

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JAMAR EVANS,	)	1:07-cv-00130-AWI-SMS
	)	
Plaintiff,	)	INFORMATIONAL ORDER TO PLAINTIFF
	)	
v.	)	
	)	
VALERO ENERGY CORPORATION, et	)	
al.,	)	
	)	
Defendants.	)	
	)	
	)	

Plaintiff is proceeding pro se with an action for damages and other relief concerning alleged civil rights violations.

Parties to this litigation shall take note of the following requirements:

In litigating this action, the parties must comply with the Federal Rules of Civil Procedure and the Local Rules of the United States District Court, Eastern District of California ("Local Rules"). This order highlights specific rules of which the parties should take particular note. **Failure to comply with the Local Rules, federal rules or a court order, including this order, will be grounds for dismissal, entry of default or other**

1 **appropriate sanctions.** See Local Rule 11-110; F.R.Civ.P. 41(b).

2 1. Documents intended to be filed with the Court must be  
3 presented or mailed to the Clerk of the Court. See Local Rule 5-  
4 134(a). **All documents improperly mailed to a judge's chambers**  
5 **will be stricken from the record.**<sup>1</sup> A document requesting a Court  
6 order must be styled as a motion. See F.R.Civ.P. 7.

7 2. Each document submitted for filing must include the  
8 original signature of the filing party or parties. Local Rule 7-  
9 131; F.R.Civ.P. 11(a). **All documents submitted without the**  
10 **required signature(s) will be stricken.** Each separate document  
11 must be separately stapled. See Local Rule 7-130. If a document  
12 is stapled behind another document, it will not be filed and will  
13 not be entered on this Court's docket.

14 3. All documents filed with the Court must be submitted with  
15 an additional legible conformed copy for the Court's use. See  
16 Local Rule 5-133(d)(2). **A document submitted without an extra**  
17 **copy for the Court's use will be stricken.** If the filing party  
18 wishes the Court to return a file-stamped copy, he or she must  
19 include an additional copy for that purpose (i.e., submit an  
20 original and two copies, one for the Court's use and one to be  
21 returned). **The Court cannot provide copy or mailing service for**  
22 **a party,** even for an indigent plaintiff proceeding in forma  
23 pauperis. Therefore, if the filing party wishes a file-stamped  
24 copy returned, the party must also provide an envelope with  
25 adequate postage pre-paid. Copies of documents from the Court  
26 file may be obtained at the cost of 50 cents per page.

---

27  
28 <sup>1</sup> When a document is stricken, it becomes a nullity and is not considered by the Court for any purposes.

1 4. After any defendants have appeared in an action by filing  
2 a pleading responsive to the complaint (i.e., an answer or a  
3 motion to dismiss), all documents filed with the Court must  
4 include a certificate of service stating that a copy of the  
5 document was served on the opposing party. See F.R.Civ.P. 5;  
6 Local Rule 5-135(c). A proof of service shall be under penalty of  
7 perjury and shall include the date, manner, and place of service.  
8 **Id. A document submitted without the required proof of service**  
9 **will be stricken.** Where a party is represented, service on the  
10 party's attorney of record constitutes effective service.

11 5. All filings must bear the file number assigned to the  
12 action, followed by the initials of the District Court Judge and  
13 the Magistrate Judge to whom the case is assigned. Where  
14 plaintiff simultaneously pursues more than one action, he or she  
15 must file separate original documents and the appropriate number  
16 of copies in each action to which the document pertains.  
17 **Documents submitted listing more than one case number in the**  
18 **caption will be stricken.**

19 6. The Court cannot serve as a repository for the parties'  
20 evidence. The parties may not file evidence with the Court until  
21 the course of litigation brings the evidence into question (for  
22 example, on a motion for summary judgment, at trial, or when  
23 requested by the Court). **Evidence improperly submitted to the**  
24 **Court will be stricken.**

25 7. The Eastern District of California converted to an  
26 electronic filing, service, and storage system effective January  
27 3, 2005. Pro se litigants are exempt from the electronic filing  
28 requirement and must submit all documents to the Court in paper.

1 Local Rule 5-133(b) (2). Paper documents submitted by pro se  
2 litigants for filing will be scanned into the electronic court  
3 file by the Clerk's Office. After being scanned into the  
4 electronic court file, the paper documents will be retained in  
5 the Clerk's Office for a limited period of time and then  
6 discarded. Local Rule 39-138(d). For this reason, pro se  
7 litigants are cautioned not to send original exhibits to the  
8 Court. When it is appropriate for pro se litigants to submit  
9 exhibits to the Court, the litigants shall retain their original  
10 exhibits and send photocopies to the Court.

11 8. All Court deadlines will be strictly enforced. Requests  
12 for time extensions must state the reason the extension is needed  
13 and must be filed with the Court before the deadline in question.  
14 See Local Rule 6-144.

15 9. A plaintiff proceeding in propria persona has an  
16 affirmative duty to keep the Court and opposing parties informed  
17 of his or her current address. If a plaintiff moves and fails to  
18 file a notice of change of address, service of Court orders at  
19 Plaintiff's prior address shall constitute effective notice. See  
20 Local Rule 83-182(f). If mail directed to Plaintiff is returned  
21 by the U.S. Postal Service as undeliverable, the Court will not  
22 attempt to remail it. **If the address is not updated within 60**  
23 **days of the mail being returned, the action will be dismissed for**  
24 **failure to prosecute.** See Local Rule 83-183(b).

25 10. Due to the press of business, the Court cannot respond  
26 to individual requests for the status of cases. Any such requests  
27 will be denied. So long as the parties inform the Court of any  
28 address changes in compliance with Local Rule 83-183(b), the

1 Court will notify the parties of any Court action taken in their  
2 case.

3 11. Defendants must reply to the complaint within the time  
4 provided by the applicable provisions of Fed. R. Civ. P. 12(a).

5 12. Unless otherwise ordered, all motions to dismiss,  
6 motions for summary judgment, motions concerning discovery,  
7 motions pursuant to Fed.R.Civ.P. 7, 11, 12, 15, 41, 55, 56, 59,  
8 and 60, and motions pursuant to Local Rule 11-110 shall be  
9 briefed pursuant to Local Rule 78-230. Failure to oppose such a  
10 motion timely may be deemed a waiver of opposition to the motion.

11 13. At some point in the litigation, one or more defendants  
12 may move for summary judgment as to some or all of Plaintiff's  
13 claims. Pursuant to *Klinge v. Eikenberry*, 849 F.2d 409 (9th  
14 Cir. 1988), Plaintiff is advised of the following requirements  
15 for opposing a motion for summary judgment made by Defendant(s)  
16 pursuant to Fed. R. Civ. P. 56. Such a motion is a request for an  
17 order for judgment on some or all of Plaintiff's claims in favor  
18 of Defendant(s) without trial. See Fed. R. Civ. P. 56(b).  
19 Defendant(s)' motion will set forth the facts which Defendants  
20 contend are not reasonably subject to dispute and that entitle  
21 Defendant(s) to judgment as a matter of law. See Fed. R. Civ. P.  
22 56(c).

23 Plaintiff has the right to oppose a motion for summary  
24 judgment. To oppose the motion, Plaintiff must show proof of his  
25 or her claims. Plaintiff may agree with the facts set forth in  
26 Defendant(s)' motion but argue that Defendant(s) are not entitled  
27 to judgment as a matter of law. Plaintiff may show Defendant(s)'  
28 facts are disputed in one or more of the following ways: (1)

1 Plaintiff may rely upon statements made under the penalty of  
2 perjury in the complaint if the complaint shows that Plaintiff  
3 has personal knowledge of the matters stated and if Plaintiff  
4 calls to the Court's attention those parts of the complaint upon  
5 which Plaintiff relies; (2) Plaintiff may also serve and file  
6 affidavits or declarations<sup>2</sup> setting forth the facts which  
7 Plaintiff believes prove Plaintiff's claims (the persons who sign  
8 the affidavit or declaration must have personal knowledge of the  
9 facts stated); (3) Plaintiff may also rely upon written records  
10 but Plaintiff must prove that the records are what Plaintiff  
11 claims they are;<sup>3</sup> (4) Plaintiff may also rely upon all or any  
12 part of the transcript of one or more depositions, answers to  
13 interrogatories, or admissions obtained in this proceeding.  
14 Should Plaintiff fail to contradict Defendant(s)' motion with  
15 affidavits, declarations, or other evidence, Defendant(s)'  
16 evidence will be taken as truth, and final judgment may be  
17 entered without a full trial. See Fed. R. Civ. P. 56(e).

18 If there is some good reason why such facts are not  
19 available to Plaintiff when required to oppose such a motion, the  
20 Court will consider a request to postpone considering  
21 Defendant(s)' motion. See Fed. R. Civ. P. 56(f). If Plaintiff  
22 does not serve and file a request to postpone consideration of  
23

---

24 <sup>2</sup> An affidavit is a written declaration or statement of facts, made voluntarily, and confirmed by the  
25 oath or affirmation of the party making it, taken before an officer having authority to administer  
26 such oath. An unsworn declaration has the same effect as an affidavit, provided that it is dated and  
27 signed under penalty of perjury, as follows: "I declare under penalty of perjury that the foregoing  
28 is true and correct." 28 U.S.C. § 1746. Affidavits and declarations must be made on personal  
knowledge and must set forth facts as would be admissible in evidence. See F.R.Civ.P. 56(e).

<sup>3</sup> Sworn or certified copies of all papers referred to in an affidavit must be attached to the affidavit  
and served on the opposing party. F.R.Civ.P. 56(e).

1 Defendant(s)' motion or written opposition to the motion, the  
2 Court may consider Plaintiff's failure to act as a waiver of  
3 opposition to Defendant(s)' motion. Plaintiff's waiver of  
4 opposition to Defendant(s)' motion may result in the entry of  
5 summary judgment against Plaintiff.

6 14. A motion supported by affidavits or declarations that  
7 are unsigned will be stricken.

8 15. The failure of any party to comply with this order, the  
9 Federal Rules of Civil Procedure, or the Local Rules of Court,  
10 may result in the imposition of sanctions including, but not  
11 limited to, dismissal of the action or entry of default.

12 IT IS SO ORDERED.

13 **Dated: January 31, 2007**  
14 icido3

**/s/ Sandra M. Snyder**  
**UNITED STATES MAGISTRATE JUDGE**