

HONORABLE WILLIAM MCCURINE, JR.
U.S. MAGISTRATE JUDGE
CHAMBER RULES
CIVIL PRETRIAL PROCEDURES

Please note: The Court provides this information for general guidance to counsel. However, the Court may vary these procedures as appropriate in any case.

Local Rules

Except as otherwise provided herein or as specifically ordered by the Court, all parties are expected to strictly comply with the Local Rules of the United States District Court for Southern District of California.

Communications with Chambers

- A. Letters.** Letters to chambers are prohibited unless specifically requested by the Court. If letters are requested, copies of the same shall be simultaneously delivered to all counsel. Copies of correspondence between counsel shall not be sent to the Court.
- B. Faxes.** Faxes to chambers are prohibited unless specifically requested by the Court. If faxes are requested, copies of the same shall be simultaneously delivered to all counsel.
- C. Telephone Calls.** Telephone calls to chambers are permitted only for matters such as scheduling and calendaring. Court personnel are prohibited from giving legal advice or discussing the merits of a case. Call the chambers at 619-557-6624 and address your inquiries to the law clerk assigned to your case.

Early Neutral Evaluation (ENE)

The Southern District of California requires litigants in civil cases to meet with the assigned Magistrate Judge supervising discovery for an Early Neutral Evaluation Conference within forty-five days of filing an answer.¹

In order to conduct the most effective ENE conference, each counsel must appear in person with a representative who has authority to discuss and enter into settlement. Judge McCurine and the parties will discuss the claims and defenses, and attempt to settle the case. The ENE conference is informal, off the record, privileged, and confidential.

¹ At the discretion of the Court, ENE and Case Management Conferences need not be set in the following categories of cases: (1) habeas corpus cases; (2) cases reviewing administrative rulings; (3) social security cases; (4) default proceedings; (5) cases in which a substantial number of defendants have not answered; (6) actions to enforce judgments; (7) bankruptcy appeals; and (8) section 1983 prisoner cases. Civil Rule 16.1.e.

A confidential ENE conference statement shall be lodged with chambers no later than seven (7) days before the ENE either by messenger or to the Court's email address at efile_mccurine@casd.uscourts.gov.

The ENE statements must include the following:

1. A brief description of the case and the claims asserted;
2. A specific and current demand for settlement addressing all relief or remedies sought. If a specific demand for settlement cannot be made at the time the brief is submitted, then the reasons therefore must be stated along with a statement as to when the party will be in a position to state a demand; and
3. A brief description of any previous settlement negotiations, mediation sessions or mediation efforts.

Absent extraordinary circumstances, a request to continue the ENE will not be considered unless submitted via a motion to continue the date no less than fourteen (14) days prior to the scheduled conference.

If the case is settled in its entirety before the scheduled date of the conference, counsel must file a Notice of Settlement twenty-four (24) hours before the ENE conference.

If the case does not settle at the ENE conference, Judge McCurine may refer the case to mediation or arbitration.

If no settlement is reached at the ENE conference, a Case Management Conference ("CMC") will be held within 30 days after the ENE conference.

Case Management Conference (CMC)

The parties are required to lodge a Joint Discovery Plan under Rule 26 of the FRCP pursuant to court order either by messenger or to the Court's email address at efile_mccurine@casd.uscourts.gov.

The statement must include an estimate of the number of depositions, all discoverable documents, or other discovery that may be necessary for the judge to assess the needs of the case.

The Joint Discovery Plan, usually initiated by the plaintiff, must be one document. If the parties do not agree on the terms, each party can list their objections.

Procedures for the CMC are set forth in Civil Local Rule 16.1.d.

Mandatory Settlement Conference (MSC)

After the Case Management Conference, Judge McCurine will set a pre-trial schedule and a Mandatory Settlement Conference.

If the case does not settle at the MSC, the case will be handled by the assigned District Court Judge and proceed to trial.

Discovery Disputes

Judge McCurine requires the parties to attempt to resolve any discovery disputes by telephone or in-person. The Court will not accept motions pursuant to Rules 26 through 37 of the Federal Rules of Civil Procedure until counsel have: (1) previously met and conferred concerning all disputed issues; and (2) participated in a teleconference with the Court. *See* Civil Local Rule 26.1(a).

If the parties have not resolved their dispute through the meet and confer process, counsel shall contact the law clerk assigned to their case and provide a neutral statement of the dispute. The law clerk will then schedule a telephonic conference with both parties to resolve the dispute before Judge McCurine.

Ex-Parte Proceedings

Judge McCurine does not have regular *ex parte* hearing days or hours. Appropriate *ex parte* applications may be made at any time after first contacting the law clerks, but must ultimately be filed electronically on ECF and include a description of the dispute, the relief sought, and accompanied by a separate affidavit indicating reasonable and appropriate notice to the opposition.

After service of the *ex parte* application, opposing counsel will ordinarily be given until 5:00 p.m. on the next business day to respond. If more time is needed, opposing counsel must call the law clerk assigned to their case to modify the schedule. After receipt, moving and opposing *ex parte* papers will be reviewed and a decision will be made without a hearing. If the Court requires a hearing, the parties will be contacted to set a date and time.

General Decorum

All persons, whether observers, witnesses, lawyers, or clients, must maintain proper decorum while in Court.

Pursuant to Civil Local Rule 83.4, an attorney in practice before this Court shall:

- (a) Be courteous and civil in all communications, oral and written, and in all proceedings conduct herself/himself with dignity and respect.
- (b) Be a vigorous and zealous advocate on behalf of a client without acting in a

manner detrimental to the proper functioning of the judicial system.

- (c) Attempt to resolve litigation consistent with his or her client's interests.
- (d) Attempt to informally resolve disputes with opposing counsel.
- (e) Agree to reasonable scheduling changes, requests for extensions of time and waivers of procedural formalities, if the legitimate interests of a client will not be adversely affected.
- (f) Communicate with opposing counsel in an attempt to establish a discovery plan and voluntary exchange of non-privileged information.
- (g) When possible, confer with opposing counsel before scheduling or rescheduling hearings, depositions, and meetings and notify all parties and the court, as early as possible, when hearings or depositions must be canceled.