

**HON. BARRY TED MOSKOWITZ
UNITED STATES DISTRICT JUDGE
CIVIL CHAMBERS RULES**

These rules are designed to assist civil litigants appearing before Judge Moskowitz. Except as set forth below, counsel and pro se litigants are expected to comply with the Local Rules for the Southern District of California and the Electronic Case Filing Administrative Policies and Procedures Manual (“ECF Manual”). Litigants should familiarize themselves with the Local Rules and the ECF Manual.

COMMUNICATION WITH CHAMBERS

Telephone calls to chambers are permitted for matters such as scheduling and calendaring. Court personnel are prohibited from giving legal advice or discussing the merits of a case. When calling chambers, be prepared with your case number and other pertinent information. Law Clerks can be reached at (619) 557-5583.

PRETRIAL MOTION PRACTICE

Hearing Dates. Pursuant to Civil Local Rule 7.1(b), all hearing dates must be obtained by calling chambers. *Motion papers must be filed and served within three (3) court days of obtaining the hearing date.* Failure to file and serve the papers within 3 court days will result in forfeiture of the reserved date.

Oral Argument. The Court typically does not entertain oral argument on civil motions. Unless otherwise instructed by the Court, parties filing motions with the Court shall include the following language on the caption page of the notice of motion, directly under the hearing date: “PER CHAMBERS, NO ORAL ARGUMENT UNLESS REQUESTED BY THE COURT.” Any party may request oral argument by filing a separate request that explains why oral argument would be helpful to the Court. If the Court grants a request for oral argument or *sua sponte* decides to hear oral argument, the Court will issue an order setting forth the date and time of the oral argument.

Separate Statements of Fact. Separate Statements of Fact *must not be filed* unless leave of Court has been granted.

Objections. Objections to evidence submitted in support of a motion must be contained within the opposition brief. Similarly, objections to evidence submitted in support of an opposition must be contained within the reply brief. Responses to objections contained in a reply brief may be made in a sur-reply brief that does not exceed five pages. The scope of such a sur-reply is limited to responses to objections; any additional argument will be disregarded. *Any separately filed objections shall be stricken and will not be considered by the Court.*

Proposed Orders. Proposed orders must be submitted in Word or WordPerfect format simultaneously with the filing of all joint motions/stipulations and applications/requests. Proposed orders are not required for noticed motions. The proposed order should not contain the name and law firm information of the filing party. The proposed order should not be electronically filed but, instead, should be emailed to efile_Moskowitz@casd.uscourts.gov.

Courtesy Copies. Courtesy copies of filings that exceed 20 pages in length, including attachments and exhibits, shall, within 24 hours after filing, be mailed or hand-delivered to chambers. If the filing is of an urgent nature, a courtesy copy of the filing must be hand-delivered to chambers on the same day as filing. If a filing has more than three (3) exhibits the exhibits must be tabbed. If the filing party has questions regarding the Court's preference regarding the binding or printing of the courtesy copy, the party should contact the Law Clerk handling the case.

Sur-replies. Sur-replies may not be filed unless leave of Court has been granted.

Non-noticed Applications (a.k.a. "ex parte" requests). An application seeking relief that does not lend itself to a fully noticed motion may be filed without obtaining a hearing date. The application must be served on all parties. The Court may rule upon such an application without requiring a response from the opposing party, or may issue a briefing schedule.

PRETRIAL CONFERENCE

Pretrial Order. The parties shall submit a joint proposed pretrial order to efile_Moskowitz@casd.uscourts.gov at least seven days prior to the pretrial conference. Chambers has its own form of pretrial order *that replaces the requirements of Local Rule 16.1.f.6.c.* (See Form of Pretrial Order for Judge

Moskowitz, Ex. A.) *No Memorandum of Contentions of Fact and Law needs to be filed unless the trial is a bench trial.*

Motions in Limine. The Court will set a motion in limine hearing date at the pretrial conference. Typically, each side will be permitted to file 5 motions in limine limited to 5 pages each.

Trial. The Court will set a trial date during the pretrial conference.

EXHIBIT A

Form of Pretrial Order for Judge Moskowitz

These requirements replace the requirements under CivLR 16.1.f.6.c. No Memorandum of Law or Contentions of Fact is to be filed except in a bench trial.

The parties shall meet and confer and prepare a proposed pretrial order containing the following:

1. A statement to be read to the jury, not in excess of one page, of the nature of the case and the claims and defenses.
2. A list of the causes of action to be tried, referenced to the Complaint [and Counterclaim if applicable]. For each cause of action, the order shall succinctly list the elements of the claim, damages and any defenses. A cause of action in the Complaint [and/or Counterclaim] which is not listed shall be dismissed with prejudice.
3. Witnesses
 - (a) A list of all witnesses counsel actually expect to call at trial, along with a brief statement, not exceeding four sentences, of the substance of each witness's testimony.
 - (b) A list of all expert witnesses counsel actually expect to call at trial, along with a brief statement, not exceeding four sentences, of the substance of each expert witness's testimony.
 - (c) A list of all additional witnesses, including experts, counsel do not expect to call at this time, but reserve the right to call at trial, along with a brief statement, not exceeding four sentences, of the substance of each witness's testimony.

4. Exhibits

(a) A list of all exhibits that counsel actually expect to offer at trial, along with a one-sentence description of each exhibit.

(b) A list of other exhibits that counsel do not expect to offer at this time, but reserve the right to offer at trial, along with a one-sentence description of each exhibit.

5. A statement of all facts to which the parties stipulate. This statement shall be on a separate page and will be read to and provided to the jury. The parties are directed to meet with the assigned magistrate judge to work out as many stipulations of fact as possible.

6. A list of all deposition transcripts by page and line, or videotape depositions by section, that will be offered at trial.

7. The parties shall also submit proposed jury instructions. If a party disagrees with a particular instruction, the party must explain why the instruction should not be given or submit an alternate instruction. In addition to providing Chambers with hard copies of the jury instructions, the parties shall e-mail the proposed jury instructions in Word or WordPerfect format to Chambers.

The Court encourages the parties to consult with the assigned magistrate judge to work out any problems in preparation of the proposed pretrial order. The court will entertain any questions concerning the conduct of the trial at the pretrial conference.