

E.D. Cal. Formatting Checklist: Class Action Complaint

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A eChecklist of formatting rules for class action complaints filed in the US District Court for the Eastern District of California.

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General Formatting Rules

- **First page counsel identification.** The upper left hand corner of the first page of every paper presented for filing must contain each attorney's:
 - name;
 - office address;
 - telephone number;
 - California bar number (usually in parentheses to the right of the attorney's name);
 - the name of the party the attorney represents; and
 - the party's status in the litigation (for example, plaintiff or defendant).

(E.D. Cal. L.R. 131(a).)

Counsel may also wish to include:

- each attorney's facsimile number; and
 - each attorney's e-mail address.
- **Numbered margins.** Each page must contain line numbers in the left margin (*E.D. Cal. L.R. 130(b)*).
 - **Line spacing.** All documents must be double-spaced, except for the following:
 - identification of counsel;
 - title of the case;
 - category headings;
 - footnotes;
 - quotations of no more than 50 words, which must be indented;
 - exhibits; and

- descriptions of real property.

(*E.D. Cal. L.R. 130(c)*.)

- **Footers.** Each page must be numbered consecutively at the bottom and include a brief description of the document on the same line (*E.D. Cal. L.R. 130(d)*).
- **Page size.** Documents must be on 8.5" x 11" paper (*E.D. Cal. L.R. 130(b)*).
- **E-filing.** All documents must be filed electronically unless excused by the court or e-filing procedures (*E.D. Cal. L.R. 133(a)*).
- **Paper requirements.** All documents conventionally filed must be on white, unglazed, opaque and good quality paper. Documents should also be flat and unfolded (except where necessary with exhibits). (*E.D. Cal. L.R. 130(b)*).
- **Binding.** All conventionally filed documents must be firmly bound at the top left corner, pre-punched with two holes (about 1/4" diameter) centered 2¾" apart, 1/2" to 5/8" from the top edge of the document (*E.D. Cal. L.R. 130(b)*).

Formatting the Caption

- **Contents.** Following the identification of counsel, starting at the eighth line of the first page, the caption must include the following:
 - title of the court (United States District Court for the Eastern District of California);
 - title of the action (that is, the names of the plaintiffs and defendants);
 - case number, followed by the initials of the assigned district and magistrate judges;
 - title of the document;
 - a statement of the date, time and name of the judge for any scheduled hearing; and
 - any other matter required by the rules.

(*E.D. Cal. L.R. 133(g)*; see also *FRCP 7(b)(2) and 10(a)*.)

- **Parties.** All parties must be identified in the caption of an original complaint (*FRCP 10(a)*). In all documents **after the initial pleadings**, the caption need only include the first-named party on each side (*FRCP 7(b)(2) and 10(a)*). In multiparty actions, reference may be made to the signature page for the complete list of parties represented (*E.D. Cal. L.R. 131(a)*).
- **Jury demand.** If requesting a jury, a jury demand must appear after the title of the complaint, answer or on any other document as may be permitted by *FRCP 38(b)*. A notation on the civil cover sheet does not constitute a jury demand (*E.D. Cal. L.R. 201*.)

Formatting the Body of the Class Action Complaint

- **Numbered paragraphs.** A party must state its claims in numbered paragraphs, each limited as far as

practicable to a single set of circumstances (*FRCP 10(b)*).

- **Separate counts.** Each claim founded on a separate transaction or occurrence must be stated in a separate count if doing so would promote clarity (*FRCP 10(b)*).
- **Jurisdiction allegations.** The complaint must include a short and plain statement of the grounds for the court's subject matter jurisdiction over the matter (*FRCP 8(a)(1)*). When an affirmative allegation of jurisdiction is required under *FRCP 8(a)(1)*, it must:
 - appear as the first allegation;
 - be titled "Jurisdiction;"
 - state the claimed statutory or other basis of federal jurisdiction; and
 - state the facts supporting jurisdiction.

(*E.D. Cal. L.R. 204.*)

- **Venue allegations.** The complaint typically contains allegations that venue is proper. All allegations of proper venue should include a citation to *28 U.S.C. § 1391(b)(1), (2) or (3)*.
- **Verification.** Unless a rule or statute specifically states otherwise, the complaint need not be verified or accompanied by an affidavit (*FRCP 11(a)*).
- **Exhibits.** A copy of a written instrument attached as an exhibit to a pleading becomes part of the pleading (*FRCP 10(c)*).

Class Action Pleading Rules

- **Numerosity.** The class action complaint must contain allegations indicating there are so many potential class members that individual joinder of class members is impractical (*FRCP 23(a)(1)*).
- **Commonality.** The class action complaint must contain allegations indicating there are questions of law or fact common to the class members (*FRCP 23(a)(2)*).
- **Typicality.** The class action complaint must contain allegations indicating the claims and or defenses of the representative(s) of the class are typical of those of the absent class members (*FRCP 23(a)(3)*).
- **Adequacy of representation.** The class action complaint must contain allegations indicating that class counsel and the named representative(s) intend to fairly and adequately protect the interests of the absent class members (*FRCP 23(a)(4)*).

General Pleading Rules

- **Claim for relief.** The complaint must include a short and plain statement of the claim showing that the pleader is entitled to relief (*FRCP 8(a)(2)*).
- **Demand for relief.** The complaint must include a demand for the relief sought, which may include relief in the alternative or different types of relief (*FRCP 8(a)(3)*).

- **Concise allegations.** Each allegation must be simple, concise and direct. No technical form is required. (*FRCP 8(d)(1)*.)
- **Alternative claims.** A party may set out two or more statements of a claim, alternatively or hypothetically, either in a single count or in separate counts (*FRCP 8(d)(2)*).
- **Inconsistent claims.** A party may state as many separate claims as it has, regardless of consistency, such as theories of liability (*FRCP 8(d)(3)*).

Pleading Special Matters

- **Capacity to sue.** Except when required to show that the court has jurisdiction, a pleading need not allege a party's capacity to sue or be sued or a party's authority to sue or be sued in a representative capacity (*FRCP 9(a)(1)(A)-(B)*).
- **Legal existence.** Except when required to show that the court has jurisdiction, a pleading need not allege the legal existence of an organized association of persons that is made a party (*FRCP 9(a)(1)(C)*).
- **Fraud or mistake.** In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake (*FRCP 9(b)*).
- **Conditions of mind.** Malice, intent, knowledge and other conditions of a person's mind may be alleged generally (*FRCP 9(b)*).
- **Conditions precedent.** In pleading conditions precedent, it suffices to allege generally that all conditions precedent have occurred or been performed. But when denying that a condition precedent has occurred or been performed, a party must do so with particularity. (*FRCP 9(c)*.)
- **Official document or act.** In pleading an official document or official act, it suffices to allege that the document was legally issued or the act legally done (*FRCP 9(d)*).
- **Judgment.** In pleading a judgment or decision of a domestic or foreign court, a judicial or quasi-judicial tribunal or a board or officer, it suffices to plead the judgment or decision without showing jurisdiction to render it (*FRCP 9(e)*).
- **Special damages.** If an item of special damage is claimed, it must be specifically stated (*FRCP 9(g)*).
- **Social security and black lung actions.** Certain complaints under the Social Security Act and the Federal Coal Mine Health and Safety Act of 1969 have special pleading requirements (see *E.D. Cal. L.R. 206*).

Formatting the Signature

- **Signature block.** All pleadings and non-evidentiary documents must be signed by the party's attorney or the party if unrepresented by counsel. The name of the person must be typed or printed underneath the signature. (*E.D. Cal. L.R. 131(b)*; *FRCP 11(a) and 26(g)(1)*.) A signature on a document submitted to the clerk on portable electronic media must appear either as a facsimile of the original in a scanned document or on a separate, scanned signature page if the document was

published as a PDF (*E.D. Cal. L.R. 131(b)*).

- **Electronic case filing (ECF) signature.** A document filed using an attorney's name, login and password is deemed to have been signed by that attorney. The attorney can also insert "/s/" before the attorney's printed name to indicate a signature. (*E.D. Cal. L.R. 131(c)*.)
- **E-filed documents with multiple signatories.** Documents that require the signatures of multiple counsel may be prepared by obtaining authorization from counsel and stating that submission is on that counsel's behalf. For example, the filing counsel can place the other counsel's signature by using "/s/ [COUNSEL'S NAME] (as authorized on [DATE])." Counsel can also obtain all of the original signatures needed and file the signature pages as an attachment to the document with an explanatory statement. (*E.D. Cal. L.R. 131(e)*.)
- **E-filed documents with non-attorney signatories.** When an ECF user e-files a document that contains a signature line for a non-attorney, the filer:
 - should include an "/s/" on the signature line and the person's name along with a statement that counsel has a signed original (for example, "/s/ [NON-ATTORNEY'S NAME] (original signature retained by attorney [ATTORNEY'S NAME])"); and
 - must maintain records to support the concurrence for one year after final resolution of the action, including appeal.

(*E.D. Cal. L.R. 131(f)*.)

- **Signature for affidavits and declarations.** The individual asserting the facts in the affidavit or **declaration** must sign the document. Affidavits and declarations do not require the information included in the signature block beneath the signature. As a practical matter, affidavits must be manually signed and notarized. When submitting a declaration, the following information must be included above the signature line:
 - **Executed outside the US.** "I [declare/certify/verify/state] under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on [DATE]."
 - **Executed in the US.** "I [declare/certify/verify/state] under penalty of perjury that the foregoing is true and correct. Executed on [DATE]."

(*28 U.S.C. § 1746 (2011)* and see *Standard Document, Declaration (Federal)*.)

Other Documents Filed with Complaint

- **Civil cover sheet.** The complaint must include a civil cover sheet (*E.D. Cal. L.R. 200*).
- **Summons.** Conventionally filed summonses may be prepared by the counsel for issuance to the clerk. However, if the plaintiff is an e-filer, the clerk then prepares and transmits the summonses electronically to counsel. The summons must conform to the same formatting requirements as every other document and must:
 - name the court and the parties;

- be directed to the defendant;
- state the name and address of the plaintiff's attorney, or if unrepresented, the name and address of the plaintiff;
- state the time within which the defendant must appear and defend;
- notify the defendant that a failure to appear and defend results in a default judgment against the defendant for the relief demanded in the complaint;
- be signed by the clerk of the court; and
- bear the court's seal.

(*E.D. Cal. L.R. 210(a)* and *FRCP 4(a)*.)

- **Rule 7.1 statement.** If the plaintiff is a non-governmental corporate party, it must file two copies of a disclosure statement. The statement must conform to the formatting requirements of every other document and:
 - identify any parent corporation and any publicly held corporation owning 10% or more of its stock; or
 - state that there is no corporation of this type.

(*FRCP 7.1(a)* and for more information about the Rule 7.1 Statement, see *Standard Document, Rule 7.1 Disclosure Statement*.)

- **Proof of service.** After the complaint is served on the opposing party, the plaintiff must attach a certificate of service, unless the opposing party has waived service (*FRCP 4(l)*). The proof of service must show the date, place and manner of service. If service was made by personal delivery, the proof of service must show:
 - the hour service was made;
 - the address where service was made;
 - the name and address of the person served; and
 - the name and address of the person making service.

(*E.D. Cal. L.R. 210(b)* and see *Standard Document, Affidavit of Service (Fed. R. Civ. P. 4)*.)

- **Notice of constitutional challenge to statute.** A party that questions the constitutionality of a federal or state statute in a complaint must file a notice of constitutional question stating the question and if the government (state or federal) is not a named party. The notice must then be served on the appropriate federal or state attorney general (*FRCP 5.1(a)*).
- **Notice of foreign law issue.** If a party raises an issue about a foreign country's law, the party must give written notice by pleading or other document. The court may consider any relevant evidence in determining foreign law and is treated as a ruling on a question of law (*FRCP 44.1*).
- **Related cases.** If the action is related to an existing action, counsel must promptly file and serve a Notice of Related Cases to all parties, providing the title and number of each possibly related action

with a statement of their relationship and why assignment to a single judge save judicial efforts. (*E.D. Cal. L.R. 123.*)

- **Sealed complaints.** Filing a complaint under seal requires a court order. To seal documents, counsel must file on the public docket a Notice of Request to Seal Documents. Counsel must then e-mail to the judge's chambers a Request to Seal Documents, proposed order and all documents covered by the request. If the request to seal is granted, then the documents get filed under seal and a notation is made on the electronic docket. If the request to seal is denied, then the documents are returned to the moving party. Counsel must then decide whether to publish them on the public docket. These documents must be served on all parties on or before the day they are submitted to the court. (*E.D. Cal. L.R. 141.*)

Filing Information

- **E-filing.** All documents must be e-filed except for the following:
 - if an attorney has permission to file in paper format from the court in exceptional circumstances;
 - pro se filings;
 - grand jury documents; and
 - certain criminal documents.(*E.D. Cal. L.R. 133(b).*)
- **PDFs.** E-filed documents must be submitted in **PDF** format (*E.D. Cal. L.R. 101*).
- **Size limits.** PDF attachments may not exceed ten megabytes (MB). For more information, see the court's ECF [website](#).
- **Courtesy copies.** Counsel must provide a courtesy copy of documents (excluding attachments or exhibits) over 25 pages to the appropriate chambers no later than the business day following e-filing. A courtesy copy of exhibits over 50 pages must also be provided to the clerk. All courtesy copies must be prominently labeled in capital letters. Courtesy copies follow the same margin, paper and binding rules as other filed documents. (*E.D. Cal. L.R. 133(f).*)
- **Class action determination.** The plaintiff must move for a determination under *FRCP 23* of whether the action is to be maintained as a class action (*E.D. Cal. L.R. 205*).

Legal Citations

- **Federal statutes.** All citations to federal statutes must be cited to the US Code, if so codified (*E.D. Cal. L.R. 133(i)(1)*).
- **Regulations.** All citations to US regulations must be cited to the Code of Federal Regulations, if so codified, or to the Federal Register (*E.D. Cal. L.R. 133(i)(1)*).
- **Federal cases.** All citations to federal cases must be cited to US Supreme Court Reports, Federal Reports, Federal Supplement or Federal Rules Decisions, if so reported, and must indicate the court

and year of decision (*E.D. Cal. L.R. 133(i)(1)*).

- **State cases.** All citations to California cases must be cited to the official California Reports. Citations to other state cases must be cited to the National Reporter System, showing the state and the year of the decision. Other parallel citations may be added. (*E.D. Cal. L.R. 133(i)(2)*.)
- **Unreported and uncodified citations.** If a case, statutory or regulatory authority has not been reported, published or codified and is not available electronically, a copy of authority should be attached to the document in which that authority is cited (*E.D. Cal. L.R. 133(i)(3)*).

Redaction

- **When required.** The following information must be redacted from all documents that are filed with the court, whether they are e-filed or filed in paper format:
 - any Social Security number or taxpayer identification number, except for the last four digits;
 - an individual's date of birth, except for the year;
 - the name of an individual known to be a minor (only initials may be used);
 - a financial account number, except for the last four digits (the name or type of account and the financial institution, however, should be identified);
 - home addresses in criminal cases, except for the city and state of residence; and
 - any other circumstances where federal law requires redactions.

(*FRCP 5.2(a)* and *E.D. Cal. L.R. 140(a)*.)

- **Exceptions.** The redaction requirement does not apply to:
 - a financial account number that identifies the property allegedly subject to forfeiture in a forfeiture proceeding;
 - the record of an administrative or agency proceeding;
 - the official record of a state-court proceeding;
 - the record of a court or tribunal, if that record was not subject to the redaction requirement when originally filed;
 - certain filings in social security and immigration cases;
 - filings made under seal; and
 - *pro se* filings in federal habeas corpus cases under *Sections 2241, 2254 or 2255 of Title 28 of the US Code*.

(*FRCP 5.2(b)-(d)* and *E.D. Cal. L.R. 140(f)*.)

- **Reference list.** If ordered by the court, a filing with redacted information may be filed together with a reference list that identifies each item of redacted information and specifies a unique identifier that corresponds to each redacted item. The reference list must be filed under seal. The court may order

that an unredacted copy also be filed and retained under seal by the court. (*E.D. Cal. L.R. 140(b)*.)

Exhibits

- **Electronic format.** Unless otherwise ordered, all exhibits must be submitted electronically (*E.D. Cal. L.R. 138(c)(1)*).
- **Voluminous exhibits.** While there is no page limit, voluminous exhibits may have to be divided into separate attachments (*E.D. Cal. L.R. 138(c)(1)*).
- **File size.** Attachments may not exceed ten MB according to the court's [case management/electronic case filing](#) (CM/ECF) [website](#).
- **Black and white exhibits.** Black and white exhibits should be scanned in black and white with a scanner configured at 300 dots per inch (dpi) (*E.D. Cal. L.R. 138(c)(2)*).
- **Color exhibits.** Exhibits in color in their original form may be scanned in color and submitted (*E.D. Cal. L.R. 138(c)(2)*).
- **Paper submissions.** Counsel must apply to the court at least seven days before the filing is due to submit exhibits in paper format for exceptional circumstances. When submitting in paper format, the party must also file a Notice of Attachment, referencing the e-filed documents and the exhibits being submitted in paper. The Notice of Attachment should specify the date of the order permitting paper filing. (*E.D. Cal. L.R. 138(d)*.)

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