Superior Court of California

County of San Francisco

Department 613 — Judge Jeffrey S. Ross

Complex Litigation Procedures

Department 613 Staff:

- **Attorneys**: Megan Beshai (Staff Attorney); Ananya Raghavan (Legal Research Attorney)
- **Dept. 613 E-mail**: Department613ComplexLit@sftc.org
- **Clerk Phone**: 415-551-3840
- **Please review the procedures below before contacting the clerk.**

Communications with the Court and Reserving Hearing Dates:

- **All motion hearing dates must be reserved by email with the clerk of Department 613 prior to filing**. Parties may not file a motion without the court's approval of the hearing date and time.
- Absent extraordinary circumstances, the department schedules matters as follows:
- *Tuesdays* and *Thursdays*: Case Management and Informal Discovery Conferences
- *Wednesdays*: Complex and Dispositive Motions (e.g., summary judgment, class certification, certain pleading challenges)
- *Alternate Fridays*: settlement calendar for preliminary approval, final approval, PAGA approval, requests for dismissal (CRC 3.770), compliance hearings, and similar matters.
- Please use the Department 613 email to communicate with the clerk: Department613ComplexLit@sftc.org. The emails must include all counsel. Ex parte communications with the court will not be considered. If you do not receive a timely response, follow up using email, not by telephone.
- The Department613ComplexLit@sftc.org email address is used for administrative purposes only. Counsel should not include legal argument or threads that include communication among counsel in emails to Department613ComplexLit@sftc.org.

Courtesy Copies:

- Unless otherwise specified, counsel must deliver **one** paper courtesy copies of all e-filed documents (e.g., joint case management statements, motions, oppositions, replies, etc.) to Department 613.
- All courtesy copies which attach exhibits **must include tabs for each exhibit**.
- Local Rule 2.7 B (4): requires counsel filing a demurrer or motion to strike to deliver a courtesy copy of the challenged pleading.
- Do **not** provide courtesy copies of the public, **redacted** versions of documents that are conditionally lodged under seal; deliver the unredacted document and highlight the words redacted in the public version.
- Do not deliver courtesy copies of the following filings:
    - Notices of Remote Appearance

    - Matters set before a discovery referee, EXCEPT for proposed orders requiring the judge's signature, which should also be sent as a Word document attached to an email
    - Requests for Dismissal on Judicial Council Form CIV-110
- Counsel must email electronic courtesy copies of proposed orders—in both Word and PDF format—to Department613ComplexLit@sftc.org contemporaneously with e-filing.

Hearings, Appearances and Court Reporters:

- Counsel may appear for hearings in person or remotely. Remote appearances must be on **Zoom**. The court does not use Court Call.
- Counsel appearing via Zoom must be in the Zoom waiting room with tested and functioning camera and microphone **5 minutes** before the scheduled hearing time to check in with the clerk. For JCCP cases and cases with more than five attorneys, counsel must be in the Zoom waiting room **15 minutes** before the hearing time, as the court will begin promptly.
- The Zoom meeting information for all cases is:
  Meeting ID: 161 690 8732
  Passcode: 377652
- No later than 4 p.m. the court day before the hearing, counsel must send one, joint email advising the clerk by email of the (a) attorney(s) who will appear in person (please list name, firm, and party affiliation) and (b) attorney(s) who will appear remotely, including name, firm, and party affiliation; (c) if a court reporter has been ordered, the reporter's contact information and whether the reporter will be in person or remote and that they provided the reporter with the Zoom information.

Stipulated Orders: Parties submitting stipulations for the entry of orders shall restate the terms of the stipulation in the order, not merely state "pursuant to stipulation, it is so ordered." In addition to submitting the stipulation to the court via File& Serve, parties shall attach the stipulation and proposed order to an email to Department613ComplexLit@sftc.org as a WORD document.

Stipulated Protective Orders: The complex departments require the parties to include particular language regarding challenging confidentiality designations, which is available at the link entitled "Challenging Confidentiality Designations" on the complex page of the court's website.

Motions to Seal Court Records:

- Counsel must comply with the sealed record rules, California Rules of Court rules 2.550–2.551, and avoid overbroad and improper motions to seal. (See *Overstock.com, Inc. v. Goldman Sach Groups, Inc.* (2014) 231 Cal.App.4th 471, 498–500.)
- In light of rule 2.551(b)(6), sealing motions must be noticed for hearing **not less than fourteen days before the hearing on the substantive motion(s) to which the sealing motions relate**.
- In view of the limited circumstances in which sealing will be granted, counsel should not include unnecessary exhibits conditionally lodged under seal. **Parties shall confer regarding the propriety and necessity for designations under a stipulated protective order for materials the parties anticipate relying on for substantive motions.** The parties must confer no later than **45 days** before the deadline for the substantive motion (or

opposition as the case may be) and document their discussion in a stipulation confirming the matters that are de-designated and need not be lodged under seal pursuant to the procedure in rule 2.551(b)(3).

- When materials are lodged under seal, the unredacted versions of documents shall be highlighted to show the proposed redactions that the party moving to seal is requesting.
- Deposition transcripts or other illustrations (such as for a summary judgment motion) shall use different highlighting colors for those sections designated for the court's consideration and those identified for proposed redaction.
- Consistent with rule 2.551(a), absent unusual circumstances, the court will not seal records based solely on the agreement of the parties, such as **individual settlement agreements in putative class actions.** (See also Cal. Rules of Court, rule 3.770(a).)

E-filing:

- The e-filing vendor for the San Francisco Superior Court Complex Department is File&Serve*Xpress.* **Counsel must register with and submit all filings through File&Serve*Xpress*.**
- Counsel must also add themselves to the vendor's e-service list. Customer Service for e-filing registration, training information, and service list assistance can be found at support@fileandservexpress.com or by calling File&Serve*Xpress* at 888-529-7587. **Counsel and/or their staff shall not email the Department 613 inbox regarding processing filings or other matters appropriately directed to the clerk's office or customer service for File&Serve*Xpress*.**
- All court orders will be e-served through File&Serve*Xpress*. All counsel must add their office to the **ELECTRONIC** service list in File&Serve*Xpress*.
- Pursuant to California Code of Civil Procedure section 1010.6, California Rules of Court, rule 2.251 *et seq*., and San Francisco Superior Court Local Rule 2.11, all discovery requests and responses, not filed with the court, must be electronically served, unless it is not feasible to do so (e.g., drawings, charts, etc.).
- **Evidence filed electronically, including (for example) PDF compendiums of evidence for summary judgment and class certification motions, shall be bookmarked and hyperlinked**.

Continuances:

- If the parties agree to continue a motion or a CMC, the parties may (1) submit a stipulation and proposed order and email a **Word** version of the proposed order to the department; or (2) email the court (copying all parties) at least **five court days** prior to the scheduled matter requesting a continuance, proposing three alternative dates and times for the motion hearing or conference, and indicating that all parties agree to the continued date/time.
- The court will not continue case management conferences based on incomplete joint statements that request a continuance without support.

Hearing Date Vacated by Party:

- The court reviews moving papers long in advance of the hearing date. Therefore, to vacate a

hearing date, at least **ten** court days before the hearing date, the moving party must email the court and copy all parties to withdraw the motion.
  - The court will not issue an order vacating motion hearing dates.
  - Please **do not** copy the court on any e-mail correspondence on vacated hearing dates.

Case Management Conferences and Statements:

- Parties must deliver a courtesy copy of their joint case management statements on the date of filing.
- The caption for joint case management conference statements **shall include the date and time for the conference**.
- Before the initial case management conference, the parties are ordered to comply with California Rules of Court, Rule 3.750(d) and to meet to address the items in California Rules of Court, Rule 3.750(b).
- After the meeting, at least **five court days** before the initial case management conference, the parties shall submit a joint case management statement identifying those issues in California Rules of Court, Rule 3.750(b), which are agreed upon and those which the court must rule on at the conference. The statement should provide a description of the major factual and legal issues pursuant to California Rules of Court, Rule 3.750(d).
- In the initial case management conference statement, the parties shall specifically identify any business entity, whether a corporation or limited liability company, that is publicly-traded or otherwise affiliated with a publicly-traded entity and shall identify the publicly-traded company and the relationship to the publicly-traded company (e.g., parent or subsidiary).
- Joint statements for all further case management conferences are due **five court days** before the CMC unless otherwise specified by the court. Counsel must meet and then provide a meaningful update about the case's status.
- CMC statements are not advocacy statements. They are an agenda for discussion. CMC statements should explain the case's status, anticipated procedural and substantive motions, anticipated discovery, and how it can be managed efficiently and economically.
- Unless ordered by the court, case management statements shall not exceed 15 pages, excluding exhibits.

Individual Settlements in Putative Class and PAGA Actions

- Counsel shall comply with California Rules of Court, rule 3.770. A request for dismissal must describe the consideration for the dismissal in detail and attach a copy of the settlement agreement.
- Counsel shall comply with Labor Code section 2699, subdivision (s)(2), which requires judicial review of *any* settlement in *any* civil action filed pursuant to PAGA. Individual PAGA settlements are not excluded from the statute's requirement.

Motions for Preliminary Approval, Final Approval, and Approval of PAGA-Only Settlements

- When approving attorney's fees for class settlements the judge conducts a lodestar cross-check. For PAGA-only settlements, the judge uses the lodestar method, while taking into consideration the outcome for aggrieved employees. Counsel shall provide sufficient information to justify their fee requests, including either a summary of the tasks performed by each counsel and the hours expended or each attorney's billings for the case.
- When a settlement involves a claim for PAGA penalties, counsel shall ensure there is a declaration from a knowledgeable witness confirming whether counsel conducted a search of the LWDA database prior to filing, providing a copy of the PAGA notice for the case, identifying the time period for recovering penalties if the case were litigated, and identifying any other overlapping or similar PAGA cases against the same defendant.
- Motions for attorneys' fees in class action cases should include the number of motions for class certification filed by the attorney and their firm in wage-and-hour cases in the preceding three years and the case names, court and case number for each.

Discovery:

- The procedures outlined below apply to parties. For discovery disputes with non-parties, the interested parties may elect to participate in this procedure but are not required to do so.
- All deadlines for filing motions to compel discovery pursuant to the Civil Discovery Act, Code of Civil Procedure section 2016.010 *et seq.*, are vacated and suspended.
- **No party may move to compel discovery, or file any other discovery motion, until the parties have participated in an informal discovery conference with the court and the court has authorized the motion(s).**
- Counsel must complete all meet and confer obligations and reach impasse before scheduling an informal discovery conference. Counsel shall meet in person, by videoconference, or telephone; the exchange of emails is not sufficient.
- To request an informal discovery conference, counsel must send an email to Department 613.
- At least five court days before the informal discovery conference, counsel must email a **joint** letter outlining the discovery dispute—not exceeding 5 pages, single-spaced—and deliver a courtesy copy to department 613.
- If the discovery dispute is not resolved following the informal discovery conference, the court will authorize the filing of a motion and a hearing date.
- The parties are relieved of the requirement to file a separate statement with discovery motions.
- For discovery motions, the court prefers streamlined papers in which counsel state the discovery request and response followed by a discussion of whether a further response is or is not required.

***Ex parte* applications:**

- Most *ex parte* matters will be addressed on the papers, where a hearing is necessary the court will hear the matter either at the end of the morning calendar or in the afternoon.
- Any party seeking *ex parte* relief shall file their *ex parte* application and e-mail a courtesy copy, including the proposed order—in both PDF and Word formats—to Department 613. In the email include proposed days and times to appear, if the court deems it necessary.

Tentative Rulings:

- When the court considers it useful, the court will issue tentative rulings.
- Tentative rulings will be served via File&Serve*Xpress* or emailed directly to counsel before the hearing.

Judicial Council Coordination Proceedings:

- Counsel intending to add a case to an existing JCCP are expected to do so promptly and in an organized fashion to ensure that hearings and case management conferences can be coordinated; this avoids duplication of effort and confusion from multiple concurrent settings on the calendar for individual, trailing cases.
- Hearings must be reserved in advance with Department 613 for all motions, including administrative or unopposed motions (motions to substitute, dismiss, or be relieved as counsel). Hearing dates are necessary for tracking purposes given the volume of requests submitted for processing. Motions to substitute, motions to dismiss, and motions to be relieved as counsel may not be filed with the hearing date "TBD"; if there is no proposed hearing date the request will be rejected by the clerk's office.
- A spreadsheet showing all pending motions to substitute, all pending motions to be relieved as counsel, and all pending motions to dismiss must be appended to each case management conference statement with a courtesy copy of the spreadsheet in native format (e.g. Excel) emailed to Department 613 when the CMC statement is filed. The spreadsheet must be formatted as follows: (1) Last Name, First Name, (2) Original Case Name, (3) Original Case Number, (4) Firm Name, (5) Firm Contact (Telephone and Email), (6) Motion Filing Date, and (7) Transaction Number.
- A Petition for Compromise of a Minor's Claim must be filed with Department 505 and the parties must notify the clerk in Department 505 of the petition when it is filed.
- Motions to Be Relieved as Counsel:
    - Motions to be relieved as counsel must comply with California Rules of Court, rule 3.1362.
    - Motions and their accompanying orders and declarations shall have complete and accurate service information and contain updated information on upcoming hearings and case management conferences. For example, if a client is deceased, service information for the next of kin should be clearly indicated on the form, such as in Box 13 on MC-053.
- When termination of the JCCP is contemplated or requested by the parties in connection with a status conference or CMC, a spreadsheet shall be submitted along with the status report or CMC statement. The spreadsheet shall set forth the following information for each case in the coordinated proceeding: (1) case name; (2) original case number; (3) county of origin; (4) operative add-on petition and order; (5) date dismissal(s) filed; (6) transaction number for dismissal(s); (7) processing status of dismissal request; and (8) law firm.
- If the parties seek termination of the JCCP before all cases have been fully and finally resolved, they shall present to the Court (along with their spreadsheet) a plan for disposition of the remaining cases consistent with the California Rules of Court, including rule 3.542. This plan should include, if applicable, a stipulation for remand of any remaining case(s).

Discovery Disputes During Depositions:

- If a dispute arises during a deposition, the parties may contact the court via the Dept. 613 email: Department613ComplexLit@sftc.org or telephone number: 415-551-3840 to request judicial assistance. The parties should continue the deposition while awaiting a response.