

Judge Kimberly J. Mueller

United States District Court - Eastern District of California

501 I Street, Suite 4-200

Sacramento, CA 95814

Courtroom Deputy, Casey Schultz

Phone: (916) 930-4193

CIVIL LAW AND MOTION

Civil law and motion calendar is held on designated Fridays at 10:00 a.m., in courtroom 3, 15th floor. The next available motion dates are: **November 30, December 14, 2012; and January 18, February 15, 2013.**

MOTION DATES ARE SUBJECT TO CHANGE WITHOUT NOTICE.

JUDGE MUELLER DOES NOT ISSUE TENTATIVE RULINGS. IN SOME INSTANCES SHE MAY ALERT COUNSEL IN A MINUTE ORDER TO QUESTIONS THEY SHOULD BE PREPARED TO ADDRESS AT ORAL ARGUMENT.

MOTION DATES ARE NOT RESERVED. File your papers in accordance with the Local and Federal Rules. As set forth in the court's Order Requiring Joint Status Report, any briefs or other papers filed prior to the issuance of the Pretrial (Status) Scheduling Order, the court's standing orders and case specific orders shall not exceed twenty (20) pages. The court also places a page limit for dispositive motions of twenty (20) pages on all initial moving papers, twenty (20) pages on oppositions, and ten (10) pages for replies. The parties are not to file multiple or supplemental briefs to circumvent this rule.

- **Meet and Confer:** Prior to filing a motion in a case where the parties are represented by counsel, counsel shall engage in a pre-filing meet and confer to discuss thoroughly the substance of the contemplated motion and any potential resolution. Counsel should resolve minor procedural or other non-substantive matters during the meet and confer. Notices of motions shall certify that meet and confer efforts have been exhausted and briefly summarize the meet and confer efforts.
- **Courtesy Copies of All Motion-Related Pleadings 25 pages or more ONLY:** Shall be mailed in hard copy form directly to Judge Mueller's chambers (at the address listed above) immediately upon e-filing as provided by Local Rules 130(b), 133(f) and 133(j).
- **Pagination of Exhibits:** Multi-page exhibits shall be internally paginated, with the pagination for each exhibit beginning with the number one; reference to those exhibits shall refer to the exhibit designation and page number, i.e., Ex. A at 7; Ex. B at 1, etc.
- **E-Mailing of Allowed Proposed Orders:** The court generally discourages parties from submitting proposed orders, except with respect to consent decrees and proposed findings of fact.

If the court directs the filing of a proposed order, the order should be submitted as required in Local Rule 137(b) and emailed in word processable form to: kjmorders@caed.uscourts.gov.

- **Sealing and Protective Orders:** No document will be sealed, nor shall a redacted document be filed, without the prior approval of the court. If a document for which sealing or redaction is sought relates to the record on a motion to be decided by Judge Mueller, the request to seal or redact should be directed to her and not the assigned Magistrate Judge. All requests to seal or redact shall be governed by Local Rules 141 (sealing) and 140 (redaction); protective orders covering the discovery phase of litigation shall not govern the filing of sealed or redacted documents on the public docket. The court will only consider requests to seal or redact filed by the proponent of sealing or redaction. If a party plans to make a filing that includes material an opposing party has identified as confidential and potentially subject to sealing, the filing party shall provide the opposing party with sufficient notice in advance of filing to allow for the seeking of an order of sealing or redaction from the court.
- **Discovery matters (including motions) and other Magistrate Judge referrals:** All discovery matters and other duties to be performed by the Magistrate Judge pursuant to Local Rule 302 shall be noticed before the assigned Magistrate Judge, unless otherwise ordered by the court. Any matter that affects the schedule for a case or sealing or redaction of documents related to dispositive motions to be heard by Judge Mueller should be noticed before Judge Mueller .
- **Ex Parte Applications:** Ex Parte Applications typically are not heard, but are submitted by the court unless otherwise notified. The filer is required to contact the courtroom deputy and the opposing party prior to the filing of the ex parte application in order to advise that such request is being made. The filer shall include an affidavit indicating a satisfactory explanation for the following: 1) the need for the issuance of such an order; 2) the inability of the filer to obtain a stipulation for the issuance of such an order from other counsel or parties in the action, and 3) why such request cannot be noticed on the court's law and motion calendar as provided by Local Rule 230. In addition, the document(s) must indicate whether or not counsel expects an opposition will be filed. Any opposition shall be filed no later than 48 hours from the filing of the ex parte application. When an ex parte application is filed on a Friday, the time for filing the opposition is extended to 72 hours from the filing.
- **Requests for Telephonic Appearances (in civil cases):** Unless the court has ordered personal appearance (for example, as it does with respect to initial scheduling conferences) parties may request telephonic appearance, which if approved is accommodated through a call-in system. Any request for appearance by telephone must be prepared in pleading form and e-filed at least 5 days prior to the hearing date. The **request and proposed order MUST** include the following: 1) the reasons for such request; 2) the position of opposing parties with respect to a request; 3) **the name of the attorney(s)** making the appearance; and 4) **the direct telephone number** where the attorney(s) can be reached on the day of the hearing if need be. If the request is approved, the courtroom deputy will provide conference call information to the attorney(s). The attorney(s) should call into the conference line 5 - 10 minutes prior to the time of the hearing and be prepared to proceed when his or her matter is called. If counsel encounters problems when accessing the conference line, they should immediately email the courtroom deputy at cschultz@caed.uscourts.gov.

SETTLEMENT CONFERENCES: Settlement conferences are scheduled at times mutually convenient to the court, counsel and the parties.

CRIMINAL CALENDAR

Judge Mueller's criminal law and motion calendar is held on designated Wednesdays at 9:00 a.m. Available criminal calendar dates are: **October 31, November 7, 14, 28, December 5, 12 and 19, January 9, 16 and 23, 2012.**

NO MATTERS ARE CONTINUED WITHOUT THE JUDGE'S PRIOR CONSENT.

THE COURT TYPICALLY REQUIRES PERSONAL APPEARANCES EVERY THREE MONTHS FOR STATUS CONFERENCES UNLESS GOOD CAUSE IS SHOWN AND ALL APPLICABLE LAWS SUPPORT LONGER INTERVALS. FOR ANY CONTINUANCE TO BE EFFECTED, THE COURT MUST APPROVE A WRITTEN REQUEST FOR CONTINUANCE IN ADVANCE OF THE HEARING.

- **Criminal Calendar Continuances:** The court requires the submission of stipulations and proposed orders on any matters that can be handled without an in-court hearing (e.g., request for the setting of further status conferences, requests for continuances of pending matters, or the setting of trial confirmation hearings and trial dates). Any such stipulation shall include the date of the last appearance by the parties, explain in detail the reason for a requested continuance and include all language required by law. When applicable, probation officers shall be included in discussions about continuances. **Stipulations and requests for continuances on criminal matters shall be submitted no later than noon on the Monday prior to the hearing date,** unless the courtroom deputy notifies counsel otherwise. If you cannot confirm a continuance via telephone, email or ECF, check the "off-calendar" portion on the web calendar.
- **Motions and Pagination of Exhibits:** The court has placed page limits as follows: twenty (20) pages on all initial moving papers, twenty (20) pages on oppositions, and ten (10) pages for replies. The parties are not to file multiple or supplemental briefs to circumvent this rule. Multi-page exhibits shall be internally paginated, with the pagination for each exhibit beginning with the number one; reference to those exhibits shall refer to the exhibit designation and page number, i.e., Ex. A at 7; Ex. B at 1, etc.

Rule 17(c) Subpoena Requests: These requests should be submitted to the duty magistrate judge.

TRANSCRIPT ORDERS: If you wish to order a transcript, please contact the court reporter who covered the hearing directly. Contact information for individual court reporters can be found on the U.S. District Court's website(s).

TRIALS

Judge Mueller typically utilizes the following method for **jury selection**. The court first conducts voir dire, then allows short voir dire by counsel, and then ascertains if any potential juror will be excused for cause. If a potential juror is excused for cause, a new name is selected and that person is voir dired before jury selection continues. Once voir dire is completed and all challenges for cause have been ruled on, the attorneys are given a strike sheet to exercise their peremptory challenges. Once the peremptory challenges are marked, the Judge excuses those jurors and then the highest numbered jurors still in the box until the desired number of jurors remains.

- **Presumptive trial hours**, subject to adjustment based on the other court calendars: Jury Selection/Start of Trial Mondays, 9:00 a.m. - 4:30 p.m., additional days Mondays, Tuesdays and Thursdays, 8:30 a.m. - 1:30 p.m., Wednesdays 1:30 p.m. - 4:30 p.m., and dark on Fridays. Lunch on full days is 12:00 p.m. - 1:30 p.m., and breaks on other days are 10:15 a.m. and 11:45 a.m. If Monday is a holiday, then trial commences on Tuesday of that week at 9:00 a.m.
- **Electronic Equipment:** Judge Mueller's courtroom is currently equipped with the following electronic equipment: 1) ELMO 2) Video Cable Hook-ups; 3) Large Projector Screen; 4) Laptop

Hook-ups; and 5) Monitors in jury box, witness stand, and at counsel table. The courthouse also has a projector available. However, counsel should contact the courtroom deputy at least 1-2 weeks prior to trial in order to verify the availability of the courthouse projector; counsel may bring in their own, if necessary. Additionally, counsel should contact the courtroom deputy prior to the first day of trial in order to make arrangements to view the courtroom and bring in any other necessary equipment and/or materials. Additional equipment is available from the Clerk's office as described below.

To bring large physical items, demonstrative exhibits, or electronic equipment, etc., to the courtroom, counsel are to make arrangements through the **Court Security Officers** at (916) 930-2080.

Conference rooms are available on either side of the courtroom (out in the hallway) for use during trial.

Counsel must lodge the sealed original copy of any **deposition transcript** to be used at trial with the Clerk of the Court no later than fourteen days before trial.

Counsel shall email the courtroom deputy copies of **exhibit and witness lists** in word processable format by the Thursday prior to trial via the following email address: cschultz@caed.uscourts.gov. Exhibit lists shall be in table format and include two columns on the right side of the table, one labeled offered and the last labeled admitted. Parties are to use the following template for exhibit lists: [Exhibit List Template](#).

Counsel shall comply with the Court's Final Pretrial Order regarding the preparation and submission of **trial exhibits**. The parties are advised to mark their trial exhibits exactly as outlined in the Court's Final Pretrial Order. Exhibit stickers may be obtained from the Office of the Clerk located at 501 I Street, Suite 4-200, Sacramento, California 95814. Questions regarding exhibit stickers should be directed to the Office of the Clerk at 916-930-4000. Other questions should be directed to the courtroom deputy.

Parties are to use the following templates, as applicable, when submitting proposed **jury instructions**:

- [Prisoner Pro Se Civil Jury Instructions \(Preliminary\)](#)
- [Prisoner Civil Jury Instructions \(Preliminary\)](#)
- [Civil Pro Se Jury Instructions \(Preliminary\)](#)
- [Civil Pro Se Jury Instructions \(Final\)](#)
- [Civil Jury Instructions \(Preliminary\)](#)
- [Civil Jury Instructions \(Final\)](#)
- [Criminal Jury Instructions \(Preliminary\)](#)
- [Criminal Jury Instructions \(Final\)](#)

Please be sure to email the Word Perfect or Microsoft Word version of your statement of the case, and voir dire questions at least seven days before trial, and your proposed jury instructions, proposed verdict form or proposed findings of fact (if your case is a bench trial), at least fourteen days before trial, to: kjmorders@caed.uscourts.gov.

AUDIO/VISUAL EQUIPMENT

The Sacramento Clerk's office has a variety of audio/visual equipment available to use for trial purposes. Available equipment may include: projectors, plasma screens, TVs and VCRs. In order to learn about the equipment provided by the court, you can access our intranet home page and follow these procedures:

- 1) From the Court intranet home page, select Attorney Info tab.
- 2) On the next screen, select Sacramento.
- 3) Scroll down to Electronic Courtroom option.
- 4) Attorneys should arrange through the courtroom deputy a time to meet with court information technology staff for training on electronic equipment. Appointments should be scheduled at least one to two weeks prior to trial.

If you have any questions or need further information, please contact courtroom deputy Casey Schultz, at 916-930-4193.