

**HONORABLE RUBEN B. BROOKS
UNITED STATES MAGISTRATE JUDGE
CHAMBERS RULES**

The following rules are provided for general guidance. The Court may alter them as appropriate in any individual case.

Communications with Chambers

Counsel must be cautious when communicating with chambers. Counsel are required to consult the local rules, Federal Rules of Civil Procedure, and Judge Brooks's chambers rules before calling chambers. When speaking with chambers staff, counsel should be mindful that law clerks and other judicial staff are not authorized to offer any legal advice. Legal advice is defined broadly and includes answering questions such as "what type of motion should I file?" or "what should the caption of my motion be?" Judicial staff should not be asked when counsel will receive a ruling on a pending motion or what the ruling will be. You may call chambers at (619) 557-3404 to address your specific inquiry.

Unless otherwise stated, e-mails to chambers are only permitted for (1) lodging proposed orders, (2) circulating a conference call number prior to a telephonic conference, and (3) submitting settlement conference and early neutral evaluation conference briefs.

Physical letters and faxes should not be sent to chambers unless requested by the Court.

Criminal Matters

Any questions regarding criminal matters should be directed to Judge Brooks's courtroom deputy, Vicky Lee, at (619) 557-7143.

Rules Applicable for All Civil Motions

All hearing dates for any civil motion for which a ruling is required must be obtained from Judge Brooks's law clerk. **All motions must be filed within 24 hours of obtaining a hearing date. Failure to comply may result in striking the motion from the docket.**

Discovery Motions

Discovery motions may not be filed without first contacting Judge Brooks's law clerk. When counsel is prepared to file a discovery motion, the attorney looking to bring the motion must first call chambers to discuss the dispute. Counsel must be prepared to address (1) what types of discovery they are seeking to compel, (2) the subject matter of the discovery, (3) whether counsel have met and conferred as required by Local Civil Rule 26.1, and (4) whether the motion is timely.

Counsel must meet and confer before contacting the Court regarding a discovery dispute.

Discovery disputes can often be resolved without the need for Court intervention through meet-and-confer efforts. These efforts are required under the local rules of the Southern District of California. Under the local rules, “[t]he court will entertain no motion pursuant to Rules 26 through 37, Fed. R. Civ. P., unless counsel will have previously met and conferred concerning all disputed issues.” S.D. Cal. Civ. R. 26.1(a). “If counsel have offices in the same county, they are to meet in person. If counsel have offices in different counties, they are to confer by telephone. Under no circumstances may the parties satisfy the meet and confer requirement by exchanging written correspondence.” Id.

Discovery motions must be timely. All discovery motions must be filed within 30 days of the service of an objection, answer or response that becomes the subject of dispute or the passage of a discovery due date without response or production, and only after counsel have met and conferred and have reached impasse with regard to the particular issue. The 30-day deadline will not be extended without a prior Court order; counsel cannot unilaterally extend the deadline. For example, ongoing meet-and-confer efforts, rolling document productions, or supplemental responses do not extend the deadline. For oral discovery, the event giving rise to the discovery dispute is the completion of the transcript of the affected portion of the deposition. For written discovery, the event giving rise to the discovery dispute is the service of the response. **A failure to comply will bar a party from filing a corresponding discovery motion.**

Discovery motions must be filed with sufficient time for production before the fact discovery deadline. All discovery shall be completed by all parties on or before the fact discovery deadline; this includes discovery ordered as a result of a discovery motion.

Early Neutral Evaluation Conferences

Pursuant to Rule 16.1(c) of the Local Rules of the United States District Court for the Southern District of California, all parties (including those who are indemnified by others), claims adjusters for insured Defendants, and non-lawyer representatives with full and unlimited authority¹ to enter into a binding settlement, as well as the principal attorneys responsible for the litigation, must be present and legally and factually prepared to discuss and resolve the case at the early neutral evaluation conference. Corporate counsel shall not appear on behalf of a corporation as the party representative who has the authority to negotiate and enter into a settlement. Failure to attend or obtain a proper excusal will be considered grounds for sanctions. (Where the suit involves the United States or one of its agencies, only counsel for the United States with full settlement authority need appear.) (If Plaintiff is incarcerated in a penal

¹ “Full authority to settle” means that the individuals at the settlement conference be authorized to fully explore settlement options and to agree at that time to any settlement terms acceptable to the parties. Heileman Brewing Co. v. Joseph Oat Corp., 871 F.2d 648 (7th Cir. 1989). The person needs to have “unfettered discretion and authority” to change the settlement position of a party. Pitman v. Brinker Int’l, Inc., 216 F.R.D. 481, 485-86 (D. Ariz. 2003). The purpose of requiring a person with unlimited settlement authority to attend the conference includes that the person’s view of the case may be altered during the face-to-face conference. Pitman, 216 F.R.D. at 486. A limited or a sum certain of authority is not adequate. Nick v. Morgan’s Foods, Inc., 270 F.3d 590 (8th Cir. 2001).

institution or other facility, the Plaintiff's presence is not required and Plaintiff may participate by telephone. In that case, defense counsel is to coordinate the Plaintiff's appearance by telephone.)

Early neutral evaluation conference briefs should be submitted in every case. They are to be submitted three business days before the early neutral evaluation conference. Briefs over twenty pages should be delivered to the Clerk's Office; briefs under twenty pages may be e-mailed to chambers at efile_brooks@casd.uscourts.gov.

Ex Parte Applications

“Ex parte applications are not intended to save the day for parties who have failed to present requests when they should have” Mission Power Eng'g Co. v. Cont'l Cas. Co., 883 F. Supp. 488, 493 (C.D. Cal. 1995) (quoting In re Intermagnetics Am., Inc., 101 B.R. 191, 193 (C.D. Cal. 1989)). Rather, they “are a form of emergency relief that will only be granted upon an adequate showing of good cause or irreparable injury to the party seeking relief.” Clark v. Time Warner Cable, No. CV 07 1797 VBF(RCX), 2007 WL 1334965, at *1 (C.D. Cal. May 3, 2007) (citing Mission Power Eng'g Co., 883 F. Supp. at 493). Ex parte applications may be appropriate for certain procedural matters, such as requesting that an individual be given permission to appear as a client representative at a settlement conference. They may not be used in lieu of a substantive noticed motion. Counsel must be mindful of these constraints when considering filing an ex parte application.

Stipulated Protective Orders

When filing a stipulated protective order, a proposed protective order must be e-mailed to chambers. The proposed protective order must contain the following language:

No items will be electronically filed under seal without a prior application to, and order from, the judge presiding over the hearing or trial. Only when the judge presiding over the hearing or trial permits filing an item or items under seal may confidential material be filed with the Court under seal.

Whenever the Court grants a party permission to file an item under seal, a duplicate disclosing all nonconfidential information shall be filed and made part of the public record. The item may be redacted to eliminate confidential material from the public document. The public document shall be titled to show that it corresponds to an item filed under seal, e.g., “Redacted Copy of Sealed Declaration of John Smith in Support of Motion for Summary Judgment.” The public redacted documents shall be filed within twenty-four hours of the Court order authorizing the filing of a document under seal.