Superior Court of California

County of San Francisco

Department 613 - Judge Andrew Y.S. Cheng

Complex Litigation – Procedures

**Department 613 Staff:**

* Attorneys: Megan Beshai (Staff Attorney); Elizabeth Silva (Legal Research Assistant)
* Clerk Phone: 415-551-3840
* Dept. 613 E-mail: Department613ComplexLit@sftc.org

**Communications with the Court and Reserving Hearing Dates:**

* Prior to filing any motion, all motion hearing dates must be reserved with the clerk of Department 613. Parties may not file a motion without Court approval of the hearing date/time.
* Generally, unless otherwise noted in these procedures, the Clerk of Department 613 prefers e-mail communication.  The Clerk’s e-mail address is Department613ComplexLit@sftc.org.
* If a party e-mails the Clerk, ***they must include all counsel on the e-mail communication.  Ex parte communications with the Court will not be considered***. Please allow at least **2 business days** before resending any request, particularly for initial requests transmitted late in the day or over the weekend.

**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 said vendor.** 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 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 service list at 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.

**Courtesy Copies:**

* Counsel are directed to deliver **one** hard copy of all e-filed documents (e.g., joint case management statements, motions, oppositions, replies, etc.) to Department 613.
* No courtesy copies are needed for the following filings:
	+ CourtCall confirmations/Notices of Intent to Appear by Telephone
	+ The redacted version of a document lodged under seal
	+ Matters set before a discovery referee, EXCEPT for proposed orders requiring the judge’s signature
	+ Complaints
	+ Requests for Dismissal on Judicial Council Form CIV-110
* Electronic courtesy copies of proposed orders—in both Word and PDF format—shall be emailed to Department613ComplexLit@sftc.org contemporaneously with e-filing.

**Continuances:**

* If the parties wish to continue a **motion**, the parties may (1) submit a stipulation and proposed order; or (2) email the Court (copying all parties) requesting a continuance and indicating that all parties agree to the continued date/time.
* If the parties wish to continue a **CMC**, the parties must submit a stipulation and proposed order. The Court will no longer entertain CMC continuance requests made via email, or in the parties’ CMC statements.

**Hearing Date Vacated by Party:**

* If a moving party removes a motion from the Court’s calendar (either on its own, or by submitting to the Court’s tentative ruling on the motion), the party must notify all other parties by email or telephone.
	+ The Court will not typically issue an order vacating motion hearing dates.
	+ Please DO NOT copy the Court on any e-mail correspondence on vacated hearing dates.

**Appearances:**

* Parties should make arrangements to appear via CourtCall unless otherwise directed by the Court.
* The Court welcomes requests to appear in person; in person appearances should be coordinated with the clerk of Department 613.
* The Court may permit hybrid proceedings for the convenience of all parties and their counsel as needed and does not take offense to remote appearances by geographically distant counsel, particularly for case management conferences and when in-person appearances have not been expressly required. The ability or desire of local counsel to appear in person at an otherwise remote or telephonic proceeding is not viewed by the Court as gamesmanship or as prejudicial.
* The Court expects counsel to professionally meet and confer on dates, accounting for travel time as needed and mode of presentation, before requesting a date or scheduling change from the Court.

**Court Reporters:**

* The Court does not provide court reporters for hearings.
* Thus, the Court recommends that the parties obtain court reporters for substantive motions, such as motions for class certification, summary judgment motions, motions to compel arbitration, and the like.
* If the parties are appearing in person or on a hybrid basis, it is recommended that the reporter appear in person as well to facilitate accurate transcription and ensure the best audio quality.

**Discovery:**

* All deadlines for filing motions to compel discovery pursuant to the Civil Discovery Act, Code of Civil Procedure sections 2016.010 *et seq*., are vacated and suspended until otherwise ordered by the Court. No party may move to compel discovery, or file any other discovery motion, until the parties have had a discovery conference with the Court.
* All discovery conferences shall be held through CourtCall in Department 613.
* Counsel must have completed all meet and confer obligations at least one week before scheduling a discovery conference. *The Court strongly encourages counsel to meet and confer in person or, at minimum, by videoconference rather than by email. IDC requests preceded only by unproductive e-mail threads may be deferred until such time as counsel have attempted to meet and confer in good faith via other means.*
* To request a discovery conference with the Court, please send an email (copying all counsel) to Department613ComplexLit@sftc.org. Counsel shall save their legal arguments for letter briefs or motions practice as permitted by the Court; IDC request emails to the Department 613 inbox shall not be turned into threads debating the merits.
* Upon receipt of an IDC request demonstrating compliance with meet-and-confer obligations, the Court will provide the parties with a deadline for submitting letter briefs outlining the discovery dispute, not exceeding 5 pages, single-spaced. In the event the Court provides a conference date, the letter briefs shall ordinarily be due **one week** before[[1]](#footnote-1) the conference unless otherwise specified by the Court. Counsel must email their letters to Department613ComplexLit@sftc.org and deliver one hard copy of their letters to chambers.
* If the discovery dispute is not resolved following the conference, the Court will set a motion hearing and accompanying briefing schedule.
* The above procedures apply to parties. With regard to discovery disputes with non-parties, the interested parties may elect to participate in this procedure but are not required to do so.

***Ex parte* applications:**

* The Court is not setting *ex parte* applications for hearing at this time. Any party seeking *ex-parte* relief shall file their *ex parte* application and e-mail a courtesy copy to Department 613. Oppositions are due by the close of business on the **third court day** after the application is filed. Absent permission from the Court, replies are not permitted.
* Once briefing is complete, the matter will be deemed submitted.

**Challenging Confidentiality Designations:**

* With respect to challenging confidentiality designations, the parties must stipulate to the Court’s language governing the process for any party to challenge the confidentiality designations moving forward. The parties must promptly submit a stipulation, and proposed order, to the Court concerning the Court’s language. Such language is included on the **Complex Civil Litigation website in a separate hyperlink entitled** [**“Challenging Confidentiality Designations.”**](https://sf.courts.ca.gov/system/files/general/challenging-confidentiality-designations.pdf)

**Sealing Motions:**

* 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.
* Designations of deposition transcripts or other illustrations (such as for a summary judgment motion) shall be made using a different identifier or different color highlighting so as to avoid ambiguity between the proposed redactions and material the parties simply seek to draw attention to.
* When a motion to seal is granted in part and denied in part, counsel shall re-file a conforming redacted document within 5 court days so as to conform the public filing with the Court’s order unless the party simply seeks to withdraw the document from consideration under California Rules of Court, rule 2.551(b)(6).
* Counsel are expected to be familiar with and comply with the sealed record rules, namely California Rules of Court rules 2.550-2.551, so as to avoid burdening the Court with overbroad motions and repetitive, curative motions.

**Tentative Rulings:**

* In general, tentative rulings will only be issued for preliminary and final approval of settlements.
* The Court may also issue a tentative ruling if the parties need to clarify certain issues for the Court.

**CMC Statements:**

* A joint case management statement must be filed, and one copy delivered to Department 613, no later than **five (5) court days** prior to the conference.
	+ If the parties fail to file a timely joint case management conference statement, the CMC may be continued.
* Case management statements are not to exceed 15 pages, excluding exhibits, without Court approval. The only exception to the 15-page limitation is for previous orders from this Court that will be useful to the Court in reviewing the CMC statement.

**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 efforts 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 “TBD” and 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 Substitute:
	+ Once a file-endorsed copy of the motion to substitute and related papers is available, the moving party must email stamped copies of the following pleadings to the Department 613 email inbox: (1) motion to substitute, (2) memorandum of points and authorities; (3) declaration(s); and (4) proposed order for each plaintiff. Please make sure your email is complete with all attachments before sending.
	+ The subject line for the email must state as follows: “[Case Number] - [Case Name] - Motion to Substitute - [PLAINTIFF NAME]” (For example, CJC-23-012345 - Eggshell Plaintiff v. ABC Company - Motion to Substitute - JOHN SMITH)
	+ Please send one email with briefing per plaintiff; do not group substitution motions for multiple plaintiffs into one email.
	+ Please do not email copies of the briefing (motion, points and authorities, declaration(s), and proposed order) that are not yet stamped as file-endorsed/accepted.
	+ Please ensure that declarations and their exhibits are complete and have been accepted; missing exhibits (such as death certificates) will result in processing delays.
	+ In the body of the email, the party must state whether the motion is unopposed or opposed.
* 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 and next of kin are unresponsive, 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.
* In the event 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 are to contact the Court immediately via the Dept. 613 telephone number.
* If the parties cannot reach Judge Cheng through Dept. 613, the parties may contact Dept. 206, who will then attempt to contact Judge Cheng via his personal cell phone. Below are the two telephone numbers for Dept. 206:
	+ 415-551-3705
	+ 415-551-3693

**Trial:**

* For trials longer than four weeks in length, they will be held Monday-Thursday from 9:00 a.m. to 4:00 p.m.
* For trials less than four weeks in length, they will be held Monday-Thursday from 8:30 a.m. to 1:00 p.m.
* If time permits, during trial, case management conferences or other lighter matters will be set from 2:30 p.m.-3:30 p.m.
1. Unless it’s a holiday, in which case the letters are due six court days before the conference. [↑](#footnote-ref-1)