

**HONORABLE LINDA LOPEZ
U.S. MAGISTRATE JUDGE
CIVIL CHAMBERS RULES**

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. Communications with Chambers

Counsel are required to consult the local rules, Federal Rules of Civil Procedure, and Judge Lopez’s chambers rules before calling chambers. Chambers staff includes three law clerks and one courtroom deputy. The law clerks handle inquiries on civil matters while the courtroom deputy handles inquiries on criminal matters. The telephone number for the law clerks is (619) 557-5585. The telephone number for the courtroom deputy is (619) 557-6412.

- A. Letters, faxes, or emails.** Letters, faxes, and emails to chambers are prohibited unless specifically requested by the Court. If letters, faxes, or emails are requested by the Court, copies of the same must be simultaneously delivered to all counsel, unless otherwise directed by the Court (such as with confidential Early Neutral Evaluation (“ENE”) statements and confidential Mandatory Settlement Conference (“MSC”) statements). Copies of correspondence between counsel must not be sent to the Court.

- B. 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. When calling chambers, be prepared to identify your case as odd or even based on the last digit of the case number, so your call can be directed to the appropriate law clerk. **Only counsel with knowledge of the case** may contact chambers.

- C. Lodging documents.** When an order directs you to “lodge” a document with chambers (usually an ENE statement, discovery plan, or MSC statement), you should either send it via e-mail to efile_lopez@casd.uscourts.gov or submit it to Judge Lopez’s chambers c/o the Clerk’s Office, U.S. District Court, Southern District of California, 333 West Broadway, Suite 420, San Diego, California 92101. If the document is more than twenty (20) pages (including exhibits) in length, please provide a courtesy copy directly to chambers via the Clerk’s Office (either personal delivery by an attorney courier service or by overnight mail). *Refer to Section I.D. for additional information on courtesy copies.*

D. Courtesy copies. Courtesy copies of filings that exceed twenty (20) pages in length shall be submitted to Judge Lopez’s chambers c/o the Clerk’s Office, U.S. District Court, Southern District of California, 333 West Broadway, Suite 420, San Diego, California 92101, within twenty-four hours of the filing date. The copies submitted must be identical to the electronically-filed document and must contain the CM/ECF-generated header on each page. Proofs of service need not be provided. If a filing has more than three exhibits, the exhibits must be tabbed at the bottom. Please consult the Electronic Case Filing Administrative Policies and Procedures Manual on the Court’s website for further information regarding the courtesy copy requirement.

II. Early Neutral Evaluation (“ENE”) Conference and Other Settlement Conferences

A. Due Dates for Settlement Conference Briefs. No later than seven (7) days before an Early Neutral Evaluation (“ENE”) conference, the parties must lodge confidential statements of ten (10) pages or less, by email to the Court at efile_lopez@casd.uscourts.gov or by messenger directly with the chambers of Magistrate Judge Lopez c/o the Clerk’s Office, U.S. District Court, Southern District of California, 333 West Broadway, Suite 420, San Diego, California 92101, outlining the nature of the claims and defenses and their settlement position. Confidential settlement briefs for a Mandatory Settlement Conference (“MSC”) must be lodged no later than seven (7) days before the MSC.

B. Attendance at Settlement Conferences. The Court requires all named parties, all counsel, and any other person(s) whose authority is required to negotiate and enter into settlement to appear **in person** at the ENE and other settlement conferences. Please see the order scheduling the conference for more information. Failure to attend or obtain 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 and primary responsibility for handling the case need appear.) (If Plaintiff is incarcerated in a penal 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.)

The Court will **not** grant requests to excuse a required party from personally appearing absent extraordinary circumstances. Distance of travel alone does **not** constitute an “extraordinary circumstance.” If counsel still wishes to request that a required party be excused from personally appearing, they must confer with opposing counsel prior to making the request.

C. Requests to Continue Settlement Conference. Counsel seeking to reschedule an ENE or other settlement conference must confer with opposing counsel prior to

making the request. Such requests may then be made in a filed motion at least seven (7) days before the scheduled conference, and will be granted only upon good cause shown. *Refer to Section IV for additional information on continuances.*

- D. Notice of Settlement.** If the case has settled in its entirety, one or both parties shall immediately file a brief Notice of Settlement that includes the intended document that will be filed (e.g., a voluntary dismissal or a joint motion for dismissal, pursuant to Federal Rule of Civil Procedure 41) and the anticipated number of days needed to file it.

III. Case Management Conferences (“CMC”)

- A.** Ordinarily, the Court conducts an initial CMC at the conclusion of the ENE Conference. The Court may also conduct additional CMCs telephonically. 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)557-5585. Absent extraordinary circumstances, counsel shall use land lines, rather than cellular phones, for all telephonic conferences.
- B. Joint Discovery Plan.** The parties are required to lodge a Joint Discovery Plan at least ten (10) days before the scheduled CMC. The Joint Discovery Plan must be one document and must explicitly cover the parties’ views and proposals for each item identified in Fed. R. Civ. 26(f)(3).
- C. Requests to Amend the Schedule.** The dates and times set in the Scheduling Order **will not** be modified except for good cause shown and with the Judge’s consent. Fed. R. Civ. P. 16(b)(4). Counsel are reminded of their duty of diligence and that they must “take all steps necessary to bring an action to readiness for trial.” Civil Local Rule 16.1(b).

Before requesting an extension of any dates, the attorneys must “meet and confer” and the request should then be made by filing a joint motion. The joint motion must establish good cause for the request and shall include a declaration from counsel of record detailing the steps taken to comply with the dates and deadlines set in the order, the specific reasons why the deadlines cannot be met, and any prior requested or approved modifications to the order. A party seeking a modification may move *ex parte* if the other parties will not join in a motion to amend the schedule. In an *ex parte* motion, the declaration must address the steps counsel took to obtain a stipulation, as well as the subjects required for the joint motion. When the motion is made after time has expired, Fed. R. Civ. P. 6(b)(1)(B) requires the parties to address excusable neglect. *Refer to Section IV for additional information on continuances.*

IV. Continuances

Parties requesting a continuance of any conference, scheduled motion, hearing date, deadline, briefing schedule, or other procedural changes, shall meet and confer prior to contacting the Court. If the parties reach an agreement, they shall e-file a joint motion identifying the current date, the requested date, the number and length of any prior continuance, and the reason for the requested continuance or extension of time. They shall also e-mail a proposed order in Word format to efile_lopez@casd.uscourts.gov detailing the current date scheduled and the new date proposed. Please refer to Section 2.h of the Electronic Case Filing Administrative Policies and Procedures Manual located on the Court's website for instructions on the formatting and e-mailing of proposed orders. If the parties are unable to reach an agreement, the requesting party shall file an *ex parte* motion satisfying the applicable legal standard, with a particular focus on the diligence of the party seeking delay and any prejudice that may result therefrom. In addition, the *ex parte* motion shall state (1) the original date, (2) the number of previous requests and continuances, (3) whether previous requests were granted or denied and (4) opposing counsel's position with regard to the requested continuance.

V. Civil Discovery Disputes

A. Meet and Confer. Prior to bringing any discovery dispute to the Court, counsel must meet and confer pursuant to Civil Local Rule 26.1. If counsel are in the same county, they are to meet in person; if counsel practice in different counties, they are to confer by telephone. Under no circumstances may counsel satisfy the "meet and confer" obligation by written correspondence. The Court expects strict compliance with the meet and confer requirement, as it is the experience of the Court that the vast majority of disputes can be resolved by means of that process. Counsel must **thoroughly** meet and confer and shall make every effort to resolve all disputes without the necessity of court intervention.

If a party is unresponsive to a request to meet and confer, after 72 hours counsel shall contact chambers and the Court will set a telephonic conference with the clerk assigned to the case.

B. Discovery motions may not be filed without first contacting Judge Lopez's clerk. If the parties meet and confer but fail to resolve their dispute through the meet and confer process, then counsel for all parties are required to determine a mutually agreeable time to conduct a conference call with Chambers. The Court will not assign a hearing date before conducting a conference call with all counsel.

During the conference call, counsel for the parties will be asked to explain: (i) the details of their dispute; (ii) their respective positions; (iii) what meet and confer efforts have taken place; (iv) what they want from the Court; and (v) how soon they can file their motion. After the conference call, the law clerk assigned to the case will speak with Judge Lopez and the Court will issue an appropriate order.

- C. Discovery motions must be timely.** Any motion related to discovery disputes must be filed no later than thirty (30) days after the date upon which the event giving rise to the dispute occurred. For oral discovery, the event giving rise to the dispute is the completion of the transcript of the relevant portion of the deposition. For written discovery, the event giving rise to the discovery dispute is the date of service of the response, or the passage of a discovery due date without response or production, **not** the date on which counsel reach an impasse in meet and confer efforts.

VI. Stipulated Protective Orders

All stipulated protective orders must be filed as joint motion, pursuant to Civil Local Rule 7.2. The parties must also email directly to chambers at efile_lopez@casd.uscourts.gov a proposed order, in Word format, containing the text of the protective order. Please refer to Section 2.h of the Electronic Case Filing Administrative Policies and Procedures Manual located on the Court's website for instructions on the formatting and e-mailing of proposed orders. The proposed protective order must contain the following two provisions:

- a. Filing Under Seal.** No document 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 proceedings 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 Civil Local Rule 79.2, Section 2.j of the Electronic Case Filing Administrative Policies and Procedures, and the chambers rules, with respect to filing documents under seal. A sealing order may issue only upon a request that establishes that the document, or portions thereof, is privileged or otherwise subject to protection under the law. The request must be narrowly tailored to seek sealing only of sensitive personal or confidential information. An unredacted version of the document, identifying the portions subject to the motion to seal, must be lodged with the motion to seal. A redacted version of the document must be publicly filed simultaneously with the motion or *ex parte* application to file under seal.
- b. Modifications.** The Court may modify the protective order in the interests of justice or for public policy reasons.

VII. Requests to File Documents Under Seal

There is a presumptive right of public access to court records based upon common law and First Amendment Grounds. Accordingly, 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 thereof. A sealing order may issue only upon a request that establishes that the document, or portions thereof, is privileged or otherwise subject to protection under the law. The request must be narrowly tailored to seek sealing only of sensitive personal or confidential information. An unredacted version of the document, identifying the portions subject to the motion to seal, must be lodged with the motion to seal. A redacted version of the document must be publicly filed simultaneously with the motion or *ex parte* application to file under seal. .

VIII. Ex Parte Proceedings

The Court does not have regular *ex parte* hearing days or hours. Appropriate *ex parte* applications, which generally do not include discovery disputes, may be filed only after contacting chambers and speaking with a law clerk. Following the conversation with the law clerk, the application must be e-filed and should include a description of the dispute, the relief sought, and a declaration describing the efforts made to resolve the dispute without the Court's intervention and establishing that reasonable and appropriate notice of the filing of the *ex parte* application was made to opposing counsel in accordance with Civil Local Rule 83.3.h. 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 the case to modify the schedule. After receipt of the application and opposition, the Court will review the submissions and a decision may be made without a hearing. If the Court requires a hearing, the Court will issue an order or contact the parties to set a date and time.