

**HONORABLE DAVID H. BARTICK
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

- A. Letters, faxes, or emails.** Letters, faxes, or emails to chambers are prohibited unless specifically requested by the Court. If letters, faxes, or emails are requested, copies of the same must be simultaneously delivered to all counsel (with the exception of confidential ENE and Settlement Conference 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. Call Judge Bartick's chambers at (619) 557-5383 and address your inquiries to the law clerk assigned to the case.
- C. Conference Calls.** When an order, minute order, or other notice from the Court directs you to "coordinate and initiate the conference call," the initiating party should make arrangements for all call participants to be on the phone and then should call chambers at the time set for the call.
- D. Lodging Documents.** When an order directs you to "lodge" documents with the Court, you should either send it via email to: efile_Bartick@casd.uscourts.gov, or deliver the document directly to chambers (333 W. Broadway, Suite 1080, San Diego, CA 92101-8949). If the document is more than 20 pages (including exhibits) in length, the document is to be delivered directly to chambers.

II. Early Neutral Evaluation (ENE) Conference or Other Settlement Conferences

- A.** At least **five (5) court days** prior to the ENE or Settlement Conference, the parties shall lodge with Judge Bartick's chambers an ENE or Settlement Conference Statement. The ENE Statement is limited to **five (5) pages or less**. There are no page limitations on Settlement Conference Statements submitted after the ENE conference. All ENE and Settlement Conference Statements should outline the nature of the case, the claims, the defenses, and the parties' positions regarding settlement of the case with a specific demand/offer for settlement. The Statement may be submitted confidentially at the parties' discretion.
- B.** The Court generally allots two (2) hours for ENEs and 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. The Court will **not** grant requests to excuse a required party from personally appearing, absent extraordinary circumstances. Distance or cost of travel alone does **not** constitute an “extraordinary circumstance.” If counsel still wish to request that a required party be excused from personally appearing, they must confer with opposing counsel prior to making the request. Such requests may then be made by filing a Joint Motion at least seven (7) days before the scheduled ENE or Settlement Conference.

III. Case Management Conferences (CMC)

- 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.
- B. Joint Discovery Plans.** The parties are required to lodge a Joint Discovery Plan at least seven (7) 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. P. 26(f)(3). Agreements made in the Joint Discovery Plan will be treated as binding stipulations that are effectively incorporated into the Court’s Scheduling Order, unless otherwise modified by the Court.

In cases involving significant document production and electronic discovery, the parties must also include the process and procedure for “claw back” or “quick peek” agreements as contemplated by Fed. R. Evid. 502(d). The parties should also address whether an order providing for protection under Rule 502(e) is needed.

- 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 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.

Any requests for extensions must be made by filing a Joint Motion. The Joint Motion shall 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 reason(s) why deadlines cannot be met. The Joint Motion shall be made no less than **five (5) court days** before the affected date.

IV. Discovery Disputes

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

- B.** 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 after meeting and conferring, counsel may call Judge Bartick's chambers for an immediate ruling on the dispute. If Judge Bartick is available, he will either rule on the dispute or give counsel further instructions on how to proceed. If Judge Bartick is unavailable, counsel must mark the deposition at the point of the dispute and continue with the deposition. Thereafter, counsel shall meet and confer regarding all disputed issues. If counsel have not resolved their disputes through the meet and confer process, they shall proceed as noted below.
- C.** If the parties have not resolved their dispute through the meet and confer process, counsel shall, within **forty-five (45) days** of the date upon which the event giving rise to the dispute occurred, file a joint statement entitled "Joint Motion for Determination of Discovery Dispute" with the Court.
1. The joint statement is to include (a) a declaration of compliance with the meet and confer requirement and (b) points and authorities (not to exceed 10 pages per side, excluding exhibits).
 2. Any exhibits accompanying the joint statement shall also be filed.
 3. 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 five (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** five (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.
- D.** 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, or the time for such service if no response is given.

- E. The Court will either issue an order following the filing of the joint statement or will schedule a discovery conference.

V. Protective Order Provisions

- A. All stipulated protective orders submitted to the Court must include the following provisions:
 - 1. No document shall be filed under seal unless counsel secures a court order allowing the filing of a document under seal. An application to file a document under seal shall be served on opposing counsel, and on the person or entity that has custody and control of the document, if different from opposing counsel. If opposing counsel, or the person or entity who has custody and control of the document, wishes to oppose the application, he/she must contact the chambers of the judge who will rule on the application, to notify the judge's staff that an opposition to the application will be filed.
 - 2. The Court may modify the terms and conditions of the Protective Order for good cause, or in the interest of justice, or on its own order at any time in these proceedings.
- B. If Judge Bartick grants an application to file a document under seal, a redacted version of the document shall be e-filed. A courtesy copy of the unredacted document shall be delivered to Judge Bartick's chambers.
- C. All stipulated protective orders submitted to the Court must be filed as a Joint Motion. The Joint Motion shall contain the full text of the proposed protective order. A separate proposed order, containing the text of the protective order, must be emailed directly to chambers. Please refer to Sections 2.f.4 and 2.h of the U.S. District Court's Electronic Case Filing Administrative Policies and Procedures Manual for more information.