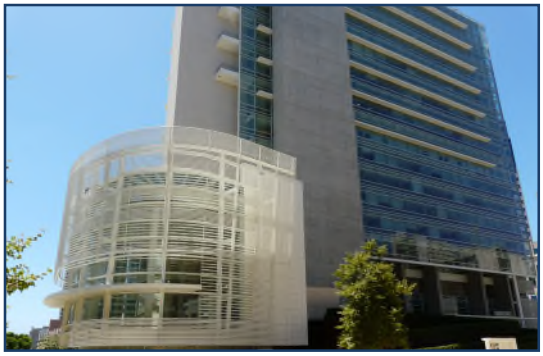

PRO TIPS TO IMPROVE YOUR SOUTHERN DISTRICT PRACTICE

By Ian Pike

The San Diego state and federal courthouses are right across the street from each other. And, at least if the *Erie* doctrine has anything to say about it, all your client's substantive rights are the same in both buildings. But the similarities end there, and local lawyers who primarily practice in the Superior Court can get caught unawares when they find themselves before a judge in the Southern District of California. For the benefit of those who don't appear in federal court too often, here are a few things to keep in mind (unless otherwise ordered, of course) the next time you find yourself there.

Keep Your CM/ECF Credentials Up to Date

A surprising number of attorneys in pending federal matters appear "inactive" on CM/ECF or have some other problem with their federal case management logins. Not only do the local rules require attorneys to maintain their CM/ECF access, but the failure to keep CM/ECF accurately maintained can prevent you from getting notice when something is filed or an order is docketed. If that causes you to miss something — a court-ordered deadline, for instance — that's on you. Check, especially if you haven't appeared in the Southern District for a while, and if something's up with your CM/ECF, call the helpline (1-866-233-7983) to straighten it out before you miss an OSC.

Lodge Your Proposed Orders Correctly

This one has two parts. First, unless a judge's order directs you otherwise, proposed orders should be lodged in Word format to the appropriate judge's efile inbox, not filed on CM/ECF as part of a motion. Second, try to lodge your orders with the judge who will rule on your motion. For example, a proposed order continuing an early neutral evaluation should be lodged with the magistrate judge, not the district judge. If you really want to go above and beyond, check the appropriate chambers' rules or standing order to see if the judge even *wants* a proposed order.

File Motions if You Want Relief

A surprising number of attorneys file status reports or "notices" that include requests for continuances, stays, amended scheduling orders, or other relief, but which are not captioned or filed as "motions." The District case management system specifically tracks and flags properly filed motions, and there are reporting mechanisms built in to make sure they don't slip through the cracks. None of those safeguards are in place if an attorney makes an ad hoc request for relief at the end of a status report or other document. So, while there's always a chance a diligent judge will notice and rule on the request for relief, there's a totally unnecessary risk of these motions-that-aren't-motions not being handled. If you want the judge to rule on something, you should probably file it as a motion unless you know for a fact your judge prefers otherwise.

Speaking of Motions, Joint Motions Don't Mean You Must Agree

Many judges want administrative matters handled by joint motions. Too often, one of the lawyers litigating a case won't file a joint motion because they disagree, in whole or in part, with what the other lawyer wants. But the "joint" aspect of "joint motion" means "drafted together," not "both sides have to agree." Joint motions can still be adversarial. If you disagree with opposing counsel, state your opposition in the joint motion, sign it, and let the judge rule on the motion. The same holds if you simply want the Court to know you "don't oppose" the motion. Agreement is great, but not necessary, when you file a joint motion.

Ian Pike *is an attorney and an employee of the federal judiciary. He reads a large number of briefs, many of which could be improved.*