

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**Notice From The Clerk**

**Changes to the Local Rules**

The Court has adopted the following amended and new Local Rules:

**CHAPTER I  
LOCAL CIVIL RULES**

***L.R. 16-15 Policy Re Settlement & ADR.*** It is the policy of the Court to encourage disposition of civil litigation by settlement when such is in the best interest of the parties. The Court favors any reasonable means to accomplish this goal. Nothing in this rule shall be construed to the contrary. The parties are urged first to discuss and to attempt to reach settlement among themselves without resort to these procedures. It is also the policy of the Court that unless an Alternative Dispute Resolution (ADR) Procedure is selected by the parties, the judge assigned to preside over the civil case (the trial judge) may participate in facilitating settlement.

***L.R. 16-15.1 Proceedings Mandatory.*** Unless exempted by the trial judge, the parties in each civil case shall participate in one of the ADR Procedures set forth in this rule or as otherwise approved by the trial judge.

***L.R. 16-15.2 Time for Proceedings.*** Except as otherwise ordered by the Court, a Request: ADR Procedure Selection, signed by counsel for both sides, shall be filed with the parties' F.R.Civ.P. 26(f) report. Unless otherwise ordered, no later than forty-five (45) days before the Final Pretrial Conference, the parties shall participate in the ADR process approved by the Court.

***L.R. 16-15.3 Court-Ordered Proceedings.*** If the parties do not file a timely Request: ADR Procedure Selection, the trial judge may order the parties to participate in any of the ADR Procedures set forth in this rule.

***L.R. 16-15.4 Suggested ADR Procedures***

ADR PROCEDURE NO. 1 - The parties shall appear before the district judge or magistrate judge assigned to the case for such settlement proceedings as the judge may conduct or direct.

ADR PROCEDURE NO. 2 - The parties shall appear before a neutral selected from the court's Mediation Panel.

ADR PROCEDURE NO. 3 - The parties shall participate in a private dispute resolution proceeding.

***L.R. 16-15.5 Requirements for ADR Procedures.*** With the exception of subsection (a) which applies only to settlement proceedings before a district judge or magistrate judge, the following requirements shall apply to all ADR Procedures unless otherwise ordered by the settlement judge or the neutral:

(a) STATEMENT OF THE CASE - The parties shall submit in writing to the settlement judge, *in camera* (but not file), a confidential settlement statement (not to exceed five (5) pages) setting forth the party's statement of the case and the party's settlement position, including the last offer or demand made by that party and a separate statement of the offer or demand the party is prepared to make at the settlement conference. This confidential settlement statement shall be delivered to the settlement judge at least five (5) days before the date of the conference.

(b) APPEARANCE BY PARTY – Each party shall appear at the settlement proceeding in person or by a representative with final authority to settle the case, which in the case of lawsuits brought by or against the United States or any of its agencies as a party, shall involve the attendance of an attorney charged with responsibility for the conduct of the case and who has final settlement authority as provided by his or her superiors. A corporation or other non-governmental entity satisfies this attendance requirement if represented by a person who has final settlement authority and who is knowledgeable about the facts of the case. Representatives of insurers with decision-making authority are required to attend settlement proceedings, unless personal attendance is excused by the settlement officer. At the discretion of the settlement officer, and only with the settlement officer's express authorization, parties residing outside the District may have a representative with final settlement authority available by telephone during the entire proceeding, in lieu of personal appearance.

(c) APPEARANCE BY LEAD TRIAL ATTORNEY – Each party shall be represented at the settlement proceeding by the attorney who is expected to try the case, unless excused by the settlement officer.

(d) PREPARATION BY THE PARTY – Each party shall have made a thorough analysis of the case prior to the settlement proceeding and shall be fully prepared to discuss all economic and non-economic factors relevant to a full and final settlement of the case.

***L.R. 16-15.6 Optional Requirements for ADR Procedures.*** In settlement proceedings before a district judge or magistrate judge, any of the following procedures may be required:

(a) An opening statement by each counsel.

(b) With the agreement of the parties, a “summary” or “mini-trial,” tried either to the settlement officer or to a mock jury.

(c) Presentation of the testimony, summary of testimony or report of expert witnesses.

(d) A closing argument by each counsel.

(e) Any combination of the foregoing.

***L.R. 16-15.7 Report of Settlement.*** If a settlement is reached, counsel shall (a) immediately report the settlement to the trial judge’s courtroom deputy clerk; and (b) timely memorialize the terms of the settlement.

***L. R. 16-15.8 Confidentiality.*** This rule applies only to ADR Procedure No. 2, mediations conducted by the Court’s Mediation Panel.

(a) CONFIDENTIAL TREATMENT - Except as provided in subsection (b) of this local rule, this court, the mediator, all counsel and parties, and any other persons attending the mediation shall treat as “confidential information” the contents of the written mediation statements, any documents prepared for the purpose of, in the course of, or pursuant to the mediation, anything that happened or was said relating to the subject matter of the case in mediation, any position

taken, and any view of the merits of the case expressed by any participant in connection with any mediation. “Confidential information” shall not be:

- (1) disclosed to anyone not involved in the litigation;
- (2) disclosed to the assigned judges; or
- (3) used for any purpose, including impeachment, in any pending or future proceeding in this court or any other forum.

(b) LIMITED EXCEPTIONS TO CONFIDENTIALITY - This rule does not prohibit:

- (1) disclosures as may be stipulated by all parties and the mediator;
- (2) disclosures as may be stipulated by all parties, without the consent of the mediator, for use in a subsequent confidential ADR or settlement proceeding;
- (3) a report to or an inquiry by the ADR Judge regarding a possible violation of policies and procedures governing the ADR program;
- (4) the mediator from discussing the mediation process with the court’s ADR staff, who shall maintain the confidentiality of the process;
- (5) any participant or the mediator from responding to an appropriate request for information duly made by persons authorized by the court to monitor or evaluate the court’s ADR program;
- (6) disclosures as are required by General Order, related ADR forms, and as otherwise required by law; or
- (7) in an action or proceeding to enforce a settlement, the admission of a written settlement agreement or a settlement placed on the record, reached as a result of mediation.

(c) CONFIDENTIALITY AGREEMENT - The mediator may ask the parties and all persons attending the mediation to sign a confidentiality agreement on a form provided by the court and available on the court website. The confidentiality

provisions of this section apply regardless of whether a confidentiality agreement is signed.

(d) **SCOPE** - Nothing in this rule is intended to limit any applicable privilege or rule of evidence designed to protect mediation confidentiality, and any such broader protection shall control if applicable.

**L.R. 16-15.9 Rule Non-Exclusive.** Nothing in this rule shall preclude or replace any settlement practice used by any district judge or magistrate judge of the Court. The provisions of this rule are not exclusive and nothing in this rule shall preclude any district judge or magistrate judge of the Court from dispensing with any provision of this rule as to any case or category of cases, as the judge, in his or her discretion, determines to be appropriate.

**L.R. 26.1 Conference of Parties; Report.** At the conference of parties held pursuant to F.R.Civ.P. 26(f), the parties shall discuss the following matters in addition to those noted in F.R.Civ.P. 26(f):

- (a) **Complex Cases.** The complexity of the case, and whether all or part of the procedures of the Manual For Complex Litigation (current edition) should be utilized. Counsel may propose to the Court modifications of the procedures in the Manual to facilitate the management of a particular action.
- (b) **Motion Schedule.** The dispositive or partially dispositive motions which are likely to be made, and a cutoff date by which all such motions shall be made.
- (c) **ADR.** Selection of one of the three ADR Procedures specified in L.R. 16-15.4 as best suited to the circumstances of the case, and when the ADR session should occur. For cases in the Court-Directed ADR Program, counsel are directed to furnish and discuss with their clients the Notice to Parties of Court-Directed ADR Program in preparation for this conference. A settlement conference with a magistrate judge is generally not available for such cases.
- (d) **Trial Estimate.** A preliminary estimate of the time required for trial.
- (e) **Additional Parties.** The likelihood of appearance of additional parties.

- (f) *Expert witnesses.* The proposed timing of disclosures under F.R.Civ.P. 26(a)(2).

In their written report required by F.R.Civ.P. 26(f), the parties shall include their views and proposals, including any areas of disagreement, on the matters listed in this local rule. The Court will consider this report in making a referral to ADR.

***L.R. 79-5 Confidential Court Records***

***L.R. 79-5.1 Filing Under Seal or In Camera - Procedures.*** Except when authorized by statute or federal rule, or the Judicial Conference of the United States, no case or document shall be filed under seal or in camera without prior approval by the Court. Where approval is required, a written application and a proposed order shall be presented to the judge along with the document submitted for filing under seal or in camera. The proposed order shall address both the sealing of the application and order itself, if appropriate. The original and judge's copy of the document shall be sealed in separate envelopes with a copy of the title page attached to the front of each envelope. Conformed copies need not be placed in sealed envelopes. Where under seal or in camera filings are authorized by statute or rule, the authority therefor shall appear on the title page of the proposed filing. Applications and Orders, along with the material to be sealed or submitted in camera, shall not be electronically filed but shall be filed manually in the manner prescribed by Local Rule 79-5. A Notice of Manual Filing shall first be electronically filed identifying the materials being manually filed.

**CHAPTER III  
LOCAL CRIMINAL RULES**

**F.R.CRIM. P.4.1 COMPLAINT, WARRANT, OR SUMMONS  
BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS  
[NEW]**

(No local rule has been adopted. Please see the corresponding F.R. Crim. P.)

## **F.R.CRIM.P. 49 SERVING AND FILING PAPERS**

### ***L.Cr.R. 49-1 Confidential Court Records. [NEW]***

***Filing Under Seal or In Camera - Procedures.*** Except when authorized by statute or federal rule, or the Judicial Conference of the United States, no case or document shall be filed under seal or in camera without prior approval by the Court. Where approval is required, a written application and a proposed order shall be presented to the judge along with the document submitted for filing under seal or in camera. The proposed order shall address both the sealing of the application and order itself, if appropriate. The original and judge's copy of the document shall be sealed in separate envelopes with a copy of the title page attached to the front of each envelope. Conformed copies need not be placed in sealed envelopes. Where under seal or in camera filings are authorized by statute or rule, the authority therefor shall appear on the title page of the proposed filing. Applications and Orders, along with the material to be sealed or submitted in camera, shall not be electronically filed but shall be filed manually in the manner prescribed by Local Rule 79-5. A Notice of Manual Filing shall first be electronically filed identifying the materials being manually filed.

## **CHAPTER IV LOCAL RULES GOVERNING BANKRUPTCY APPEALS, CASES AND PROCEEDINGS**

### **I. APPEALS**

#### **RULE 1 (8001-1). SCOPE OF RULES<sup>1</sup>**

In conformity with the Federal Rules of Bankruptcy Procedure, these rules govern procedure in appeals, withdrawals of reference and other matters referred from the United States Bankruptcy Court to the United States District Court, Central District of California. When these rules provide for the making of a motion or application in the bankruptcy court, the procedure for making such motion or application shall be in accordance with the practice of the bankruptcy court.

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<sup>1</sup>Citations to these rules should be in the following format: C. D. Cal. L. Bankr. R. \_\_."

## **RULE 2 (8001-2). NOTICE OF APPEAL; HOW AND WHERE TAKEN**

2.1 (8003-2.1) **CONTENT OF THE NOTICE OF APPEAL.** A notice of appeal must designate the judgment, order, or part thereof from which the appeal is taken and attach a copy of the judgment or order, if available.

2.2 (8018-2.2) **JOINT OR CONSOLIDATED APPEALS.** If two or more persons are entitled to appeal from a judgment or order of the bankruptcy court and their interests are such as to make joint appeal practicable, they may file a joint notice of appeal, or may join in an appeal after filing separate timely notices of appeal, and they may thereafter proceed on appeal as a single appellant. Appeals may be consolidated by order of the district court upon its own motion, upon motion of a party, or upon stipulation of the parties to the multiple appeals.

2.3 (8001-2.3) **CERTIFICATION OF INTERESTED PARTIES AND NOTICE OF RELATED CASES.** Certification as to interested parties and notice of related cases, as prescribed in Local Civil Rules 7.1-1 and 83-1.3, shall be filed by the appellant with the notice of appeal.

2.4 (8004-2.4) **SERVING THE NOTICE OF APPEAL.** Within three days after the filing of a notice of appeal, the clerk of the bankruptcy court shall serve upon all parties to the appeal a copy of the notice of appeal. The clerk of the bankruptcy court shall forthwith transmit a copy of the notice, a copy of the order or judgment from which the appeal is taken and a copy of the docket to the clerk of the district court.

2.5 (8001-2.5) **PAYMENT OF FEES.** Upon the filing of any separate or joint notice of appeal from the bankruptcy court, the appellant shall pay to the clerk of the bankruptcy court such fees as are established by statute in addition to the docket fee prescribed by the Judicial Conference of the United States.

## **RULE 3 (8006-3). THE RECORD ON APPEAL**

3.1 (8006-3.1) **CERTIFICATE OF READINESS.** Upon the filing of the transcripts in the bankruptcy court, or alternatively, when the bankruptcy court receives notice that no transcripts will be ordered, the clerk of the bankruptcy court shall transmit a Certificate of Readiness to the district court. The certificate shall attest that all documents which comprise the record are available to parties in the

bankruptcy court clerk's office. The district court shall forthwith notify the parties of the date of filing the Certificate of Readiness and this date shall constitute the date of entry on the docket for purposes of F.R.B.P. 8007 and 8009.

3.2 (8018-3.2) **RETENTION OF THE TRANSCRIPT AND CLERK'S RECORD.** The transcript and record on appeal shall be retained by the clerk of the bankruptcy court for use by the parties in preparing their briefs until requested by the district court.

3.3 (8009-3.3) **EXCERPTS OF RECORD.** Excerpts of record shall be filed in accordance with F.R.B.P. 8009 (b). A party shall file excerpts of record separately from the briefs. Each mandatory chambers copy shall have a cover styled as described in Rule 32 (a) of the Federal Rules of Appellate Procedure.

Pursuant to F.R.B.P. Rule 8009 (b)(9), the excerpts of record shall include the transcripts necessary for adequate review in light of the standard of review to be applied to the issues before the district court. The court, in its discretion, may consider only those portions of the transcript included in the excerpts of record.

3.4 (8007-3.4) **TRANSMITTAL OF THE RECORD UPON REQUEST.** The bankruptcy court shall transmit the record to the district court within ten (10) days of receiving a written request from the clerk of the district court.

#### **RULE 4 (8009-4). BRIEFS**

4.1 (8009-4.1) **TIME FOR FILING, FORM AND NUMBER OF BRIEFS.** Unless otherwise provided in these rules or ordered by the Court, briefs shall be prepared and filed in accordance with F.R.B.P. 8009 and 8010 and Rule 32 (a) of the Federal Rules of Appellate Procedure. The appellee's brief shall attach a certification as to interested parties and notice of related cases as prescribed by Local Civil Rules 7.1-1 and 83-1.3.

4.2 (8010-4.2) **LENGTH OF BRIEFS.** Except with permission of the district court, the appellant's and appellee's opening briefs shall not exceed 30 pages, and reply briefs shall not exceed 15 pages, exclusive of pages containing the table of contents, tables of citations, proof of service, the certifications required by this rule, and any addendum containing statutes, rules, regulations or similar material.

4.3 (8018-4.3) BRIEFS IN CASES INVOLVING MULTIPLE APPELLANTS OR APPELLEES. In cases involving more than one appellant or appellee, including cases consolidated for purposes of the appeal, all parties are encouraged to join in a single brief to the greatest extent practicable.

4.4 (8018-4.4) CONSEQUENCE OF FAILURE TO FILE BRIEFS. If an appellant fails to file a brief within the time provided by these rules, the district court may dismiss the appeal on its own motion or upon motion of the appellee. If an appellee fails to file a brief within the time provided by these rules, the district court may deem it a consent to the granting of the relief sought on appeal.

4.5 (8009-4.5) EXTENSIONS OF TIME FOR FILING BRIEFS. A motion for an extension of time for filing a brief shall be filed in the district court within the time limits prescribed by F.R.B.P. 8009 and shall be accompanied by a proof of service of the motion reflecting service on the other interested parties. The motion and accompanying declaration shall state the date the brief is due, how many previous extensions have been granted, when the brief was first due, and whether any previous requests for extension of time have been denied. The motion and declaration must also state the reason(s) why such an extension is necessary, the amount of additional time requested, and the position of the opponent(s) as to the proposed extension or why the moving party has been unable to obtain a statement of the opponent's position.

## **RULE 5 (8011-5). MOTIONS**

5.1 (8011-5.1) EMERGENCY MOTIONS. If a movant certifies that to avoid immediate irreparable harm relief is needed on an emergency basis, the motion shall be governed by F.R.B.P. 8005, if applicable, and F.R.B.P. 8011 (d).

5.2 (8018-5.2) An appendix to the emergency motion shall be served and filed with the motion and shall include the following:

5.2.1 (8018-5.2.1) A conformed copy of the notice of appeal;

5.2.2 (8018-5.2.2) A conformed copy of the judgment, order, or decree from which the appeal is taken;

5.2.2 (8018-5.2.3) If the motion is for a stay pending appeal, a

copy of the bankruptcy court's order denying the movant a stay pending appeal or an affidavit by the movant stating that a stay had been denied.

5.3 (8018-5.3) WITHDRAWAL OF THE ELECTION TO THE DISTRICT COURT. Motions to withdraw the election for the bankruptcy appeal to be heard by the district court and to refer the matter to the Bankruptcy Appellate Panel shall be filed in the district court in accordance with Local Civil Rule 7.

#### **RULE 6 (8014-6). COSTS ON APPEAL**

Costs for the bankruptcy appeal shall be taxed by the clerk of the district court in accordance with F.R.B.P. 8014 and Local Civil Rule 54.

#### **RULE 7 (8001-7). VOLUNTARY DISMISSALS OF APPEALS**

7.1 (8001-7.1) BEFORE THE CERTIFICATE OF READINESS IS FILED IN THE DISTRICT COURT. When an appeal is dismissed by the bankruptcy court in accordance with F.R.B.P. 8001(c)(1), the appellant shall promptly file a notice of the dismissal in the district court.

7.2 (8001-7.2) AFTER THE CERTIFICATE OF READINESS IS FILED IN THE DISTRICT COURT. When an appeal is dismissed by the district court in accordance with F.R.B.P. 8001(c)(2), the appellant shall promptly file a notice of the dismissal in the bankruptcy court.

#### **RULE 8 (8018-8). PRO HAC VICE APPEARANCES**

Attorneys who have been granted permission to appear pro hac vice by the bankruptcy court in accordance with Bankruptcy Court Local Rule 2090-1(b) may proceed pro hac vice in all bankruptcy cases and proceedings subsequently filed in or referred to the district court.

### **II. MOTIONS TO WITHDRAW THE REFERENCE**

#### **RULE 9 (5011-9). MOTIONS TO WITHDRAW THE REFERENCE**

A motion to withdraw the reference of a case or proceeding pending in the bankruptcy court shall be filed, with proof of service of the motion reflecting service on the other interested parties, with the clerk of the district court. Such a motion shall be made in accordance with F.R.B.P. 5011. Certification as to

interested parties and notice of related cases, as prescribed in Local Civil Rules 7.1-1 and 83-1.3, shall be filed by the moving party with the motion to withdraw. A conformed copy of the motion to withdraw shall be delivered by the moving party to the bankruptcy judge presiding over the case or proceeding.

Opposition and reply papers to the motion to withdraw shall be filed in the district court in accordance with Local Civil Rule 7. Opposition papers shall include a certification as to interested parties and notice of related cases as prescribed in Local Civil Rules 7.1-1 and 83-1.3.

The amended Local Rules are effective December 1, 2011, and shall govern in all proceedings in cases thereafter commenced and, insofar as just and practicable, all proceedings then pending.

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**DISTRICT COURT EXECUTIVE**