

**HONORABLE KAREN S. CRAWFORD
U.S. MAGISTRATE JUDGE
CHAMBERS' 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.

I. 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 for the United States District Court for the Southern District of California.

II. Communications with Chambers

Chambers' staff includes two law clerks and one courtroom deputy. The law clerks handle inquiries on civil matters, and the courtroom deputy handles inquiries on criminal matters. The telephone number for the law clerks is (619) 446-3964; the telephone number for the courtroom deputy is (619) 557-2923.

- A. Letters, faxes, or emails.** Letters, faxes or emails to chambers are prohibited, except as set forth in these guidelines.
- B. Lodging Documents.** When an order directs you to "lodge" documents with chambers (usually, your ENE brief, MSC statement or discovery plan), you should bring the document directly to chambers (*e.g.*, via an attorney courier service). Alternatively, if the total number of pages, including exhibits, is 20 or less, you may lodge the document via email at efile_crawford@casd.uscourts.gov.
- C. Telephone Calls.** With the exception of scheduled telephonic conferences, and as provided in Sections V and VI, telephone calls to chambers are permitted only for procedural matters, such as scheduling a conference with the Court. *The Court's law clerks are not permitted to give legal advice, or to discuss how or when the Court will rule on disputed matters.* Law clerks will not discuss complex procedural issues with anyone other than **counsel** for the parties.

III. Early Neutral Evaluation ("ENE") and Settlement Conferences

- A. Required Attendance.** All party representatives, and claims adjusters for insured defendants, must have full and unlimited authority to negotiate and enter into a binding settlement, as well as the principal attorney(s) responsible for the litigation, must be present and legally and factually prepared to discuss and

resolve the case at the ENE or any other settlement conference. “Full and unlimited authority” means that the individuals at the ENE or settlement conference must be authorized to fully explore settlement options and to agree at that time to any settlement terms acceptable to the parties. *Heileman Brewing Co., Inc. 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, 485-486 (D. Ariz. 2003). One of the purposes of requiring a person with unlimited settlement authority to attend the conference is that the person's view of the case may be altered during a face-to-face conference. *Id.* at 486. A limited or sum certain authority is not adequate. *Nick v. Morgan's Foods, Inc.*, 270 F.3d 590, 595-597 (8th Cir. 2001). Failure of any of the aforementioned to appear **in person** will result in the imposition of sanctions.

A **government entity** is excused from this requirement so long as the government attorney who attends the ENE conference or settlement conference has (1) primary responsibility for handling the case; and (2) authority to negotiate and recommend settlement offers to the government official(s) having ultimate settlement authority.

Counsel requesting that a required party be excused from personally appearing must confer with opposing counsel prior to making the request. Such requests may then be made by filing a joint motion excusing a required person or an ex parte request outlining the compelling circumstances for the request.

The Court will **not** grant requests to excuse a required party from personally appearing absent compelling circumstances. Travel distance alone does **not** constitute a compelling circumstance.

- B. Confidential Statements.** No later than **seven (7) days** before the ENE or settlement conference, the parties shall **lodge confidential statements** of ***five pages or less*** directly with the chambers of Magistrate Judge Crawford by either messenger or by email to the Court at efile_crawford@casd.uscourts.gov. All confidential settlement statements must include (1) a brief description of the case and the claims asserted; (2) the party's position on liability and damages with controlling legal authority; (3) ***a specific and current demand for settlement addressing all relief or remedies sought, as well as the specific basis for each type of relief (if a specific demand for settlement cannot be made at the time the settlement statement is submitted, state the reasons why and explain when the party will be in a position to state a settlement demand)***; and, (4) a brief description of any previous settlement negotiations or mediation efforts.

- C. Notification to Court of Earlier Resolution.** If the case is settled in its entirety before the scheduled date of the ENE or settlement conference, counsel must file a Notice of Settlement and call chambers at (619) 446-3964 as soon as possible before the scheduled ENE or settlement conference.

IV. Case Management

- A. Case Management Conferences (“CMC”).** The Court conducts the majority of its CMCs telephonically, and unless otherwise directed, plaintiff’s counsel coordinates and initiates all conference calls. It is the responsibility of plaintiff’s counsel to gather all participants on the conference call prior to calling chambers at (619)446-3964.
- B. Joint Discovery Plans.** Following the ENE, the parties will be required to make their initial disclosures under Fed.R.Civ.P. 26(a) and also will be required to submit a **Joint Discovery Plan** prior to the first scheduled CMC. The Joint Discovery Plan must be one document and must explicitly address each item identified in Fed.R.Civ.P. 26(f)(3). The dates proposed by the parties in the Joint Discovery Plan will be given due weight by the Court in setting the dates in the case Scheduling Order. The Joint Discovery Plan must specifically address:
1. Whether there is limited discovery that may enable each party to make a reasonable settlement evaluation such as the deposition of plaintiff, defendant, or key witnesses, and the exchange of a few pertinent documents;
 2. The need for discovery of electronically stored information, any issues regarding production of such information and the requested form(s) and scope of production;
 3. Whether there are issues in the case requiring expert evidence;
 4. The procedure the parties propose to resolve disputed claims of privilege; and,
 5. Whether a protective order will be needed in the case.
- C. Requests to Amend the Schedule.** The dates and times set in the Scheduling Order **will not** be modified except for good cause shown. Fed.R.Civ.P. 16(b)(4). Counsel are reminded that they must “take all steps necessary to bring an action to readiness for trial.” Civil Local Rule 16.1(b). Any requests for extensions must be preceded by a “meet and confer” conference by counsel. The Court prefers any motion to amend the schedule be brought as a joint motion, even if the parties disagree. Joint motions must include a declaration from counsel of record

detailing the steps taken to comply with the dates and deadlines set in the Scheduling Order, and the specific reasons why the deadlines cannot be met. If the request for a continuance is based on engagement in private mediation, the parties shall state the date scheduled for such mediation. A scheduling order will not be continually amended to accommodate the parties' desire to limit costs while engaging in private mediation.

V. **Discovery Disputes**

- A. **Hearing and Timing of Motions:** Any motion to compel discovery or motion for a protective order relative to discovery shall be brought by joint motion as described in Section "D" below. To file a joint motion, it is not necessary to obtain a hearing date. Most discovery disputes can be resolved on the papers submitted without oral argument. The parties will be notified if the Court will hear oral arguments.

Unless otherwise ordered, discovery motions shall be filed no later than 45 days after the event giving rise to the dispute and only after counsel have met and conferred as described in Section "B" below. The event giving rise to a discovery dispute is **NOT** the date on which counsel reach an impasse in meet and confer efforts. For written discovery, the event giving rise to the dispute is the service of an objection, answer, or response, or the passage of a discovery due date without response or production. For oral discovery, the event giving rise to the dispute is the completion of the transcript of the affected portion of the deposition.

- B. **Meet and Confer Requirements:** Counsel must meet and confer on all issues **before** contacting the Court. If counsel are located in the same district, the meet and confer must be in person. If counsel are located in different districts, then telephone or video conference may be used for meet and confer discussions. In no event will meet and confer letters, facsimiles or emails satisfy this requirement.
- C. **Depositions:** If a dispute arises during the course of a deposition, you are to call the Judge Crawford's chambers with all counsel on the line and be prepared to provide a brief description of the dispute. If the Court is unable to review the matter at that moment, you are to have the subject portion of the deposition transcript marked and proceed with the deposition in other areas of inquiry until the Court can get back to you. If the matter cannot readily be resolved by the Court, or the Court is not available, the Court may require the parties to file a joint motion as provided at subparagraph D below.
- D. **Disputes Over Written Discovery Requests:** If the discovery dispute concerns written discovery requests (*e.g.*, interrogatories, requests for admissions, requests for production, subpoenas), the parties shall submit a **"Joint Motion for**

Determination of Discovery Dispute.” For each written discovery request in dispute, the Joint Motion must include:

1. The exact wording of the discovery request;
2. The exact response to the request by the responding party;
3. A statement by the propounding party and any points and authorities as to why a further response should be compelled; and,
4. A precise statement by the responding party and any points and authorities as to the bases for all objections and/or claims of privilege.

Any such joint motion shall be accompanied by a declaration from **lead** trial counsel of each party to the dispute establishing compliance with the meet and confer requirements.

A party seeking to bring a discovery dispute before the Court must provide the opposing party a reasonable opportunity to contribute to the joint motion. *An ex parte motion or application to compel is only appropriate under circumstances where the opposing party refuses to participate in contributing to a joint motion after a reasonable opportunity has been provided, or if the motion to compel is directed to a non-party.* This Court considers a *minimum* of 5 business days prior to the anticipated filing date of the joint motion to be a reasonable time period for a party to participate meaningfully in the preparation of a joint motion. This means that the party initiating a joint motion to resolve a discovery dispute must provide opposing counsel with a complete draft of the joint motion and any exhibits or supporting declarations *at least* 5 business days prior to the anticipated filing date. *Ex parte* motions or applications to compel discovery that do not contain a declaration stating the opposing party has been given a meaningful opportunity to participate in a Joint Motion will be rejected by the Court.

Unless specifically requested by the Court, responses or replies to joint motions will not be accepted or considered without prior approval from the Court.

VI. Ex Parte Proceedings

As outlined above, the Court prefers that all discovery disputes and requests for protective orders or continuances be submitted as joint motions. **The Court does not have regular *ex parte* days or hours.** All *ex parte* applications must be filed electronically on CM/ECF and are to include a short description of the dispute and the relief sought, as well as **a separate affidavit indicating reasonable and appropriate notice to the opposition and meet and confer efforts made to resolve the dispute without the Court’s intervention.** After service of the *ex parte* application, opposing

counsel will ordinarily be given until 5:00 p.m. the next business day to respond. If more time is needed, opposing counsel must call the Court's law clerk at (619) 446-3964 to request additional time to respond. After receipt of both the application and the opposition, the Court will determine if a reply is warranted. Unless otherwise directed by the Court, a decision will be issued in most cases without a hearing or reply.

VII. Continuances.

Whether made by joint motion or *ex parte* application, any request to continue an Early Neutral Evaluation conference, settlement conference, or scheduling order deadline shall be made in writing no less than **seven (7) calendar days** before the affected date. The request shall state:

1. The original deadline or date;
2. The number of previous requests for continuance;
3. A showing of good cause for the request;
4. Whether the request is opposed and why; and,
5. Whether the requested continuance will affect other case management dates.

Joint motions for continuance shall be in the form required by **Local Rule 7.2** except that it is not necessary for the parties to submit a proposed order.

VIII. Stipulated Protective Orders

Any protective order submitted for the Court's signature must contain these **two** provisions:

Nothing shall be filed under seal, and the Court shall not be required to take any action, without separate prior order by the Judge before whom the hearing or proceeding will take place, after application by the affected party with appropriate notice to opposing counsel. The parties shall follow and abide by applicable law, including Civ. L.R. 79.2, ECF Administrative Policies and Procedures, Section II.j, and the chambers' rules, with respect to filing documents under seal.

The Court may modify the protective order in the interests of justice or for public policy reasons.

All stipulated protective orders shall be filed as a joint motion. ***The parties shall also e-mail the proposed protective order to the Court at crawford@casd.uscourts.gov in Word or WordPerfect format.***

IX. Procedure for Filing Documents Under Seal

- A.** No document may be filed under seal, *i.e.*, closed to inspection by the public, except pursuant to a court order that authorizes the sealing of the particular document, or portions of it. A sealing order may issue only upon a showing that the information is privileged or protectable under the law. The request must be narrowly tailored to seek sealing only of sealable material.
- B.** The parties shall follow and abide by applicable law, including Civ. L.R. 79.2 and ECF Administrative Policies and Procedures, Section II.j, with respect to filing documents under seal.
- C.** The party seeking to file under seal must electronically file a “Motion to File Documents Under Seal” and electronically lodge the said documents using a new event called “Sealed Lodged Proposed Document.” The System will inform the party that the documents will be sealed and only available to court staff. The Clerk’s Office will indicate on the public docket that proposed sealed documents were lodged. A party need only submit a courtesy copy of the documents to chambers if the documents exceed 20 pages in length. If the Court grants the motion to seal, the docket entry and documents will be sealed and designated on the docket as filed on the order date. If the Court denies the motion to seal, the lodged documents will remain lodged under seal absent an order to the contrary.
- D.** The parties shall simultaneously file a redacted version of the document sought to be filed under seal. The 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."

X. General Decorum

The Court expects all counsel to represent their clients in a civil, professional and ethical manner, and to be courteous and respectful at all times, in all settings. Counsel may also expect the Court to treat litigants and their counsel with the highest level of respect and professionalism. Please be familiar with and abide by Civil Local Rule 83.4.