

HONORABLE VALERIE E. TORRES
UNITED STATES MAGISTRATE JUDGE
CIVIL CHAMBERS RULES

Updated February 20, 2024

NOTE: These rules and procedures apply to all civil cases, except Social Security appeals and habeas petitions, unless otherwise ordered. The Court may vary these procedures by separate order, as appropriate in any case. All parties, including pro se litigants, must comply with the Civil Local Rules for the Southern District of California (“Local Rules”) and the Electronic Case Filing Administrative Policies and Procedures Manual (“ECF Manual”), available on the Court’s website.

I. CIVILITY AND PROFESSIONALISM

Professionalism and civility are of paramount importance to the Court. Parties and counsel must always be professional and treat the Court, each other, and all court personnel with courtesy and respect, including during interactions occurring outside the presence of the Court. All counsel and unrepresented parties shall read and comply with Local Rule 2.1 (Professionalism).

II. COMMUNICATIONS WITH CHAMBERS

A. Chambers Staff. Chambers’ staff includes two law clerks and one courtroom deputy. The law clerks are available at (619) 557-6384 to address inquiries on civil matters. The courtroom deputy is available at (619) 557-7352 to address inquiries on criminal matters. Please note that Court personnel will not provide legal advice or discuss the merits of a case.

B. Telephone Calls. Telephone calls to the Court are permitted only for administrative matters such as scheduling and bringing discovery disputes to the Court’s attention per the procedures set forth in Section VIII below. Absent exigent circumstances, only counsel responsible for the case may contact Chambers.

C. Letters, Faxes, or Emails. Letters, faxes, and/or emails to Chambers are prohibited unless authorized elsewhere in these Rules or otherwise requested by the Court. If requested or authorized, email communications should be sent to efile_torres@casd.uscourts.gov.

D. Courtesy Copies. Courtesy copies shall be provided for documents filed or lodged that exceed fifty (50) pages, inclusive of exhibits. Courtesy copies should be submitted to Chambers via the Clerk’s Office, located at 333 West Broadway, Suite 420, San Diego, CA 92101, within one (1) business day of the filing or lodgment. Courtesy copies of documents must be identical to the electronically filed or lodged documents, printed double-sided, with any exhibits tabbed.

E. Technical Questions Relating to CM/ECF. For technical questions relating to the Court’s Case Management/Electronic Case Filing system (“CM/ECF”), please contact the CM/ECF Help Desk at (866) 233-7983. In addition, there is detailed guidance on CM/ECF on the Court’s website.

III. EARLY NEUTRAL EVALUATION CONFERENCE (“ENE”)

The ENE is an opportunity to engage in good faith, confidential settlement discussions in an informal, off the record setting. Accordingly, counsel and the parties should be prepared to engage in a detailed discussion of the merits of their respective cases and counsel should have a command of the available facts and applicable law.

A. Timing of ENE. Pursuant to Local Rule 16.1(c), the Court will hold an ENE within 45 days of the filing of an answer.

B. Attendance and Settlement Authority Requirements. Unless otherwise ordered by the Court, the following are required to attend the ENE with full settlement authority:

1. Counsel with primary responsibility for the case;
2. All individual parties, and, for corporate and organizational parties, a representative who has authority over the litigation and full settlement authority;¹
3. Adjusters for all insured defendants and counter-defendants; and
4. All third parties who are contractually obligated to indemnify any defendant or counter-defendant.

The Court will not grant requests to excuse a required party from personally appearing absent exceptional circumstances. Travel distance alone does not constitute an exceptional circumstance. If any of the required representatives for the parties fail to appear at the ENE/CMC, the Court will issue an Order to Show Cause to determine whether sanctions are appropriate.

C. Confidential ENE Statements. No later than *seven (7) calendar days* before the ENE, each party must lodge a “Confidential ENE Statement” by email to efile_torres@casd.uscourts.gov.

ENE Statements must include all matters listed in the Court’s Notice and Order Setting Early Neutral Evaluation Conference and Case Management Conference. Unless pre-approved by the Court, ENE Statements must be formatted in accordance with Local Rule 5.1(a) (*i.e.*, on pleading paper, double spaced, 14-point font) and not exceed seven (7) pages, excluding exhibits. Parties may attach materials pertaining to their claim(s) or defense(s) as exhibits. Parties attaching exhibits must attach only the relevant pages of multi-page exhibits and must highlight the relevant portions.

If appropriate for the case, the parties are encouraged to attach a chronology of key events in a chart format, noting the date, event, and any relevant supporting exhibit (if the event is

¹ Government entities are excused from this requirement provided that an attorney attends who has: (i) primary responsibility for handling the case; and (ii) authority to negotiate and recommend settlement offers to the official(s) having ultimate settlement authority.

documented by an attached exhibit). The chronology does not count against the seven-page limit for ENE Statements.

D. Continuance of ENE. Requests to continue an ENE are strongly disfavored and will only be granted upon a strong showing of good cause.

IV. CASE MANAGEMENT CONFERENCE (“CMC”)

A. Timing of CMC. The Court will conduct the CMC required by Fed. R. Civ. P. 16 immediately following the ENE if the case does not settle, or, in rare exceptions, within 30 days following the ENE, consistent with Local Rule 16.1(c)(2)(b).

B. Joint Discovery Plan. No later than *seven (7) calendar days* prior to the scheduled ENE/CMC, the parties shall file a Joint Discovery Plan in CM/ECF. The Joint Discovery Plan must be one document and address all topics identified in Fed. R. Civ. P. 26(f)(3), including the following:

1. Whether any parties remain to be served and a proposed deadline for service if any parties remain to be served;
2. Identify counsel who attended the Fed. R. Civ. P. 26(f) conference, and the manner in which it was held (*i.e.*, in person or telephonic);
3. Whether there has been full and timely compliance with the initial disclosure requirements of Fed. R. Civ. P. 26(a) and a description of the disclosures made. If not, state when the parties expect to complete initial disclosures;
4. Identify any related cases by case name, case number, and court;
5. Identify any anticipated amendments to the pleadings, including any amendment to add parties or claims;
6. Whether a protective order is contemplated to cover the exchange of confidential information and, if so, the date by which the proposed order will be submitted to the Court;
7. Describe the proposed discovery plan, including:
 - a. The subjects on which discovery may be needed;
 - b. By name and/or title, all witnesses each party seeks to depose and a brief explanation as to why the party seeks to depose each witness;
 - c. Categories of documents each party anticipates requesting;
 - d. Any issues and agreements concerning the disclosure, discovery, and/or preservation of electronically stored information (“ESI”), including the form or forms in which ESI should be produced, and confirmation that the parties reviewed the Court’s “Checklist for Rule 26(f) Meet and Confer Regarding Electronically Stored Information,” available at <https://www.casd.uscourts.gov/Judges/torres/docs/Electronically%20Stored%20Information%20Checklist.pdf>;

- e. What changes, if any, should be made to the limitations on discovery imposed under the discovery rules, including whether the parties will stipulate to any proposed changes; and
 - f. If a party objects to the scope of any anticipated discovery, the party must articulate a specific legal basis for any objections;
8. Whether discovery should be conducted in phases or focused on certain issues (*e.g.*, deposition of a particular party, exchange of certain key evidence, etc.), and whether such an approach will assist with early resolution of the case;
9. Describe any issues that implicate expert evidence, including whether counsel anticipates any issues under *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993);
10. Describe all prior and pending motions, their current status, and any anticipated motions, including whether any threshold legal issues may be resolved by summary judgment;
11. Describe the procedure the parties plan to use regarding claims of privilege;
12. If a class action, describe any class-action issues, including a proposal for how and when the class will be certified;
13. Whether the case will be tried to a jury or to the court and the expected length of the trial;
14. Confirmation that all attorneys identified in the parties' pleadings reviewed Local Rule 2.1 and agree to abide by the Court's Code of Conduct;
15. Such other matters as may facilitate the just, speedy, and inexpensive disposition of the case, including identifying any discovery that deserves the special attention of the Court at the CMC; and
16. A proposed schedule for:
 - a. the filing of motions to amend pleadings and/or add parties;
 - b. the completion of fact and expert witness discovery;
 - c. the designation and supplemental designation of expert witnesses;
 - d. the service of expert witness reports and rebuttal expert witness reports;
 - e. the date by which all motions, including dispositive motions, shall be filed;
 - f. a date for a Settlement Conference; and
 - g. a date for a Pretrial Conference before the assigned District Judge.

V. MANDATORY SETTLEMENT CONFERENCE ("MSC")

Pursuant to Local Rule 16.3, the Court will hold a MSC at the conclusion of fact discovery and will entertain requests from any party to hold a voluntary settlement conference. The ENE attendance requirements apply to MSCs and settlement conferences.

A. Confidential Settlement Brief. No later than *seven (7) calendar days* before the settlement conference, each party must lodge a Confidential Settlement Brief by email to efile_torres@casd.uscourts.gov. The Confidential Settlement Brief should not exceed ten (10) pages, excluding exhibits, and must be formatted according to the requirements of Local Rule 5.1(a). Parties attaching exhibits must attach only the relevant pages of multi-page exhibits and must highlight the relevant portions.

B. Contents of Settlement Brief. All Confidential Settlement Briefs must include the following:

1. The party's position on liability and damages supported by relevant facts and evidence, a discussion of significant facts developed during discovery, and a legal analysis supporting the party's claims/defenses, with citations to controlling legal authority. If appropriate for the case, the parties are encouraged to attach a chronology of key events in a chart format, noting the date, event, and any relevant supporting exhibit (if the event is documented by an attached exhibit). The chronology does not count against the ten-page limit for Settlement Briefs;
2. *For plaintiffs*, a specific and current settlement demand addressing all relief sought, an itemization of the damages sought, and the basis for each category of damages; *for defendants*, a specific and current offer and the basis for that offer. (*Note*: a general statement that a party will "negotiate in good faith," "offer a nominal cash sum," or "be prepared to make a demand or offer at the conference" is not a specific demand or offer. If a specific offer or demand cannot be made at the MSC or settlement conference, state the reasons why and explain what additional information is required to make a settlement demand or offer);
3. A brief description of any previous settlement negotiations or mediations; and
4. Participant information, including the name(s) and title(s)/position(s) of the party/party representative(s) and the names of attorney(s) and non-attorney(s) who will attend the settlement conference, and for Zoom video conferences, an *e-mail address for each attorney participant* to receive the Zoom video conference invitation, and a *telephone number where each attorney participant* may be reached should any technical difficulties arise prior to or during the Zoom video conference.

VI. REQUESTS TO AMEND SCHEDULING ORDER OR CONTINUE OTHER DATES

A. Meet and Confer Requirement. Prior to contacting Chambers or filing a request for a continuance, the parties shall meet and confer concerning any request to continue or extend any date or deadline.

B. Continuing ENE or MSC. Parties may request a continuance of an ENE, MSC, or settlement conference through a Joint Motion (even if the parties are not in agreement) filed in CM/ECF. The parties must file the Joint Motion in accordance with Local Rule 7.2 and as soon as a party is aware of the circumstances that warrant rescheduling the conference. If the request is opposed, the Joint Motion shall include a description of the parties' meet and confer efforts and a statement by the opposing party explaining the basis for its opposition. The parties should note that Local Rule 16.1.c.1. requires that an ENE occur within 45 days of the filing of an initial answer.

C. Extending Deadline to Raise Discovery Disputes. The parties may request to extend the 45-day deadline to contact Chambers concerning a discovery dispute through a Joint Motion (even if the parties are not in agreement) filed in CM/ECF. The parties must file the Joint Motion in accordance with Local Rule 7.2. If the request is opposed, the Joint Motion shall include a

description of the parties' meet and confer efforts and a statement by the opposing party explaining the basis for its opposition.

D. Amending Scheduling Order & Deadlines. Parties may request to continue a Scheduling Order deadline through a Joint Motion for Continuance (even if the parties are not in agreement). The parties must file the Joint Motion in accordance with Local Rule 7.2 *no less than seven (7) calendar days* before the affected date. The parties are not required to lodge a proposed order.

The Joint Motion must include the following information:

1. The original deadline(s) or date(s);
2. The number of previous requests for a continuance;
3. A showing of good cause for the request, supported by a declaration from counsel that details steps taken by the parties to meet current deadlines and reasons why the parties can no longer meet those deadlines;
4. If the request is opposed, a description of the parties' meet and confer efforts and a statement by the opposing party explaining the basis for its opposition;
5. Whether the requested continuance will affect other case management dates; and,
6. If the reason for the requested continuance is to engage in private mediation, the date scheduled for such mediation.

The filing of a Joint Motion for Continuance does NOT permit the parties to disregard the deadlines currently in place. Unless and until the Court grants the Joint Motion, the parties shall comply with all deadlines in the operative Scheduling Order.

Requests to amend the Scheduling Order that require an extension of the motion filing cut-off, pre-trial conference, and/or trial date are strongly disfavored and may be denied.

VII. NOTIFICATION OF CASE RESOLUTION

If the parties reach a settlement outside the presence of the Court, counsel must promptly call or email Chambers to advise of the settlement and file a Notice of Settlement or Joint Motion to Dismiss in CM/ECF.

VIII. DISCOVERY DISPUTES (Fed. R. Civ. P. 26–37, 45; Local Rule 26.1)

A. Meet and Confer Requirement. Before bringing any discovery dispute to the Court's attention, lead counsel (or attorneys with full authority to make decisions on the matter in dispute) must promptly and thoroughly meet and confer in person or by videoconference regarding all disputed issues. Letters, emails, or telephone calls do not satisfy this requirement.

B. Disputes During Depositions. If a dispute requiring immediate resolution by the Court arises during a deposition, the parties must suspend the deposition and immediately meet and confer. If the dispute is not resolved after meeting and conferring, the parties may call Judge Torres' Chambers for an immediate ruling on the dispute. If available, the Court will rule on the dispute or give instructions on how to proceed. If the Court is not available, the parties must mark

the deposition at the point of the dispute and continue the deposition with other areas of inquiry. Upon completion of the deposition, the parties must once again meet and confer and, if the dispute is still not resolved, follow the procedures set forth in sections C, D, and E below.

C. Conference Call with Chambers. If the parties fail to resolve their discovery dispute through the meet and confer process, the parties must jointly call Chambers and speak to the law clerk assigned to the case. During the call with Chambers, counsel should be prepared to: (1) explain the details of the dispute and the parties' respective positions; (2) describe the parties' meet and confer efforts; (3) identify the relief requested; and (4) provide three dates and times within the seven (7) days that follow when all counsel is available for an in-person or telephonic hearing with the Court.

Based on the nature of the dispute, the Court will either schedule a discovery dispute conference (telephonic or in person) or direct the parties to file a motion and set a briefing schedule and page limits. The parties should be prepared to file a motion and opposition on an expedited briefing schedule following the initial conference call with Chambers.

D. Discovery Motion Procedures. Unless otherwise authorized by these rules (*see* section G below), discovery motions pursuant to Fed. R. Civ. P. 26-37 and 45 *may not be filed without prior leave of Court.*

Any discovery motion (*e.g.*, motion to compel) must include the following:

1. The verbatim Interrogatory, Request for Admission, Request for Production/Inspection, or deposition question in dispute;
2. The verbatim response to the request or question at issue;
3. If a privilege or protection from disclosure is asserted, the line item(s) of the privilege log describing the document(s)/information withheld; and
4. A statement explaining what relief the moving party seeks and an analysis of applicable law supporting the requested relief.

Unless otherwise authorized, discovery motions and oppositions may not exceed ten (10) pages, exclusive of exhibits. Reply briefs are not permitted unless requested or authorized by the Court. The parties should not attach correspondence between counsel unless it evidences an agreement allegedly breached. The parties are not required to lodge a proposed order.

E. Timing. The parties must initiate the conference call to Chambers (described in section C above) *within forty-five (45) days* of the event giving rise to the discovery dispute. For depositions, the event giving rise to the dispute is receipt from the Court reporter of the affected portion of the deposition transcript. For written discovery, the event giving rise to the dispute is the date the relevant response was served. If a party fails to respond to written discovery, the event giving rise to the dispute is the date the response was due. The event giving rise to the dispute is not the date that counsel reach an impasse in meet and confer efforts. At the request of the parties, the Court may extend the 45-day deadline upon a showing of good cause.

F. Disputes Concerning Electronically Stored Information. Before raising a dispute regarding ESI with the Court, the parties must consult and comply with the Court’s “Checklist for Rule 26(f) Meet and Confer Regarding Electronically Stored Information,” available at <https://www.casd.uscourts.gov/Judges/torres/docs/Electronically%20Stored%20Information%20Checklist.pdf>.

G. Discovery Disputes Involving Third Parties. If a discovery dispute involves a third-party subpoena, and compliance is required in the Southern District of California pursuant to Fed. R. Civ. P. 45(c), the procedures described in sections B and C above apply if the third party is represented. If the third party is not represented, the party raising the dispute may file an appropriate discovery motion within the time set out in section E above.

IX. PRIVILEGE LOGS

Unless the parties’ Joint Discovery Plan or a Court order provides otherwise, a party withholding documents based upon a claimed protection or privilege must produce a privilege log that contains sufficient information to allow the requesting party to evaluate the basis for withholding any documents. The privilege log must include the following information:

1. Client (*i.e.*, party asserting privilege);
2. Date of the document;
3. Bates number of the document;
4. Author of the document;
5. Primary addressee (and the relationship of that person(s) to the client and/or author of the document);
6. Secondary addressee(s) (and the relationship of that person(s) to the client and/or author of the document);
7. Any other individual(s) to whom the document was disseminated (and the relationship of that person(s) to the client and/or author of the document);
8. Type of document (*e.g.*, internal memo, letter with enclosures, draft affidavit, etc.);
9. Attorney(s) involved and party represented;
10. Subject matter of document or privileged communication;
11. Basis for withholding the document or communication (*e.g.*, work product, attorney client privilege, or some other asserted privilege or protection); and
12. Identification and description of any attachments.

X. PROTECTIVE ORDERS

If a protective order is requested, the parties must file a Joint Motion for a Protective Order in CM/ECF and lodge the proposed protective order in Word format by email to efile_torres@casd.uscourts.gov. The proposed protective order must contain a provision regarding the disposition of confidential or sealed documents and information upon conclusion of the case.

The proposed protective order must also contain the following provisions:

1. At any stage of the proceedings, any party may object to a designation of materials as confidential information. The objecting party must notify the designating party, in writing, of the materials objected to and the ground(s) for the objection. Thereafter, the parties must promptly meet and confer, pursuant to Local Rule 26.1.a. If the dispute is not resolved within seven (7) days of receipt of the objections, and after counsel have thoroughly met and conferred, the parties must place a joint call to the assigned magistrate judge's chambers to explain the dispute and the parties' respective positions. The materials at issue must be treated as confidential until the Court has ruled on the objection, or the matter has been otherwise resolved.
2. No party may file any document under seal, except pursuant to a court order that authorizes the filing of the document, or portion of the document, under seal. The party seeking to file under seal must limit its sealing request to the specific portion of the document that contains the confidential or privileged material. Any application to file a document under seal must be served on the person or entity that has custody and control of the document, if that person or entity has not already appeared in the action.
3. Without separate court order, the Protective Order and the parties' stipulation do not change, amend, or circumvent any court rule or local rule.
4. The Court may modify the Protective Order in the interests of justice or for public policy reasons.

XI. EX PARTE PROCEEDINGS

Ex parte motions are appropriate only in exigent circumstances when a party is not reachable or otherwise refuses to participate in the preparation of a Joint Motion, or when the Court directs a party to submit the requested relief as an *ex parte* motion.

The Court does not have regular *ex parte* hours. A party seeking *ex parte* relief must file a motion in CM/ECF that includes: (1) a short description of the dispute and the relief sought; (2) a declaration describing efforts to meet and confer with the opposing party; and (3) a proof of service if the opposing party is not registered in CM/ECF.

The Court will ordinarily give the opposing party until 5:00 p.m. the next business day to respond. If more time is required, the opposing party must promptly contact Chambers at (619) 557-6384. Unless otherwise ordered, the Court will issue a decision without a hearing.

XII. MISCELLANEOUS MATTERS

A. Lodging v. Filing Documents. When directed by the Court to “lodge” a document, a party shall email the document to efile_torres@casd.uscourts.gov. When directed to “file” a document, a party should electronically file the document in CM/ECF.

Filing Documents Under Seal. A party seeking to file a document under seal must comply with Local Rule 79.2 and Section 2.j. of the ECF Manual. Instructions on how to file a motion to seal in CM/ECF can be found at

https://www.casd.uscourts.gov/_assets/pdf/cmecf/How%20to%20File%20Civil%20Sealed%20Documents.pdf.

B. Transcripts. Transcript orders for proceedings before Judge Torres must be electronically filed. Instructions, including how to determine page estimates, a blank transcript order form, and where to find the page rates can be found at <https://www.casd.uscourts.gov/attorney/transcript-order.aspx>.