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Enacted Legislation Amended by 2016 CALIFORNIA COURT ORDER 0901 (C.O. 0901),

California Federal Rules of Court

United States District Court for the Southern District of California

Civil Local Rules

## CivLR 7.1

Civil Rule 7.1 Motion Practice, Extensions, Enlargements or Shortening of Time, Submission of Orders

### Currentness

**a. Scope of Rule.** Unless otherwise ordered by a judge of this district, or unless contrary to statute or in conflict with a provision of the Fed.R.Civ.P., the provisions of this rule will apply to motions, applications and orders to show cause, or other request for ruling by the court. Such matters include motions to withdraw the reference from the bankruptcy court, appeals of orders by the bankruptcy court, and objections to magistrate judge's orders pursuant to Rule 72.a, Fed. R. Civ. P.

**b. Motion Hearing Dates.** All hearing dates for any matters on which a ruling is required must be obtained from the clerk of the judge to whom the case is assigned.

**c. Computation of Time.** All legal holidays and computation of time must be as provided in [Rule 6, Fed.R.Civ.P.](#)

### **d. Argument and Submission.**

1. *Written and Oral Argument.* Motions must be determined upon the moving papers referred to herein and oral argument. A judge may, in the judge's discretion, decide a motion without oral argument.

2. *Argument by Telephonic Conference.* At the discretion of the court, argument concerning a noticed motion may be conducted through the use of a telephone conference call, said call to be arranged, initiated and paid for by the party proposing this method of oral argument. If such telephonic argument is approved by the court, the matter may be taken off the regular motion hearing calendar, and reset for a date and/or time more convenient to the court and the parties.

### **e. Time for Hearing and Schedule for Filing Papers.**

1. *The Twenty-Eight (28) Day Rule--Setting Time for Hearing.* When there has been an adverse appearance, a written notice of a matter requiring the court's ruling is necessary, unless otherwise provided by rule or court order. Pursuant to the provisions of Civil Local Rule 7.1.b all hearing dates for any motion must be obtained from the law clerk of the judge to whom the case is assigned. Unless the court shortens time and except as otherwise specified in Civil Local Rule 7.1.e.6, any notice of motion, application or notice of other matter requiring the court's ruling, plus all necessary supporting documents, will require a minimum filing date of twenty-eight (28) days prior to the date for which the matter is noticed. (For example, the notice of motion and supporting documents for a motion to be heard on a Monday must be filed and served no later than the fourth (4th)

Monday prior to the Monday hearing. If the fourth Monday prior to the Monday hearing is a holiday, however, then the notice of motion and supporting documents would be due five (5) Fridays before the hearing.)

2. *Time for Filing Opposition.* Except as otherwise specified in Civil Local Rule 7.1.e.1, each party opposing a motion, application or order to show cause must file that opposition or statement of non-opposition with the clerk and serve the movant or the movant's attorney not later than fourteen (14) calendar days prior to the noticed hearing. (For example, for a motion to be heard on a Monday, the opposition papers must be filed and served no later than two Mondays prior to the noticed hearing.)

3. *Reply Memorandum of Points and Authorities.* Except as otherwise specified in Civil Local Rule 7.1.e.1, any reply memorandum must be filed and served not later than seven (7) days prior to the date for which the matter is noticed. (For example, for a hearing, the reply papers must be filed and served no later than by the Monday prior to the hearing. If the Monday prior to the hearing is a holiday, however, then the reply papers would be due two (2) Fridays prior to the hearing.) See [Fed. R. Civ. P. 6\(e\)](#).

4. *Service of Motions and Opposition by Mail.* For those parties not required or authorized by the court to file and serve motions and oppositions electronically using the Case Management/Electronic Case Filing System, unless otherwise provided by order of the court, the sixty (60), twenty-eight (28) and fourteen (14) day periods of notice set forth in Civil Local Rules 7.1.e.1, 7.1.e.2 and 7.1.e.6 are increased for purposes of mail service upon opposing parties of counsel by three (3) days. The extension of time for service does not extend court filing deadlines. [Federal Rule of Civil Procedure 6\(d\)](#), extending the time within which an act may or must, be done, does not apply to the notice periods governed by this section. Any motion, notice of motion, or opposition, and supporting documentation will not be accepted for filing unless accompanied by proof of service demonstrating either hand-delivery or compliance with this section's mailing provisions.

5. *Applications for Orders Shortening Time.* All applications for orders shortening time under these rules must be submitted ex parte, be accompanied by a proposed order, and be served on all opposing parties.

6. *Social Security Cases.* In all actions brought under either or both § 205(g) of the Social Security Act, [42 U.S.C. § 405\(g\)](#) or § 1631(c)(3) of the Social Security Act, [42 U.S.C. § 1383\(c\)\(3\)](#), any notice of motion for summary judgment or for other disposition on the merits without a trial plus all necessary supporting documents must be filed with the clerk and served on the other party or the party's attorney not later than sixty (60) days prior to the date for which the matter is noticed. If the opposing party wishes to file a cross-motion for summary judgment or for other disposition on the merits without trial, that party must comply with the filing requirements of Civil Local Rule 7.1.e.1 (i.e., such cross-motion must be filed twenty-eight (28) days prior to the date for which the matter is noticed. (Any opposition to the cross-motion must be filed and served no later than 14 days prior to the day for which the matter is noticed.) Any reply to that opposition must be filed and served no later than seven (7) days prior to the date for which the matter is noticed.

7. *Untimely Motions.* The clerk's office is directed not to file untimely motions and responses thereto without the consent of the judicial officer assigned to the case.

8. *Special Briefing Schedules.* All documents to be filed in response to a special briefing schedule must contain the language "special briefing schedule ordered" directly below the designation of the document's nature.

**f. Contents of Papers Filed.**

1. *Motions, Notices, Statement of Facts.* Each motion or other request for ruling by the court must be accompanied by a separate motion and notice of motion and another separate document captioned “Memorandum of Points and Authorities in Support of [the motion].” Where appropriate, a separate statement of material facts must be supplied.

2. *Movant.*

a. In addition to the affidavits required or permitted by Fed.R.Civ.P. 6(d) and 56, copies of all documentary evidence which the movant intends to submit in support of the motion, or other request for ruling by the court, must be served and filed with the notice of motion.

b. Waiver--A movant's failure to file any papers required under the local rules may be deemed as a waiver of the motion, or other request for ruling by the court.

3. *Opposing Party.*

a. Unless otherwise provided by rule or court order, a party opposing a motion, or other request for ruling by the court must file a written opposition. If such party chooses not to oppose the motion, the party must file a written statement that the party does not oppose the motion or other request for ruling by the court.

b. Opposing Party's Papers and Contents; Documentary Evidence and Points and Authorities. The opposition must contain a brief and complete statement of all reasons in opposition to the position taken by the movant, an answering memorandum of points and authorities, and copies of all documentary evidence upon which the party in opposition relies.

c. Waiver. If an opposing party fails to file the papers in the manner required by Civil Local Rule 7.1.e.2, that failure may constitute a consent to the granting of a motion or other request for ruling by the court.

**g. Withdrawal, Continuance, Failure to Appear.**

1. *Withdrawal.* Any movant who does not intend to proceed with a motion or other request for ruling by the court must notify opposing counsel and the judge before whom the matter is pending as soon as possible.

2. *Continuances.* Any request for continuance of a noticed matter must be made as soon as possible to the judge to whom the matter is assigned. Prior to seeking such continuance, the party seeking the continuance must contact all opposing parties or their counsel to determine whether they would agree to such continuance.

3. *Failure to Appear.* If no one appears to oppose a motion or other request for ruling, the movant must relate the matter's material elements and the court may render its decision.

**h. Length of Brief in Support of or in Opposition to Motions.** Briefs or memoranda in support of or in opposition to all motions noticed for the same motion day must not exceed a total of twenty-five (25) pages in length, per party, for all such motions without leave of the judge who will hear the motion. No reply memorandum will exceed ten (10) pages without leave of the judge. Briefs and memoranda exceeding ten (10) pages in length must have a table of contents and a table of authorities cited.

**i. Applications for Reconsideration.**

1. Whenever any motion or any application or petition for any order or other relief has been made to any judge and has been refused in whole or in part, or has been granted conditionally or on terms, and a subsequent motion or application or petition is made for the same relief in whole or in part upon the same or any alleged different state of facts, it will be the continuing duty of each party and attorney seeking such relief to present to the judge to whom any subsequent application is made an affidavit of a party or witness or certified statement of an attorney setting forth the material facts and circumstances surrounding each prior application, including inter alia: (1) when and to what judge the application was made, (2) what ruling or decision or order was made thereon, and (3) what new or different facts and circumstances are claimed to exist which did not exist, or were not shown, upon such prior application.

2. Except as may be allowed under [Rules 59 and 60 of the Federal Rules of Civil Procedure](#), any motion or application for reconsideration must be filed within twenty-eight (28) days after the entry of the ruling, order or judgment sought to be reconsidered.

**j. Joinders in Motions.**

1. The clerk must refuse to accept for filing any joinder in motions if there are no pending motions on file.
2. Each joinder must specifically identify the party(s) and the particular motion(s) to which the joinder applies.

**Credits**

[Effective August 18, 1997. Amended effective August 10, 1999; November 19, 2001; October 25, 2004; October 25, 2004; July 16, 2007; December 1, 2009; February 2, 2015.]

U. S. Dist. Ct. Rules S.D.Cal., CivLR 7.1, CA R USDCTSD CivLR 7.1

Local federal district and bankruptcy court rules and ECF documents are current with amendments received through December 1, 2015. All other local federal district and bankruptcy court materials are current with amendments received through December 1, 2015.