UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STANDING ORDER FOR CIVIL CASES BEFORE JUDGE RITA F. LIN

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The parties shall follow the Federal Rules of Civil Procedure, the Civil Local Rules, and the General Orders of the Northern District of California, except as superseded by this Court's standing orders.

Paper courtesy copies shall not be submitted unless the Court requests them.

EMERGENCY APPLICATIONS

Counsel should call and email Judge Lin's Courtroom Deputy to alert the Court of the filing of any application for a temporary restraining order, a stipulation that requires a response from the Court within 24 hours, or any other emergency request. If the party seeking emergency relief does not show that it made every reasonable effort to notify the opposing party, at the earliest possible time, of its intent to seek emergency relief, the relief will not be granted.

SCHEDULING AND HEARINGS

For any request, including stipulations, to continue a hearing, case management conference, or a deadline (other than an extension that the rules allow the parties to arrange between themselves without a court order), the parties must state how many extensions have been requested, whether the Court has granted those extensions, and whether the Court has stated that no further extensions will be granted. The parties must also list all existing deadlines and their proposed extensions. Absent extraordinary circumstances, stipulations seeking to move a deadline must be filed two court days prior to the deadline.

Counsel should not call to reserve hearing dates but should instead check Judge Lin's calendar and Scheduling Notes on the Court's website to make sure the desired date is not blocked and notice motions for any available date on the civil law and motions calendar. The parties may not specially set any matter at a time other than the regularly scheduled civil law and motions calendar without leave of the Court. Counsel for the moving party shall confer with opposing counsel about a mutually convenient hearing date before noticing any motion.

The Court may notify the parties in advance of the hearing that it will be heard via Zoom rather than in person, but the default rule is that motions are heard in person. Parties may stipulate/request to have a hearing by Zoom video, but they must do so at least one week in advance of the hearing. The Court may deny the request if it believes an in-person hearing would be more beneficial. The Court is disinclined to hold hearings via Zoom for complex or dispositive motions, or if counsel for all parties are based locally.

The Court does not issue tentative rulings. If the Court determines a hearing is not necessary, it will usually be vacated no later than two days before the hearing. Often, a notice of questions will issue at least two court days before the hearing, to alert the parties of the Court's principal questions.

Lengthy PowerPoint presentations will generally not be permitted during argument on motions, as they circumvent the page limits imposed on briefing. However, counsel may use

demonstratives in responding to the Court's questions, as long as they are provided to opposing counsel at least two hours before the hearing. Any such demonstratives will not be part of the record, so counsel should state verbally for court reporter the relevant portion of the record being highlighted on the demonstrative (*e.g.*, "page 5342 of the administrative record" or "page 12, line 5 of the Jones deposition").

The Court strongly encourages parties to permit less experienced attorneys to actively participate in the proceedings by presenting argument at motion hearings or examining witnesses at trial. Co-counsel with more experience may still offer argument for a few minutes at the end of the hearing.

AMENDED PLEADINGS

If a party files an amended pleading, they shall concurrently file a redlined or highlighted version comparing the amended pleading to the prior operative pleading.

CASE MANAGEMENT CONFERENCES

The attorney appearing at a case management conference need not be lead counsel but must have full authority to make decisions about any issue that may come up during the conference.

If a defendant files a motion to dismiss that is dispositive of the *entire* case, the parties may stipulate to vacate the initial case management conference, which will be reset by the Court after the motion to dismiss hearing. If the Court sets an initial case management conference while a motion to dismiss remains pending, the case management statement shall propose a full litigation schedule, including a proposed last day to amend pleadings.

Parties are typically expected to propose a schedule at the initial case management conference along the following lines:

- The trial date will almost always be 12-16 months after the date the original complaint was filed. The parties are advised that if a criminal trial is set on a date that conflicts with a civil trial, the criminal trial will take priority even if the civil trial was set first. The civil trial may trail or be reset depending on the status of the conflicting criminal trial.
- The pretrial conference will be 4 weeks before the trial. The last day for a hearing on dispositive motions will be roughly three months before the pretrial conference.
- The discovery cutoff will be roughly 8 weeks before the dispositive motions hearing. (The parties should consider whether to schedule expert discovery before or after the deadline for hearing motions for summary judgment.)
- The schedule shall include a last date to notice depositions, which shall be at least 30 days before the close of fact discovery.
- The last day to amend pleadings will typically be 60 days after the initial case management conference.

- A further case management conference will take place roughly 4 weeks before the close of fact discovery.
- The parties should be prepared to present their preferred ADR process at the initial case management conference, and to propose a deadline for the parties to file a joint letter updating the court regarding the scheduling of the ADR proceeding (*e.g.,* the date of the mediation and the name of the mediator).

Parties who would like an expedited initial case management conference can request one by emailing Judge Lin's Courtroom Deputy.

DISCOVERY

The discovery cut-off is the date by which all discovery must be completed, including hearings on discovery motions and any resulting additional discovery ordered at those hearings. Accordingly, all discovery requests shall be served sufficiently in advance of the discovery cut-off date to allow the discovering party enough time prior to the cut-off date to challenge allegedly deficient responses via motion to compel and to receive the necessary responses if the motion is granted.

If the parties cannot resolve their discovery dispute after a good faith effort in which a live conversation has occurred between counsel, they shall prepare and file a joint letter of no longer than 5 pages stating the nature and status of their dispute. Both sides must submit proposed orders as well. No exhibits may be submitted with the letter other than an excerpt of the specific discovery request or response that is the subject of the letter. The letter must be filed as soon as possible, but under no circumstances may it be filed more than 7 days after the applicable discovery cutoff. *See* Civil Local Rule 37-3. The side seeking relief from the Court should prepare its portion of the letter first, and then provide that to the opposing side so that the opposing side may prepare its response. The party seeking relief from the Court should file the letter. The Court may resolve the dispute on the papers or schedule a hearing. The joint discovery letter process does not apply to discovery disputes with third parties. The Court may refer discovery disputes to a magistrate.

Parties requesting a protective order are encouraged to base any proposed order on the model protective orders on the Northern District's website (http://www.cand.uscourts.gov/model-protective-orders). When filing a proposed protective order, at the very beginning of their stipulation or motion, parties must indicate whether they have based their proposed order on one of the Northern District's model protective orders. If they have, they must identify any deviations from the model order by submitting as an exhibit a redline comparison of their proposed order and the model order.

FILING AND COURTESY COPIES

Paper courtesy copies shall not be submitted unless the Court requests them.

All filing deadlines are at 5:00 p.m. (Pacific Time) unless otherwise ordered.

All exhibits to motions should be separately filed on ECF. For example, if the motion is Docket No. 30, and the declaration with 10 exhibits is Docket No. 31, Exhibit A would be filed as Docket No. 31-1, Exhibit B would be Docket No. 31-2, and so on. Electronically filed documents must be text-searchable PDFs whenever possible.

When a document filed on ECF is accompanied by more than 10 attachments, the filing party must deliver a flash drive with all the attachments to Judge Lin's chambers within 3 court days of filing. The flash drive should be labeled with the name and number of the case. The flash drive should contain the ECF version of each attachment, with its ECF header. The name of each PDF file on the flash drive should include the type of document, a brief description of the document, and the docket number. For example, a news release (docket number 61-2) filed as the first exhibit to a declaration (docket number 61-1), would be, "[61-2] Decl Doe Ex 1 - News Release."

PROPOSED ORDERS

Proposed orders are not necessary for most substantive motions, such as motions for summary judgment, motions to dismiss, or preliminary injunction motions. The parties should submit proposed orders only in connection with administrative motions, ex parte applications, discovery disputes, and rulings that call upon the court to make factual findings (such as a motion to approve a class settlement or a motion for attorneys' fees). All proposed orders should be sent in Microsoft Word compatible format to rflpo@cand.uscourts.gov.

MOTIONS TO SEAL

The Court requires strict compliance with Civil Local Rule 79-5 (with the exception of 79-5(d)(2), as explained below). The Court strongly disfavors motions to seal. Public access to court records is a fundamental aspect of our democracy and justice system. The filing party must make a specific showing as to each statement or document to be sealed. Blanket requests that make generic reference to "competitive harm" are almost always insufficient. If a party files a request that is significantly overbroad or fails to provide a specific reason for sealing, the Court will consider denying the request in its entirety and placing all documents sought to be sealed on the public docket.

Each document filed under seal must be highlighted to show the proposed redactions. In the rare situation where a party believes it is appropriate to seal an entire document, the document filed under seal should be labeled to indicate that sealing is sought in full.

In addition to complying with Civil Local Rule 79-5(c)(3), the proposed order must identify the applicable legal standard and contain a brief explanation of how that standard and the requirements under Civil Local Rule 79-5(c)(1) are met.

If counsel has a complicated sealing motion, counsel shall file the Motion to Seal Summary Table linked on the Standing Orders page of Judge Lin's website. Also, if more than 10

documents are sought to be sealed, the filing party must deliver an electronic courtesy copy via a flash drive as detailed above.

Paper courtesy copies under Civil Local Rule 79-5(d)(2) shall not be submitted, provided that the document at issue is appropriately filed electronically under seal in an unredacted form.

BRIEFS

For summary judgment motions, class certification motions, motions for approval of class settlements, and claim construction, the briefs in support of and in opposition to the motions cannot exceed 25 pages, and reply briefs cannot exceed 15 pages. For all other motions, the briefs in support of and opposition to the motions may not exceed 15 pages, and reply briefs may not exceed 10 pages. These page limits include summaries of argument and exclude the title page, table of contents, table of authorities, and exhibits. All briefs must use Times New Roman font (size 12) and must be double spaced.

Motions to increase page limits will rarely be granted, but any such motion must be filed no later than two court days before the brief is due.

The final brief for any motion should be filed at least 14 days prior to the hearing on the motion.

When citing exhibits (including deposition testimony), briefs should identify the declaration to which the exhibit is attached, the letter or number of the exhibit, and the relevant page and, if available, line number (for example: "Smith Decl., Ex. 1, at 22:1-5").

USE OF CHATGPT OR OTHER GENERATIVE AI TOOLS

Counsel is responsible for providing the Court with complete and accurate representations of the record, procedural history, and cited legal authorities. Use of ChatGPT or other such generative artificial intelligence tools is not prohibited, but counsel must personally confirm for themselves the accuracy of any research conducted by these means, and counsel alone bears ethical responsibility for all statements made in filings.

SUMMARY JUDGMENT

In the event of cross-motions for summary judgment, the parties must file a total of four briefs sequentially, rather than three pairs of simultaneous briefs. Unless the parties agree to reverse the order (which they are free to do on their own), the opening brief is filed by the plaintiff side, the opening/opposition brief is filed by the defense side, the opposition/reply is filed by the plaintiff side, and the reply is filed by the defense side. The first two briefs are limited to 25 pages, the third brief is limited to 20 pages, and the fourth brief is limited to 15 pages. The parties may submit a stipulation and proposed order setting a briefing schedule for the cross-motions in advance of the first brief, which will likely be signed so long as the fourth brief is due no later than 14 days before the hearing date.

The parties shall not file joint or separate statements of undisputed facts in connection with summary judgment motions.

At the summary judgment hearing and/or in the briefs, the parties should not hesitate to alert the Court of the need for a prompt ruling in light of their trial preparation schedule.

EXPERTS AND THEIR REPORTS

All witnesses who will provide expert testimony under Federal Rule of Evidence 702, 703, or 705, whether retained or non-retained, must be disclosed and must provide written reports in compliance with Federal Rule of Civil Procedure 26(a)(2)(B). All expert reports shall number each paragraph to facilitate any motion practice challenging the specifics of any opinions and shall include a table of contents. At the beginning of the report, the expert shall list and number each opinion to be proffered in the report and, if applicable, provide an executive opinion of each.

Any percipient witness who may also testify at trial with technical expertise akin to an independent expert shall be identified by name no later than the date of expert disclosures to allow for deposition, if necessary.

At the time of disclosure of a written report, the disclosing party must identify all written materials upon which the expert relies in that report and produce those materials if they have not done so previously.

CLASS ACTIONS

At the initial case management conference, the parties should be prepared to discuss whether they prefer to litigate cross-motions for summary judgment on liability with respect to the named plaintiffs before litigating the issue of class certification. The Court is of the view that this approach will often save a great deal of time and money and is therefore often in the defendant's interest, but it requires the defendant's consent, since a grant of summary judgment in the named plaintiff's favor could end up giving unnamed class members a chance to opt in to a lawsuit where a legal issue has already been decided against the defendant.

In connection with motions for approval of class settlements, the parties shall comply with the requirements set forth in the Northern District's Procedural Guidance for Class Action Settlements. *See* https://www.cand.uscourts.gov/forms/procedural-guidance-for-class-action-settlements/. In addition, the following shall apply:

Preliminary Approval

The Court conducts a searching inquiry at the preliminary approval stage to avoid the costs and pitfalls of proceeding to final approval of a settlement that is unlikely to satisfy Rule 23(e).

Release language should make clear that the class members are releasing claims based only on the identical factual predicate. Each proposed notice should make that clear as well. *Hesse v. Sprint Corp.*, 598 F.3d 581, 590 (9th Cir. 2010).

The Court disfavors injunctions of current or future litigation in other courts based on conduct covered by the release, because the issue is generally better addressed by the assigned judges for such cases. If the parties seek an injunction, the motion for preliminary approval must explain why.

If a proposed notice to class members (or prospective class members) requires a written objection as a prerequisite to appearing in court to object to the settlement, the notice must specify that this requirement may be excused upon a showing of good cause. The Court will require only substantial compliance with the requirements for submitting an objection, and this should be made clear in any notice to class members.

Notice and Claims Procedure

The proposed notices, claims forms, and other documents associated with preliminary approval should be sent in Microsoft Word compatible format to rflpo@cand.uscourts.gov.

For large settlements, the parties are encouraged to include an opt-out form and an objection form.

Proposed notices must be written in plain language without unnecessary acronyms. The parties should consider using the Federal Judicial Center's model notices, which are available at https://www.fjc.gov/content/301253/illustrative-forms-class-action-notices-introduction.

The motion must discuss whether notice by email and/or social media, use of online claims and opt-out forms, and a website for the settlement are appropriate, and if not, explain why not.

In a proposed settlement involving the distribution of money to a class, the motion must discuss whether unclaimed funds should be redistributed to class members who claimed their share, and if not, explain why not.

If the settlement requires class members to file claims, as opposed to simply receiving checks, the motion must address why that is appropriate.

Final Approval

In proposing a schedule for final approval of a class settlement, the parties must ensure that the motion for attorneys' fees is filed at least 35 days before the deadline for objecting to the settlement. The Court will make parties re-send notices if the motion for attorneys' fees is filed late, which can be quite expensive. The proposed order granting

final approval should list all dates relating to the administration of the settlement, including the dates for when the checks distributing the settlement fund payments will be mailed to class members.

The parties should file a proposed judgment separately from their proposed order granting final approval.

Within 21 days after the settlement funds have been fully distributed to class members (but before distribution to cy pres recipients), class counsel will be required to file a Post-Distribution Accounting, as described in the Northern District's Procedural Guidance for Class Action Settlements. In addition to the information contained in the Guidance, the post-distribution accounting must discuss any significant or recurring concerns communicated by class members to the settlement administrator or counsel since final approval, any other issues in settlement administration since final approval, and how any concerns or issues were resolved. The Court will typically withhold between 10% and 20% of the attorneys' fees granted at final approval until after the Post-Distribution Accounting has been filed. The proposed order granting final approval should specify what percentage class counsel believes it is appropriate to withhold. With the Post-Distribution Accounting, class counsel should submit a proposed order releasing the remainder of the fees.

ERISA CASES

In the event of cross-motions for judgment under Rule 52 of the Federal Rules of Civil Procedure, the parties shall file a total of four briefs sequentially, rather than three pairs of simultaneous briefs, as set forth in the "Summary Judgment" section above. No later than seven days before the Rule 52 hearing, the parties must also file **joint** proposed undisputed findings of fact and conclusions of law, and separately file disputed findings of fact and conclusions of law. All factual findings must be supported by citations to all pertinent portions of the record. Proposed findings of fact and conclusions of law shall be brief, written in plain English, and free of pejorative language. In addition to being filed, the proposed findings and conclusions must be emailed to the Court (rflpo@cand.uscourts.gov) in Word compatible format.

PATENT CASES

Only one summary judgment motion may be filed per party in each patent case, absent leave of court. Parties that are related entities are considered one party for purposes of this rule.

Technology tutorials will occur via Zoom on the Tuesday civil calendar at 1:30 p.m., and should generally be set for at least one week before the claim construction hearing. Visual aids are fine, and should be exchanged at least two hours beforehand. The default time limit will be 90 minutes of shared time, or 45 minutes per side. Judge Lin prefers an interactive tutorial that will allow her to ask questions.

Claim construction hearings will have a default time limit of 3 hours (90 minutes per side), and will go back and forth term-by-term. Visual aids or demonstrative exhibits are fine, as long as they are based on information contained in the papers already filed and are exchanged at least two hours beforehand. The Court will endeavor to provide the parties with a summary chart of its tentative claim construction order at least two court days prior to the hearing.

The Court will generally construe no more than ten terms. If more than ten terms are at issue, the parties must meet and confer before the preparation of the joint claim construction statement to narrow the number of terms to be construed by the Court and shall jointly propose the ten terms requiring construction. If a party genuinely believes that more than ten terms need to be construed, that party may request leave to designate additional terms for construction, pursuant to Civil Local Rule 7-11. The requesting party must demonstrate good cause and explain why other methods of limiting the terms at issue (such as the selection of representative terms or any grouping of terms by issues presented) would be ineffective. The request must be filed no later than two weeks before the deadline for filing the joint claim construction statement. If good cause is shown, the Court will either agree to construe all terms at the originally scheduled hearing or schedule a second claim construction proceeding on the excess terms. If more than ten terms are submitted for construction without leave of court, the Court will construe only the first ten terms listed in the joint claim construction statement.

Prehearing claim construction conferences are generally not held, but parties may address prehearing issues at the tutorial or request a case management conference to be held at least two weeks prior to the hearing. If the parties anticipate witness testimony will be necessary, counsel shall alert the Court via a joint status report and request such a case management conference.

When a patent case also includes patent counterclaims, the Court will generally conduct one claim construction hearing covering all patents. In that situation, the claim construction briefing schedule will follow a four-brief sequence, following the page limits outlined above concerning cross-motions for summary judgment, with the plaintiff filing the first brief.

SECURITIES CASES

Within 14 days of service of the complaint (or consolidated complaint), the plaintiff shall file a chart summarizing the information required by 15 U.S.C. § 78u-4(b)(1) and (2), specifically identifying the allegations in the operative complaint as follows: (a) each statement alleged to have been false or misleading; (b) the speaker, date, and medium by which the statement was made; (c) the reason(s) the statement was false or misleading when made; and (d) the facts alleged to show that defendant(s) knew the statement false and/or misleading. The chart should clearly identify which statements or omissions are attributable to which defendants and, for each such defendant, the facts alleged which give rise to a strong inference that the defendant acted with the required state of mind at the relevant time. **The chart must strictly adhere to the allegations in operative complaint and may not include any new or supplemental information or explanation.** The chart should be organized in the following format:

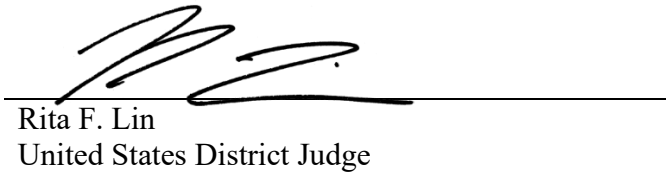
Statement No.	The Speaker(s), Date(s), and Medium	False and Misleading Statements	Reasons Statements Were False and Misleading When Made	Facts Giving Rise to a Strong Inference of Scienter
1	When: [date] Where: [e.g., press release] Speakers: [e.g., CEO] (Compl. ¶ __)	[Direct quotation of the alleged false and misleading statements.]	[Summarize arguments on scienter with specific references to paragraphs in the complaint.]	[Summarize arguments on scienter with specific references to paragraphs in the complaint.]

PARTIES UNREPRESENTED BY AN ATTORNEY

Parties representing themselves, without the assistance of a lawyer, should visit the webpage entitled "Representing Yourself" available on the Court's website at https://www.cand.uscourts.gov/pro-se-litigants/. The page discusses the Court's Legal Help Center which provides free assistance for unrepresented parties over the phone. Parties can make an appointment by calling (415) 782-8982.

IT IS SO ORDERED.

Dated: **September 18, 2024**



Rita F. Lin
United States District Judge