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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RANDY K. BARKER, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 INTERNAL REVENUE SERVICE, ET AL )  
 )  
 Defendants )

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Case No. CV 13-1517-CBM  
(SACRAMENTO)

**STANDING ORDER**

**READ THIS ORDER CAREFULLY. IT CONTROLS THIS CASE  
AND MAY DIFFER IN SOME RESPECTS FROM THE LOCAL RULES.**

This action has been assigned to the calendar of Honorable Consuelo B. Marshall.

Both the Court and the attorneys bear responsibility for the progress of litigation in the  
this Court. To secure the just, speedy, and inexpensive determination of every action, all counsel  
are ordered to familiarize themselves with the Federal Rules of Civil Procedure and the Local  
Rules of the Central District of California.<sup>1</sup> FED.R.CIV.P 1.

**NONCOMPLIANCE MAY LEAD TO THE IMPOSITION OF SANCTIONS,  
INCLUDING THE STRIKING OF PLEADINGS AND ENTRY OF JUDGMENT OR  
DISMISSAL OF THE ACTION.**

<sup>1</sup> Copies of the Local Rules are available at  
<http://www.cacd.uscourts.gov/CACD/LocRules.nsf/Local+Rules?OpenView>

1 **IT IS FURTHER ORDERED:**

2 **1. Service of the Complaint:**

3 The Plaintiff shall promptly serve the Complaint in accordance with Federal Rule of Civil  
4 Procedure 4 and shall comply with Local Rule 5-3 with respect to all proofs of service.

5 **2. Presence of Lead Counsel:**

6 Lead trial counsel shall attend any proceeding before this Court, including all status and  
7 settlement conferences.

8 **3. Rule 26(f) Meeting of Counsel:**

9 Counsel for the parties shall meet personally pursuant to Federal Rule of Civil Procedure  
10 26(f) and applicable Local Rules in anticipation of the court-ordered scheduling conference.  
11 FED.R.CIV.P. 16(b).

12 **4. Joint Report of Rule 26(f) Meeting:**

13 Unless otherwise ordered, no later than seven (7) days before the Scheduling Conference,  
14 counsel shall file a Joint Report of Rule 26(f) Meeting. A Joint Report which is not timely filed  
15 or does not conform with this Order, Federal Rule of Civil Procedure 26(f), and applicable Local  
16 Rules will interfere with preparation by the Court and its staff, and may result in the assessment  
17 of sanctions.

18 The Joint Rule 26(f) Report shall address the matters set forth in Federal Rule of Civil  
19 Procedure 26(f) (some of which are enumerated below), and shall also contain the following:

- 20 (a) A brief statement by each party, not to exceed one (1) page, setting forth that  
21 party's factual summary of the case, including the basis for any claims,  
22 counterclaims, or defenses.
- 23 (b) The basis for the Court's subject-matter jurisdiction.
- 24 (c) A brief description of the key legal issues.
- 25 (d) The realistic range of probable damages.
- 26 (e) The likelihood of appearance of additional parties.
- 27 (f) Whether all or part of the procedures of the Manual for Complex Litigation  
28 should be utilized.

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- 2 (g) A proposed discovery cut-off date. Note: this means the final day for completion
- 3 (h) What motions (other than discovery motions) are contemplated.
- 4 (i) Prospects of settlement based on counsel’s discussion at the Rule 26(f) meeting
- 5 (j) Whether the trial will be a court or jury trial.
- 6 (k) The estimated length of trial
- 7 (l) The name of the attorney(s) who will try the case.
- 8 (m) Prospects of counsel exercising their right, under 28 U.S.C. § 636, to consent to
- 9 the designation of a Magistrate Judge to conduct all proceedings (including trial)
- 10 and final disposition, pursuant to General Order 05-07 (also referenced as General
- 11 Order 194).<sup>2</sup>

12 **5. Mandatory Settlement Procedure:**

13 In conformity with the Local Rules, counsel shall file the settlement procedure selection

14 by the date given by the Court at the time of the Scheduling Conference. Available alternatives

15 for consideration, not to the exclusion of others, include:

- 16 (1) a settlement conference before the district judge or magistrate judge assigned to
- 17 the case;
- 18 (2) a settlement conference or mediation before an attorney selected from the
- 19 Attorney Settlement Panel (list available from the Court’s website); or
- 20 (3) the employment by the parties of a private judge, mediator or arbitrator.

21 *See* L.R. 16-15.

22 **6. Discovery:**

23 All discovery matters have been referred to a Magistrate Judge, who will hear all

24 discovery disputes. (The Magistrate Judge’s initials follow the District Judge’s initials next to

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25 <sup>2</sup> Counsel should note that they may select from among the panel of available Magistrate

26 Judges (i.e., counsel are not limited to consenting to the Magistrate Judge assigned to this case,

27 provided all parties concur. A list of the current available Magistrate Judges is available on the

28 Court’s website. Counsel should note that the Magistrate Judge will set his/her own discovery

schedule and will be able to give counsel a “date certain” for trial.)

1 the case number.) All discovery documents must include the words “DISCOVERY MATTER”  
2 in the caption to ensure proper routing. Please do not deliver courtesy copies of discovery  
3 documents to the District Judge.

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5 **7. Motions:**

6 **a. Time for Filing and Hearing Motions:** Motions shall be filed in accordance  
7 with Local Rules 6 and 7. Local Rule 6-1 provides: “The notice of motion shall be filed with the  
8 Clerk not later than twenty-eight (28) days before the date set for hearing, and shall be served on  
9 each of the parties electronically or, if excepted from electronic filing, either by deposit in the  
10 mail or by personal service.” This Court typically hears motions on **Mondays, beginning at**  
11 **10:00 a.m.** The briefing schedule for the motion shall be governed by Local Rules 6 and 7. **No**  
12 **supplemental brief shall be filed without prior leave of Court.**

13 Adherence to deadlines is mandatory for chambers’ preparation of motion matters.

14 **b. Pre-filing Requirement:** Counsel should take note of Local Rule 7-3, which  
15 requires “counsel contemplating the filing of any motion” to “first contact opposing counsel to  
16 discuss thoroughly, *preferably in person*, the substance of the contemplated motion and any  
17 potential resolution.” Counsel should discuss the issues sufficiently that if a motion is still  
18 necessary, the briefing may be directed to those substantive issues requiring resolution by the  
19 Court. Counsel should resolve minor procedural or other non-substantive matters during the  
20 conference.

21 **c. Length and Format of Motion Papers:** Pursuant to Local Rule 11-6,  
22 Memoranda of Points and Authorities in support of or in opposition to motions **shall not exceed**  
23 **twenty five (25) pages**, absent leave of Court. **Replies shall not exceed ten (10) pages.** Only in  
24 rare instances and for good cause shown will the Court grant an application to extend these page  
25 limitations.

26 Pursuant to Local Rule 11-8, all Memoranda of Points and Authorities exceeding ten (10)  
27

1 pages must be accompanied by a Table of Authorities and a Table of Contents.

2 Footnotes shall be in typeface no less than two sizes smaller than text size (*e.g.*, if text  
3 size is 14, font size shall be no smaller than 12) and shall be used sparingly.

4 Filings which do not conform to the Local Rules and this Order may be stricken.

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6 **8. Courtesy Copies:**

7 Pursuant to General Order 08-11 and Local Rule 11-3, and unless otherwise ordered by  
8 the Court, mandatory chambers copies of all filed documents must be delivered to the Clerk's  
9 Office, Civil Intake Room G-8, Attention: Yolanda Skipper, courtesy copies of any Ex Parte or  
10 Temporary Restraining Order documents may be delivered to the box outside the entrance to  
11 Judge Marshall's chambers on the second floor of the U.S. Courthouse, 312 N. Spring Street, no  
12 later than 12:00 noon the following business day. The mandatory chambers copy must be  
13 prominently labeled CHAMBERS COPY on the face page. The mandatory chambers copy of all  
14 electronically filed documents must include the Notice of Electronic Filing as the last page of the  
15 document. **Failure to timely supply courtesy copies of papers may result in the hearing  
16 being taken off calendar.**

17 **9. Proposed Orders:**

18 Each party filing or opposing a motion or seeking the determination of any matter shall  
19 serve and lodge a Proposed Order setting forth the relief or action sought and a brief statement of  
20 the rationale for the decision with appropriate citations. All Proposed Orders shall be submitted  
21 via e-mail to [cbm\\_chambers@cacd.uscourts.gov](mailto:cbm_chambers@cacd.uscourts.gov) in Microsoft Word format. Where applicable,  
22 parties shall comply with Local Rules 52 and 58.

23 **10. Ex Parte Applications:**

24 Counsel are reminded ex parte applications are solely for extraordinary relief.  
25 Applications that do not meet the requirements set forth in Local Rules 7-19 will not be  
26 considered. The Court considers ex parte applications on the papers and usually does not set  
27

1 these matters for hearing.

2 **11. Continuances:**

3 Counsel requesting a continuance must lodge -- **prior to the date to be continued** -- a  
4 Proposed Stipulation and Order including a detailed declaration of the grounds for the requested  
5 continuance or extension of time. The Court grants continuances only upon a showing of good  
6 cause, focusing on the diligence of the party seeking the continuance and any prejudice that may  
7 result if the continuance is denied. Failure to comply with the Local Rules and this Order may  
8 result in denial of the request for continuance.

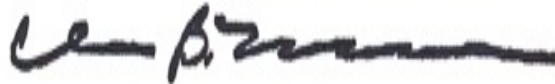
9 **12. Communications with Chambers:**

10 Counsel shall not attempt to contact the Court or its chambers staff by telephone or by  
11 any other ex parte means, although counsel may contact the **Courtroom Deputy, Yolanda**  
12 **Skipper**, at: yolanda\_skipper@cacd.uscourts.gov, with appropriate inquiries. To facilitate  
13 communication with the Courtroom Deputy, counsel should list their facsimile transmission  
14 numbers and email addresses along with their telephone numbers on all papers.

15 **13. Notice of this Order:**

16 **Counsel for the Plaintiff shall immediately serve this Order on all parties, including**  
17 **any new parties to the action. If this case came to the Court by noticed removal, the**  
18 **defendant shall serve this Order on all other parties.**

19 Dated: September 4, 2013

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24 CONSUELO B. MARSHALL  
25 UNITED STATES DISTRICT JUDGE  
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