

1 California, this Court’s Order for Jury Trial, and this Court’s Order for Court
2 Trial.¹

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4 **UNLESS OTHERWISE ORDERED BY THE COURT, THE FOLLOWING**
5 **RULES SHALL APPLY:**

6 **1. Service of the Complaint.** The Plaintiff(s) shall promptly serve the
7 Complaint in accordance with Fed. R. Civ. P. 4 and file the proofs of service
8 pursuant to Local Rule. Any Defendant(s) not timely served shall be dismissed
9 from the action without prejudice. Any “DOE” or fictitiously-named Defendant(s)
10 who is not identified and served within 120 days after the case is filed shall be
11 dismissed pursuant to Fed. R. Civ. P. 4(m).

12 **2. Removed Actions.** Any answers filed in state court must be refiled
13 in this Court as a supplement to the petition. Any pending motions must be re-
14 noticed in accordance with Local Rule. If an action is removed to this Court that
15 contains a form pleading, i.e., a pleading in which boxes are checked, the party or
16 parties utilizing the form pleading must file an appropriate pleading with this Court
17 within thirty (30) days of receipt of the Notice of Removal. The appropriate
18 pleading referred to must comply with the requirements of Fed. R. Civ. P. 7, 7.1, 8,
19 9, 10 and 11.

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22 ¹Copies of the Local Rules are available on our website at
23 “<http://www.cacd.uscourts.gov>” or they may be purchased from one of the
24 following:

25 Los Angeles Daily Journal
26 915 East 1st Street
27 Los Angeles, CA 90012

West Group
610 Opperman Drive
P.O. Box 64526
St. Paul, MN 55164-0526

Metropolitan News
210 South Spring Street
Los Angeles, CA 90012

1 following Tuesday—and must be hand-delivered or faxed to opposing counsel on
2 that Friday. Professional courtesy dictates that moving parties should, whenever
3 possible, avoid filing motions for which opposition papers will be due the Friday
4 preceding a holiday. Such a filing is likely to cause a requested continuance to be
5 granted.

6 Adherence to the timing requirements is mandatory for Chambers’
7 preparation of motion matters.

8 b. Pre-filing Requirement: Counsel must comply with Local Rule 7-3,
9 which requires counsel to engage in a pre-filing conference “to discuss
10 thoroughly . . . the substance of the contemplated motion and any potential
11 resolution.” Counsel should discuss the issues to a sufficient degree that if a
12 motion is still necessary, the briefing may be directed to those substantive issues
13 requiring resolution by the Court. Counsel should resolve minor procedural or
14 other non-substantive matters during the conference. The *pro per* status of one or
15 more parties does not negate this requirement.

16 c. Length and Format of Motion Papers: Memoranda of points and
17 authorities in support of or in opposition to motions shall not exceed 25 pages.
18 Replies shall not exceed 12 pages. Only in rare instances and for good cause
19 shown will the Court grant an application to extend these page limitations.
20 Pursuant to Local Rule, either a proportionally spaced or monospaced face may be
21 used. A proportionally spaced face must be 14-point or larger, or as the Court may
22 otherwise order. A monospaced face may not contain more than 10½ characters
23 per inch. These typeface requirements apply to footnoted material.

24 d. Citations to Case Law: Citations to case law must identify not only the
25 case cited, but the specific page referenced.

26 e. Citations to Other Sources: Statutory references should identify with
27 specificity the sections and subsections referenced (*e.g.*, Jurisdiction over this
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1 cause of action may appropriately be found in 47 U.S.C. § 33, which grants the
2 district courts jurisdiction over all offenses of the Submarine Cable Act, whether
3 the infraction occurred within the territorial waters of the United States or on board
4 a vessel of the United States outside said waters). Statutory references that do not
5 specifically indicate the appropriate section and subsection (*e.g.*, Plaintiffs allege
6 conduct in violation of the Federal Electronic Communication Privacy Act, 18
7 U.S.C. § 2511, et seq.) are to be avoided. Citations to treatises, manuals, and other
8 materials should include the volume, section, and pages being referenced.

9 f. Oral Argument: If the Court deems a matter appropriate for decision
10 without oral argument, the Court will notify the parties in advance.

11 **6. Specific Motion Requirements**

12 a. Motions Pursuant to Rule 12: Many motions to dismiss or to strike can
13 be avoided if the parties confer in good faith (as required under Local Rule 7-3),
14 especially for perceived defects in a complaint, answer, or counterclaim that could
15 be corrected by amendment. *See Chang v. Chen*, 80 F.3d 1293, 1296 (9th Cir.
16 1996) (where a motion to dismiss is granted, a district court should provide leave
17 to amend unless it is clear that the complaint could not be saved by any
18 amendment). Moreover, a party has the right to amend the complaint once as a
19 matter of course within twenty-one (21) days of serving it or “if the pleading is one
20 to which a responsive pleading is required, 21 days after service of a responsive
21 pleading or 21 days after service of a motion under Rule 12(b), (e), or (f),
22 whichever is greater.” Fed. R. Civ. P. 15(a)(1). Even after a complaint has been
23 amended or the time for amending it as a matter of course has run, the Federal
24 Rules provide that leave to amend should be “freely given when justice so
25 requires.” Fed. R. Civ. P. 15(a). The Ninth Circuit requires that this policy
26 favoring amendment be applied with “extreme liberality.” *Morongo Band of*
27 *Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990).

1 factual statements should be set forth in sequentially numbered paragraphs. Each
2 paragraph should contain a narrowly focused statement of fact. Each numbered
3 paragraph should address a single subject as concisely as possible.

4 The opposing party's statement of genuine issues must be in two columns
5 and track the movant's separate statement exactly as prepared. The left hand
6 column must restate the allegedly undisputed fact, and the right hand column must
7 state either that it is undisputed or disputed. The opposing party may dispute all or
8 only a portion of the statement, but if disputing only a portion, it must clearly
9 indicate what part is being disputed, followed by the opposing party's evidence
10 controverting the fact. The court will not wade through a document to determine
11 whether a fact really is in dispute. To demonstrate that a fact is disputed, the
12 opposing party must briefly state why it disputes the moving party's asserted fact,
13 cite to the relevant exhibit or other piece of evidence, and describe what it is in that
14 exhibit or evidence that refutes the asserted fact. No legal argument should be set
15 forth in this document.

16 The opposing party may submit additional material facts that bear on or
17 relate to the issues raised by the movant, which shall follow the format described
18 above for the moving party's separate statement. These additional facts shall
19 continue in sequentially numbered paragraphs and shall set forth in the right hand
20 column the evidence that supports that statement.

21 2. Supporting Evidence: No party shall submit evidence other than
22 the specific items of evidence or testimony necessary to support or controvert a
23 proposed statement of undisputed fact. For example, entire deposition transcripts,
24 entire sets of interrogatory responses, and documents that do not specifically
25 support or controvert material in the separate statement shall not be submitted in
26 support of opposition to a motion for summary judgment. The court will not
27 consider such material.

1 Evidence submitted in support of or in opposition to a motion should be
2 submitted either by way of stipulation or as exhibits to declarations sufficient to
3 authenticate the proffered evidence, and should not be attached to the
4 memorandum of points and authorities. The court will accept counsel's
5 authentication of deposition transcripts, written discovery responses and the receipt
6 of documents in discovery if the fact that the document was in the opponent's
7 possession is of independent significance. Documentary evidence as to which
8 there is no stipulation regarding foundation must be accompanied by the testimony,
9 either by declaration or properly authenticated deposition transcript, of a witness
10 who can establish authenticity.

11 3. **Objections to Evidence:** If a party disputes a fact based in
12 whole or in part on an evidentiary objection, the ground of the objection, as
13 indicated above, should be stated in a separate statement but not argued in that
14 document.

15 7. **Proposed Orders.** Each party filing or opposing a motion or seeking
16 the determination of any matter shall serve and lodge a proposed order setting forth
17 the relief or action sought and a brief statement of the rationale for the decision
18 with appropriate citations.

19 8. **Mandatory Chambers Copies:** Mandatory chambers copies of all
20 filed motions, oppositions or notice of non-opposition, and replies must be
21 delivered to Judge Gutierrez' chambers on the eighth floor not later than 12:00
22 noon the following business day. For security reasons, mandatory chambers copies
23 should be removed from envelopes or folders before placing them on the table.

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25 9. **Telephonic Hearings.** The Court does not permit appearances or
26 arguments by way of telephone conference calls.

27 10. **Ex Parte Applications.** The Court considers ex parte applications
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1 on the papers and does not usually set these matters for hearing. If a hearing is
2 necessary, the parties will be notified. Ex parte applications are solely for
3 extraordinary relief and should be used with discretion. Sanctions may be imposed
4 for misuse of ex parte applications. *See Mission Power Engineering Co. v.*
5 *Continental Casualty Co.*, 883 F. Supp. 488 (C.D. Cal. 1995).

6 Counsel's attention is directed to Local Rules. The moving party shall serve
7 the opposing party by facsimile transmission and shall notify the opposition that
8 opposing papers must be filed not later than 3:00 p.m. on the first business day
9 following such facsimile service. If counsel does not intend to oppose an ex parte
10 application, he or she must inform the Courtroom Deputy Clerk at (213) 894-8899.

11 **11. TROs and Injunctions.** Parties seeking emergency or provisional
12 relief shall comply with Rule 65 and Local Rule 65. The Court will not rule on any
13 application for such relief for at least twenty-four hours after the party subject to
14 the requested order has been served, unless service is excused. Such party may file
15 opposing or responding papers in the interim.

16 **12. Continuances.** This Court has a strong interest in keeping scheduled
17 dates certain. Changes in dates are disfavored. Trial dates set by the Court are
18 firm and will rarely be changed. Therefore, a stipulation to continue the date of
19 any matter before this Court **must** be supported by a sufficient basis that
20 demonstrates good cause why the change in the date is essential. Without such
21 compelling factual support, stipulations continuing dates set by this Court will not
22 be approved. Counsel requesting a continuance must lodge a proposed stipulation
23 and order including a **detailed** declaration of the grounds for the requested
24 continuance or extension of time. Failure to comply with the Local Rules and this
25 Order will result in rejection of the request without further notice to the parties.
26 Proposed stipulations extending scheduling dates do not become effective unless
27 and until this Court so orders. Counsel wishing to know whether a stipulation has
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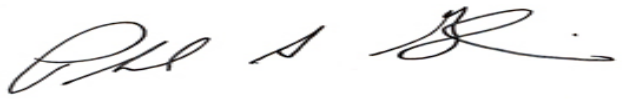
1 | been signed shall comply with the applicable Local Rule.

2 | **13. Communications with Chambers.** Counsel shall not attempt to
3 | contact the Court or its staff by telephone or by any other ex parte means. Counsel
4 | may contact the Courtroom Deputy Clerk with appropriate inquiries only. Counsel
5 | shall not contact the Courtroom Deputy regarding status of ex parte
6 | application/ruling or stipulation/ruling. If counsel desires a conformed copy of any
7 | proposed order submitted to the Court, counsel shall provide an extra copy of the
8 | document, along with a self-addressed, stamped envelope. Counsel should list
9 | their facsimile transmission numbers along with their telephone numbers on all
10 | papers to facilitate communication with the Courtroom Deputy.

11 | **14. Order Setting Scheduling Conference.** Pursuant to
12 | Fed. R. Civ. P. 16(b), the Court will issue an Order setting a Scheduling
13 | Conference as required by Fed. R. Civ. P. 26 and the Local Rules of this Court.
14 | Strict compliance with Fed. R. Civ. P. 16 and 26 is required.

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21 | **15. Notice of this Order.** Counsel for plaintiff or plaintiff (if appearing
22 | on his or her own behalf) shall immediately serve this Order on all parties,
23 | including any new parties to the action. If this case came to the Court by a Petition
24 | for Removal, the removing defendant(s) shall serve this Order on all other parties.

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26 | DATED: October 26, 2010

27 | A handwritten signature in black ink, appearing to be "D. H. S. B.", is written above a horizontal line.

PHILIP S. GUTIERREZ
United States District Judge

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