preserve evidence pending further briefing.

VI. EX PARTE MOTIONS

Before filing any ex parte motion, counsel shall contact the opposing party to meet and confer regarding the subject of the ex parte motion. All ex parte motions shall be accompanied by a declaration from counsel documenting (1) efforts to contact opposing counsel, (2) counsel's meet and confer efforts, and (3) opposing counsel's position regarding the ex parte motion. Any ex parte motion filed with the Court shall be served on opposing counsel via facsimile, electronic mail with return receipt requested, or overnight mail. Ex parte motions that are not opposed within **one Court day** shall be considered unopposed and may be granted on that ground.

VII. CONTINUANCES

Parties requesting a continuance of any conference, hearing, deadline, briefing schedule, or other procedural changes, shall meet and confer prior to contacting the Court. If the parties reach an agreement, they shall submit a joint motion and proposed order with a detailed declaration of the reason for the requested continuance or extension of time.

If the parties are unable to reach an agreement, the party requesting the continuance shall file an ex

parte motion satisfying the applicable legal standard, with a particular focus on the diligence of the party seeking delay and any prejudice that may result therefrom. In addition, the ex parte motion shall state (1) the original date, (2) the number of previous continuance requests, and (3) whether previous requests were granted or denied. Except in extraordinary circumstances, ex parte or joint motions to amend a briefing schedule or a motion hearing date must be filed no later than **three Court days** before the affected date.

VIII. PROPOSED ORDERS AND JOINT MOTIONS

Proposed orders should be submitted simultaneously with all motions, except motions that are fully-noticed and set for hearing at least 28 days beyond the date of filing. In accordance with Section 2(h) of the Electronic Case Filing Administrative Policies and Procedures Manual (available at <http://www.casd.uscourts.gov/cmecf/pdf/CASDPolicies.pdf>), counsel shall e-mail proposed orders on motions directly to the Judge's official e-mail address, which is efile_anello@casd.uscourts.gov.

IX. MOTIONS IN LIMINE

Before filing any motions in limine, parties are required to meet and confer in an attempt to resolve their dispute. If the parties are unable to resolve their differences, counsel filing the motion in limine shall attach a declaration documenting the parties meet and confer efforts and the reason for their failure. Parties are encouraged to be selective with their motions in limine and not to file mundane or unnecessary motions.

X. COURTESY COPIES

Courtesy copies of pleadings more than 20 pages in length shall be submitted to the Court's mailbox in the Clerk's Office as soon as practicable after filing.

XI. COMMUNICATION WITH THE COURT

Consistent with Local Rule 83.9, counsel and parties shall refrain from writing letters or placing telephone calls to the Court or sending the Court copies of letters addressed to others, or otherwise causing or encouraging ex parte communications with the Court. **Absent extraordinary circumstances, counsel shall personally initiate any authorized communications with the Court or chambers staff, rather than rely on a representative (e.g., a secretary or paralegal).**

XII. TELEPHONE CALLS

Telephone calls to Chambers are permitted only for matters such as docketing, scheduling or calendaring. Court personnel are prohibited from giving legal advice or discussing the merits of a case. When calling Chambers, be prepared to give your case number (e.g. 09-CV-1145 or 09-CR-1145) so your call can be directed to the appropriate person. Chambers staff can be reached at **(619) 557-5960**.