

**HON. MICHAEL M. ANELLO
UNITED STATES DISTRICT JUDGE
CIVIL CHAMBERS RULES**

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Courtroom 3A
Schwartz Courthouse

All matters before Judge Anello shall be conducted in accordance with the following practices. Except as otherwise provided herein, or as specifically ordered by the Court, all parties are expected to comply strictly with the Local Rules of the Southern District of California and the Federal Rules of Civil Procedure. As set forth in more detail below, Judge Anello's Civil Chambers Rules cover the following topics:

- I. Communication with Chambers
- II. Courtesy Copies
- III. Motion Practice Generally
- IV. Motions for Summary Judgment
- V. Prisoner Civil Rights Cases
- VI. Temporary Restraining Orders
- VII. Proposed Orders and Joint Motions
- VIII. Ex Parte Motions
- IX. Motions In Limine
- X. Trial Procedures

I. COMMUNICATION WITH CHAMBERS

Telephone calls to Chambers are permitted for matters such as scheduling and calendaring. The Court does not provide time estimates for its written rulings, and Judge Anello's law clerks 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 case information.

Any questions or concerns regarding electronic filing, including e-filing civil documents under seal, or attorney admissions should be directed to the Clerk's Office. The appropriate telephone numbers may be found on the Court's internet site at www.casd.uscourts.gov. The Court's internet site provides comprehensive information and guidance with respect to the CM/ECF system, the procedure for e-filing civil documents under seal, and the attorney admissions process.

II. COURTESY COPIES

Courtesy copies of filings that exceed twenty (20) pages in length must be submitted directly to Chambers as soon as practicable after filing. This includes multiple filings in a single court day that together exceed 20 pages in length (i.e., moving papers consisting of a Notice of Motion (3 pages), a Memorandum of Points and Authorities (12 pages), an Exhibit (10 pages), and a Certificate of Service (2 pages)). Please consult the Electronic Case Filing Administrative Policies and Procedures Manual, available on the Court's internet site, for further information regarding the courtesy copy requirement.

III. MOTION PRACTICE GENERALLY

All dates for motion hearings must be obtained by contacting Chambers and speaking with the law clerk assigned to the case. After obtaining a hearing date from the law clerk, the moving party must file the motion within three (3) court days. Parties who fail to file their papers within three (3) court days of obtaining the hearing date may forfeit the assigned hearing date.

The Court in its discretion may resolve motions on the papers, in accordance with Civil Local Rule 7.1.d.1. If the moving party wishes to have oral argument, they must include "Oral Argument Requested" in the caption of their Notice of Motion, directly below the hearing date. The Court generally will accommodate a moving party's request for oral argument, if suitable.

If the Court determines oral argument is appropriate, the parties should plan to appear in person on the date and at the time of the scheduled motion hearing in Courtroom 3A of the Schwartz Courthouse located at 221 West Broadway, San Diego, California. Generally, the Court will issue a tentative ruling on the pending motion(s) prior to the scheduled hearing. For example, when a motion is set for hearing on Monday, in most cases the Court will issue a tentative ruling by 5:00 p.m. on the Friday prior to the hearing.

For litigating counsel residing outside of Southern California, Judge Anello may permit a telephonic appearance at his discretion, if requested at least two (2) court days prior to the scheduled hearing. In order to appear telephonically, counsel must have the consent of his or her client, must contact Chambers to request the telephonic appearance, and will be expected to provide the Court with a direct contact number for use on the day of the hearing.

If the Court decides to take the motion under submission on the papers pursuant to Civil Local Rule 7.1.d.1, a minute order will be issued on the docket of the case no later than two (2) court days prior to the scheduled hearing date notifying the parties that no appearances are required. Thereafter, the Court will take the hearing off calendar and issue a written ruling on the motion in due course.

IV. MOTIONS FOR SUMMARY JUDGMENT

All motions for summary judgment must be accompanied by a separate statement of undisputed material facts.

The separate statement should be prepared in a table format, with each undisputed material fact individually enumerated and supported by citations to evidence in the record. If the moving party fails to submit a separate statement of undisputed material facts with the moving papers, the Court will issue a discrepancy order rejecting the motion for summary judgment as discrepant for failing to comply with this Chambers requirement. This may require the moving party to obtain a new hearing date.

Any opposition to a summary judgment motion must include a response to the moving party's separate statement of undisputed material facts.

Any evidentiary and procedural objections to the motion for summary judgment must be filed contemporaneously with the opposition brief. Similarly, the moving party must file any evidentiary and procedural objections to the opposition brief contemporaneously with its reply brief. If filed as a separate document, evidentiary and procedural objections may not exceed five (5) pages in length.

V. PRISONER CIVIL RIGHTS CASES

Unless all parties timely consent in writing to magistrate judge jurisdiction, Judge Anello conducts all necessary proceedings for the disposition of any motion excepted from the magistrate judge's jurisdiction by 28 U.S.C. § 636(b)(1)(A).¹ Accordingly, all hearing dates for any matters upon which a dispositive ruling is required, must be obtained by

¹ See CivLR 72.3.e (“the assigned magistrate judge will conduct all necessary hearings and submit proposed findings of fact and recommendations for the disposition of all motions excepted from the magistrate judge's jurisdiction by 28 U.S.C. ' 636(b)(1)(A), *unless the district judge orders otherwise.*”) (emphasis added).

contacting Chambers and speaking with the law clerk assigned to the case.² This will most frequently involve motions to dismiss and motions for summary judgment. All non-dispositive motions, including discovery motions, motions for appointment of counsel, and post-service miscellaneous motions, must be directed to the attention of the assigned magistrate judge.

VI. TEMPORARY RESTRAINING ORDERS

All motions for temporary restraining orders must be separately briefed and filed. A request for immediate injunctive relief contained within a case-initiating document such as a complaint is not sufficient. While temporary restraining orders may be heard in true *ex parte* fashion (i.e., without notice to an opposing party), 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.

VII. PROPOSED ORDERS AND JOINT MOTIONS

Proposed orders are required for any motion filed jointly by the parties or filed *ex parte* by a single party, and should be submitted simultaneously with the motion. Proposed orders generally are not required for noticed motions, i.e., motions set for hearing at least twenty-eight (28) days beyond the date of filing.

In accordance with Section 2(h) of the Electronic Case Filing Administrative Policies and Procedures Manual, counsel should email proposed orders directly to Judge Anello's official e-file email address, which is efile_anello@casd.uscourts.gov.

VIII. EX PARTE MOTIONS

Before filing any *ex parte* motion, the moving party must contact the opposing party to meet and confer regarding the subject of the *ex parte* motion. If an *ex parte* motion is unopposed, the motion should be accompanied by a declaration of counsel indicating such. If the opposing party fails to respond to the *ex parte* motion within one (1) court day, the Court will consider the *ex parte* motion unopposed and may grant the motion solely on that ground. If the opposing party requires more than one court day to respond to the *ex parte* motion, counsel must contact Chambers as soon as practicable to notify the Court and obtain additional direction from Judge Anello's law clerks.

² As such, the requirement set forth in Civil Local Rule 72.f that "all hearing dates for any matters on which a dispositive ruling is required must be obtained from the law clerk of the magistrate judge to whom the case has been assigned" is **waived**.

IX. MOTIONS IN LIMINE

Motions in limine shall be heard at the final pretrial conference.³

Motions in limine must be filed at least twenty-eight (28) days before the final pretrial conference; oppositions to motions in limine must be filed at least fourteen (14) days before the final pretrial conference. No reply briefs will be accepted.

Each side is limited to a maximum of ten (10) motions in limine. Each side's motions in limine must be supported by a single brief, not to exceed thirty (30) pages in length. The opposing side must file a single brief in opposition to the motions in limine, not to exceed twenty (25) pages in length.

As the language above indicates, if the case involves multiple plaintiffs or multiple defendants, only one brief *per side* will be accepted. Unless the parties obtain leave of Court to exceed the limitations contained herein prior to filing, multiple filings and filings that exceed the page limitations will be stricken.

The Court makes every effort to provide tentative rulings on the motions in limine prior to the final pretrial conference and will entertain oral argument on the motions at the final pretrial conference.

X. TRIAL PROCEDURES

- A. Final Pretrial Order: The parties shall submit a **joint** proposed final pretrial order via email to Judge Anello's official e-file email address, efile_anello@casd.uscourts.gov, two Fridays prior to the date of trial, unless otherwise ordered by the Court.⁴ The parties should consult Civil Local Rule 16.1.f.6.c regarding proper form and content.

³ Please note that *Daubert* motions must be filed prior to the dispositive motions deadline set by the operative scheduling/case management order.

⁴ This rule modifies and supersedes the deadlines set forth in Civil Local Rule 16.1.f.6.b, as well as any inconsistent terms of a scheduling/case management order issued in a case by the assigned magistrate judge. Judge Anello **does not** require the parties to submit a joint proposed pretrial order *prior* to the final pretrial conference, and thus the requirement of Local Rule 16.1.f.6.b is **waived**. This policy allows for the parties to take into account the Court's rulings on motions in limine when preparing the joint proposed pretrial order.

- B. Proposed Jury Instructions: The parties shall file proposed jury instructions and verdict forms no later than 5:00 p.m. on the Thursday before trial, unless otherwise ordered by the Court. The parties should simultaneously email an electronic copy (Microsoft Word or Word Perfect format) to Judge Anello's e-file email address, efile_anello@casd.uscourts.gov.
- C. Exhibits: Parties must number their exhibits pursuant to the numbering system set forth in Civil Local Rule 16.1.f.2.c.⁵ So far as is possible, exhibits must be numbered in the order in which they will be presented and offered at trial. Parties must provide the Court with two copies of their exhibits no later than the Friday before trial. Parties must deliver their exhibits directly to Chambers.
- D. Trial Schedule: In general, jury trials are scheduled from 9:00 a.m. to 4:30 p.m., beginning on Tuesdays, including a lunch recess from approximately 12:00 noon to 1:30 p.m. and morning and afternoon breaks of approximately 15 minutes each. The Court will notify the parties of deviations from this schedule, and when possible will attempt to accommodate jurors, witnesses, and counsel, should conflicts arise.
- E. Practice and Procedures: In advance of trial, Judge Anello's law clerk and/or courtroom deputy will provide counsel with handouts regarding the method used for jury selection, voir dire, and other relevant courtroom procedures.

⁵ The Court may modify this numbering system when necessary for sake of clarity. Any modifications will generally be discussed at the Final Pretrial Conference.