

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

**Novedades Y Servicios, Inc. v. Financial Crimes Enforcement
Network**

Novedades Y Servicios · No. 25-CV-886 JLS (DDL) · Decided July 17, 2025

SUMMARY

The United States District Court for the Southern District of California denied without prejudice Defendants’ ex parte motion to stay district court proceedings pending appeal. The court based its ruling on repeated violations of the court’s local ex parte-motion requirements and noted that the motion did not appear to present an unusually urgent circumstance.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Janis L. Sammartino
JURISDICTION	United States District Court for the Southern District of California
DECIDED	July 17, 2025
DOCKET	25-CV-886 JLS (DDL)
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved ex parte to stay district-court proceedings pending appeal. The district court denied the motion without prejudice because defendants failed to comply with the affidavit-or-declaration requirement for ex parte motions under the court’s Civil Local Rules.
PRECEDENTIAL VALUE	Unknown

TOPICS

- appellate procedure
- civil procedure
- sanctions

PRACTICE AREAS

- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether defendants' ex parte motion to stay district-court proceedings should be considered when it was not supported by the affidavit or declaration required by Civil Local Rule 83.3(g)(2).
2. Whether the circumstances presented an unusually urgent situation warranting ex parte relief.

HOLDINGS

1. An ex parte motion to stay proceedings may be denied without prejudice when the movant fails to provide the affidavit or declaration required by Civil Local Rule 83.3(g)(2), particularly after repeated violations of that rule.
2. The circumstances described did not demonstrate the temporal urgency necessary to justify ex parte relief, and any renewed request should address the absence of an identified emergency and consider the ordinary noticed-motion procedure.

KEY QUOTATIONS

“ex parte motions ‘are rarely justified,’ only to be used ‘where there is a temporal urgency such that immediate and irreparable harm will occur if there is any delay in obtaining relief’” (at 1)

FACTUAL BACKGROUND

Defendants sought an emergency stay of district-court proceedings while an appeal was pending. They had recently joined a proposed briefing schedule that the court adopted, including a deadline for the government's cross-motion for summary judgment on September 29, 2025. The motion did not explain what circumstances had changed or why emergency ex parte relief was necessary, and defendants had previously violated the same local-rule provision twice.

PROCEDURAL HISTORY

Defendants filed an ex parte motion to stay proceedings pending appeal, asserting that they had conferred with opposing counsel and that plaintiffs opposed the stay. The court found that defendants had not submitted the affidavit or declaration required by Civil Local Rule 83.3(g)(2), notwithstanding a recent warning concerning the same rule. The motion was denied without prejudice on procedural grounds, with leave to renew if defendants complied with the applicable rules.

DISPOSITION

other

CASES CITED

- Mission Power Eng'g Co. v. Cont'l Cas. Co., 883 F. Supp. 488, 490 (C.D. Cal. 1995)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 NOVEDADES Y SERVICIOS, INC.; and Case No.: 25-CV-886 JLS (DDL)

ESPERANZA GOMEZ ESCOBAR, 12 ORDER DENYING WITHOUT Plaintiffs, 13
PREJUDICE DEFENDANTS' v. MOTION TO STAY DISTRICT 14 COURT PROCEEDINGS
PENDING FINANCIAL CRIMES ENFORCEMENT 15 APPEAL NETWORK, et al., 16
Defendants.

(ECF No. 60) 17 18 19 20 21 22 Presently before the Court is Defendants' Motion to Stay District
Court Proceedings 23 Pending Appeal ("Mot.," ECF No. 60), which was filed ex parte. In their
Motion, 24 Defendants represent that they conferred with opposing counsel, but that Plaintiffs
oppose 25 the requested stay. Mot. at 2. This representation, however, was made in the absence of
26 an affidavit or declaration as required by the Civil Local Rules.

See S.D. Cal. CivLR 27 83.3(g)(2) (prohibiting motions from being "made ex parte unless it
appears by affidavit or 28 declaration" that certain requirements are met). Yet no less than two
weeks ago, the Court 1 offered Defendants "a refresher" on ex parte procedures—both with
respect to the Local 2 Rules and with respect to ex parte practice more generally—after
Defendants violated Civil 3 Local Rule 83.3(g)(2) for the second time.

See generally ECF No. 54 (noting that "ex 4 parte motions 'are rarely justified,' only to be used
'where there is a temporal urgency such 5 that immediate and irreparable harm will occur if there
is any delay in obtaining relief'" 6 (quoting *Mission Power Eng'g Co. v. Cont'l Cas. Co.*, 883 F.
Supp. 488, 490 (C.D. Cal. 7 1995))). 8 Last time, the Court forgave Defendants' noncompliance
with the Civil Local Rules, 9 but this time, no such accommodation is warranted as it is not this
Court's role to repeatedly 10 educate the Parties on local rule provisions.

Accordingly, Defendants' Motion is DENIED 11 WITHOUT PREJUDICE for the simple fact that
Defendants have now violated Civil 12 Local Rule 83.3(g)(2) for the third time in just over one
month. See S.D. Cal. Civ LR 83.1 13 (providing for "any and all sanctions authorized by statute or
rule or within the inherent 14 power of the Court" for failure to comply with the Civil Local Rules,
the Federal Rules of 15 Civil Procedure, or a Court order).

The Court stresses that its resolution of the instant 16 Motion is on procedural grounds only, and
that the Government is free to renew its Motion 17 so long as it complies with the applicable Civil
Local Rules. 18 In any event, it is difficult to see how this is one of "the unusually urgent
occasion[s] 19 when 'the tomatoes are about to spoil or the yacht is about to leave the
jurisdiction.'" ECF 20 No. 54 (quoting *Mission Power Eng'g Co.*, 883 F. Supp. at 491–92).

At the moment, the 21 Government has no deadline in this matter until its cross-motion for
summary judgment, 22 which is due on September 29, 2025, over two months from now. ECF No.
57 at 1. The 23 Government's position is all the more perplexing given that it joined a scheduling
proposal 24 just ten days ago asking for the briefing schedule that the Court subsequently adopted,

25 begging the question of what change of circumstances so suddenly emerged necessitating 26 the requested emergency relief of staying the Government's own requested briefing 27 schedule.

See ECF No. 55. The Government's flip in position went entirely 28 unacknowledged in its Motion, but in the event the Government wishes to renew its request 1 ||to stay proceedings, it SHALL address why the Court was wrong to rely on the 2 ||representations made in the Joint Proposed Schedule filed on July 7, 2025. And the 3 ||Government is advised to reconsider whether ex parte relief is necessary in this situation, 4 ||or whether the usual briefing schedule for a noticed motion is the more appropriate course.

5 || See S.D. Cal. CivLR 7.1(e). 6 IT IS SO ORDERED. 7 \Dated: July 17, 2025 psi AL.
brmonaitenue- 8 on. Janis L. Sammartino 9 United States District Judge 10 11 12 13 14 15 16 17
18 19 20 21 22 23 24 25 26 27 28