

CHAMBERS RULES
HON. BRIAN J. WHITE
UNITED STATES MAGISTRATE JUDGE

The Court provides the following information as general guidance for counsel and parties. The Court may vary these procedures as appropriate in any case.

I. Civility.

First and foremost, the Court demands civility from the parties. The Court adopts the “Attorney Civility and Practice Guidelines” enacted by the Association of Business Trial Lawyers and the San Diego County Bar Association. Parties appearing before this court must be aware of and adhere to those [guidelines](#).

II. Communication with Chambers.

For questions about any criminal matters and any transcript requests, please contact Natalie Buron at Natalie_Buron@casd.uscourts.gov or (619) 557-7104. For questions about civil matters (other than transcript request), please contact Judge White’s chambers at efile_White@casd.uscourts.gov or (619) 557-2993.

Telephone calls and emails to chambers are permitted only for administrative matters, such as scheduling and calendaring, and to bring discovery disputes to the Court’s attention pursuant to these Rules. Court personnel are prohibited from giving legal advice or discussing the merits of a case. Only counsel with knowledge of the case should contact chambers.

Letters and faxes to chambers are prohibited, except as set forth in these Rules or otherwise requested by the Court.

Technical questions relating to CM/ECF should be directed to the CM/ECF Help Desk at (866) 233-7983.

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

a. Required Attendance.

All named parties, party representatives, claims adjusters for insured defendants, and the principal attorney(s) responsible for the litigation must be present **in person** and prepared to discuss and resolve the case at the ENE or any other settlement conference. Please see the order scheduling the conference for more information. 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.”

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 or, where opposing counsel does not join, an *ex parte* motion outlining the extraordinary circumstances. Any request to excuse a required party from personally appearing must be filed at least **seven (7) days** before the scheduled ENE or settlement conference.

b. Confidential ENE Statements.

Unless otherwise ordered, no later than **seven (7) days** before the ENE, the parties shall lodge confidential statements of **five pages or less** directly with the chambers of Magistrate Judge White at efile_White@casd.uscourts.gov. Exhibits to ENE statements are not required or recommended.

All confidential ENE 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. A general statement that a party will “negotiate in good faith,” “offer a nominal cash sum,” or “be prepared to make an offer at the conference” is not a specific demand or offer);¹
4. A brief description of any previous settlement negotiations or mediation efforts;
5. If any video or audio recording exists of the incident(s) on which plaintiff's(?) claims are predicated, counsel must lodge the video as an exhibit to the ENE statement. The video must be lodged by delivering a USB flash drive to the following address:

¹ 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 able to state a settlement demand.

United States District Court
Southern District of California
Attention: Hon. Brian J. White
333 West Broadway, Suite 420
San Diego, CA 92101

6. In cases alleging violations of any or all of the Song-Beverly Consumer Warranty Act, the Magnuson-Moss Warranty Act, the Fair Debt Collection Practices Act, the Rosenthal Fair Debt Collection Practices Act, the Truth in Lending Act, or the Fair Credit Reporting Act in which the plaintiff alleges a claim for statutory attorneys' fees, an itemized billing statement detailing all costs and fees sought by the plaintiff as of the date of the ENE.²

c. Case Management Conference/Joint Discovery Plans.

The Court will conduct a Rule 16(a) Case Management Conference ("CMC") immediately following the ENE, if the parties do not reach a settlement. A candid discussion with Judge White allows him to fashion an appropriate Scheduling Order for the case and to consider how best to approach discovery. After the CMC, the Court will issue a Scheduling Order Regulating Discovery and Other Pre-trial Proceedings. Consequently, the parties are required to file on CM/ECF a Joint Discovery Plan **seven (7) days** before the scheduled ENE/CMC. The Joint Discovery Plan must include the parties' views and proposals for each item identified in Rule 26(f)(3), and specifically address:

1. Whether any parties remain to be served or named in the action. In other words, list any anticipated additional parties that should be named, when the additional parties can or will be added, and by whom they are wanted;
2. Whether the required Rule 26(a) initial disclosures have been made by all parties. If not, describe what arrangements have been made to complete the disclosures and when initial disclosures will be completed;
3. 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 bill should be attached to the settlement statement as "Exhibit A," and is excluded from the five-page limit. The bill may be judiciously redacted if necessary to preserve the attorney-client privilege, but only so far as is strictly necessary to preserve the privilege. Counsel should also be prepared to submit an unredacted version of the bill for *in camera* review at the Court's request.

4. Whether counsel anticipate serving interrogatories exceeding the number permitted by Rule 33 and, if so, why such discovery is needed, and whether counsel will stipulate to the excess number;
5. What issues in the case will necessitate expert evidence;
6. Whether counsel believe there are threshold legal issues that may need to be resolved by summary judgment or partial summary judgment;
7. 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; and
8. Any anticipated issues regarding Electronically Stored Information (“ESI”), particularly regarding preservation and discovery, should be discussed between counsel and raised in the Joint Discovery Plan for discussion during the CMC.

d. Voluntary & Mandatory Settlement Conferences.

The Scheduling Order will include a date for a Mandatory Settlement Conference (“MSC”). The MSC is typically set on a date near the completion of fact discovery and before the expert discovery deadline, however, the parties may request the MSC be held at another time. The Court typically sets a Status Conference approximately one month before the MSC. The Court expects counsel for the parties to address at the Status Conference whether the MSC should proceed on the date originally set, or if the interests of the case would be better served setting the MSC for a different date and why.

Additionally, the Court will likely set a status conference approximately every 90 days to ensure the case remains on track. The Court is also available to conduct a Voluntary Settlement Conference (“VSC”) at any point in the litigation. A request for a VSC can be made by one or more parties by speaking with or emailing chambers.

IV. Civil Discovery Disputes.

a. Meet and Confer Requirement.

Counsel must promptly meet and confer regarding all disputed issues, pursuant to the requirements of Civil Local Rule 26.1.a.

b. Deadlines for Raising Discovery Disputes with the Court.

If the parties are unable to resolve discovery disputed through the meet and confer process, they must contact the Court to request an informal discovery conference **within thirty (30) day** of the event giving rise to the dispute. For disputes regarding depositions, the event giving rise to the dispute is the completion of the deposition. For disputes regarding written discovery, the event giving rise to the discovery dispute is the date the initial response is served, **not** the date on which counsel reach and impasse in meet and confer efforts. If a party fails to provide a discovery response, the event giving rise to the discovery dispute is the date the response was due.

Depositions.

If the dispute arises during a deposition regarding an issue of privilege, enforcement of a court-ordered limitation on evidence, or pursuant to Fed.R. Civ. P. 30(d), counsel should suspend the deposition and immediately meet and confer. If the dispute is not resolved in the meet and confer process, counsel may call Judge White's chambers for an immediate ruling on the dispute. If Judge White is available, he will either rule on the dispute or give counsel further instructions on how to proceed. If Judge White is unavailable, counsel must mark the deposition at the point of the dispute and continue with the deposition. Counsel must contact the Court to request an informal discovery conference within **fourteen (14) days** of the completion of the transcript of the relevant portion of the deposition.

c. Informal Discovery Dispute Conference.

No discovery motion may be filed until the Court has conducted a pre-motion telephonic conference with the parties, unless the movant has obtained leave of Court. The Court will strike any discovery motion that does not comply with this process.

d. Requesting a Discovery Conference.

Within the time limits indicated above, parties who wish to file a discovery motion must first place a joint call to chambers to obtain a date for an informal discovery conference from Judge White's law clerk.

If directed to do so by the Court when the parties call to request a discovery conference, the parties shall exchange informal letter briefs and lodge the same by email to Judge White's Chambers at efile_White@casd.uscourts.gov. The informal letter brief must specify the issue(s) in dispute and the parties' position and supporting authority for each issue. Informal letter brief should be limited to **five (5)** pages. Counsel should attach only those exhibits that are necessary to the resolution of the parties' dispute. Ordinarily, this does not include counsels' meet-and-confer correspondence. The Court will review the lodgments before the discovery conference. If the parties cannot resolve their discovery dispute during the discovery conference with Judge White, they will be given a briefing schedule for a discovery motion.

V. Continuances.

Whether made by joint motion or *ex parte* application, any request to continue an ENE, Mandatory Settlement Conference ("MSC"), or scheduling order deadline shall be made in writing no less than **seven (7) calendar days** before the affected date. If the parties agree to jointly move for a continuance of an ENE, MSC, or other settlement conference, they should place a joint call to Judge White's chambers prior to filing their joint motion to identify a new date that works with the schedule of the Court, counsel, and the parties. This request shall include:

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;
5. Whether the requested continuance will affect other case management dates;
and
6. 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 the deadlines cannot be met.

VI. Stipulated Protective Orders.

All stipulated protective orders submitted for the Court's approval must be filed as a joint motion. Counsel are expected to review the Model Protective Order in the Local Rules for the United States District Court, Southern District of California ("Model Protective Order"). Use of the Model Protective Order is highly recommended. The joint motion must contain a statement as to whether the parties adopted the Model Protective Order. If the parties' proposed language differs from the Model Protective Order, the joint motion must explain the basis for the proposed changes and contain an attachment with a redlined copy of the proposed protective order highlighting the changes. The parties must also lodge a Word version of the proposed stipulated protective order containing the language of the stipulated protective order, the parties' electronic signatures, and a signature line for Judge White.

Additionally, all stipulated protective orders submitted for the Court's approval must include the following provisions:

1. Modification of the Protective Order by the Court.

The court may modify the Protective Order in the interests of justice or for public policy reasons.

2. Filing Documents Under Seal.

There is a presumptive right of public access to court records based upon common law and the First Amendment. Any motion to file information under seal must be supported by articulable facts showing a compelling reason to limit public access to court filings.

No document may be filed under seal, except pursuant to a court order that authorizes the sealing of a particular document, or portion of the document. A sealing order may issue only upon a showing that the information is privileged or protected under the law. The request must be narrowly tailored to seek sealing only of the confidential or privileged material. To file a document under seal, the parties must comply with the procedures explained in Section 2.j of the Electronic Case Filing Administrative Policies and Procedures Manual for the United States District Court for the Southern District of California and Civil Local Rule 79.2. In addition, a party must file a redacted version of any document that it seeks to file under seal. In the redacted version, the party may redact only information that is deemed "Confidential." the party should file the redacted document(s) simultaneously with a joint

motion or *ex parte* application requesting that the confidential portions of the document(s) be filed under seal and setting forth good cause for the request.

The Court is willing to retain jurisdiction to enforce the terms of the stipulated protective order for one year. If the parties want the Court to retain jurisdiction, the stipulated protective must include the following language: “**Continuing Jurisdiction.**” The Court shall retain jurisdiction for a period of **one (1) year** after the conclusion of this action to enforce the terms of the Protective Order.”

VII. *Ex Parte* Motions.

All *ex parte* motions must comply with Civ. LR 83.3(g). Further, declarations in support of the *ex parte* motion must describe meet and confer efforts made to resolve the dispute without the Court’s intervention. After service of the *ex parte* motion, opposing counsel will ordinarily be given until 5:00 p.m. on the next business day to respond or contact the assigned law clerk to request additional time. The Court will either issue an order on the written submissions or set a date and time for a hearing.

VIII. Legal Citations.

When citing legal authority, parties should always follow the latest Bluebook guidelines. Within a document, parties should consistently cite to one legal research databased (e.g., Westlaw or LEXIS, but not both). If a particular unreported case does not appear in the database the party is using, the party must include the case docket number, as instructed in the Bluebook.