

**HONORABLE BARBARA LYNN MAJOR
U.S. MAGISTRATE JUDGE
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.

Communications with Chambers

Chambers staff includes two 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) 557-7372. The telephone number for the courtroom deputy is (619) 557-7099.

- 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_major@casd.uscourts.gov, or deliver the document to Judge Major’s chambers, 333 West Broadway, Suite 1110, San Diego, CA 92101.
- D. Transcripts.** If the terms of a settlement have been placed on the record and the parties are seeking a copy of the transcript, they must contact the courtroom deputy, Michelle Behning, at 619-557-7099 and provide the case name, case number, and date of the settlement conference.

Courtesy Copies

Courtesy copies of filings exceeding 20 pages shall be delivered directly to chambers, 333 West Broadway, Suite 1110, San Diego, CA 92101. Unless expressly required by the Court, courtesy copies must be identical to the electronically-filed documents. The pages of each pleading must be firmly bound and must be two-hole punched at the top. If a pleading has more than three (3) exhibits, the exhibits must be tabbed.

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

Counsel seeking to reschedule an ENE or other settlement conference must confer with opposing counsel prior to making the request. Such requests must be made in a filed motion and will be granted only upon good cause shown.

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 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.

Case Management Conferences (“CMC”)

The Court conducts the majority of its CMCs telephonically and, unless otherwise directed, initiates all conference calls. Counsel shall notify the law clerk of the telephone number at which they can be reached, if they will **not** be at their usual office number, in advance of the conference by calling the law clerk at (619) 557-7372. It is not necessary for counsel to contact chambers in advance of the conference call if they can be reached at their usual office number. Absent extraordinary circumstances, counsel shall use land lines, rather than cellular phones, for all telephonic conferences.

Requests to Amend the Case Management Conference Order

The dates and times set in the Case Management Conference 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.

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, *preferably in WordPerfect*, or Word format to efile_major@casd.uscourts.gov detailing the current date scheduled and the new date proposed. Please refer to the Case Filing Administrative Policies and Procedures Manual located on the Court’s website with regard to CM/ECF filings. 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.

Civil Discovery Disputes

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 issue an order setting a telephonic conference with the clerk assigned to the case.

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 Major and the Court will issue an appropriate order.

Requests to File Documents Under Seal

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 the confidential or privileged material. To file a document under seal, the parties must comply with the procedures explained in Section II.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, in accordance with Judge Major's preferences, a party must file a 'public' version of any document that it seeks to file under seal. In the public version, the party may redact only that 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.**

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.

Criminal Pretrial Procedures

Criminal Calendar:

Judge Major's Courtroom Deputy ("CRD"), Michelle Behning, handles all inquiries on criminal matters. Her telephone number is (619) 557-7099.

Criminal calendars are heard on Tuesdays and Thursdays at 9:30 a.m., unless otherwise scheduled by the Court. Criminal arraignments will be held during duty week at 1:30 p.m. as scheduled by the Court. For Tuesday and Thursday calendars, counsel shall check in with the Court's CRD no later than 9:15 a.m. Counsel are expected to be punctual and to advise the Court's CRD of any scheduling conflicts in advance of their hearing.

Presentment of Bail Documents:

Bail documents, in the format approved by the Court, must be presented to the Judge's CRD for review prior to being delivered to Chambers. The bail documents must include a copy of the Order of Conditions of Release as applicable to the defendant or material witness in the case.

Bail Stipulations for Modification of Conditions of Pretrial Release:

The Court will accept written stipulations for modification of bail conditions. Stipulations must be signed by all counsel, the defendant, the bond sureties, and the Pretrial Services Officer supervising the defendant, if any. A copy of the Order of Conditions of Release must be attached to the written stipulation.

Bail Modification Hearings:

Bail Modifications will not be heard unless calendared in advance and with at least 24 hours notice to the opposing party, Pretrial Services, and the sureties.

Nebbia Hearings:

Nebbia hearings will not be heard unless calendared in advance and defense counsel has provided at least 24 hours of notice to all parties and the assigned Pretrial Services officer. Defense counsel must provide the Court and the United States Attorney's Office a copy of the proposed bail package, including appraisals, title documents, and other relevant materials at least 24 hours in advance of the hearing.

Arraignment on Information:

Counsel shall have the written Waiver of Indictment signed by their client prior to the scheduled hearing.

Change of Plea:

Changes of pleas will only be heard if calendared in advance. Counsel may not schedule a change of plea hearing until after the plea agreement is signed by the Defendant and delivered to the government. To schedule a change of plea, contact CRD Michelle at (619)-557-7099. Counsel must have the written consent to Rule 11 Plea form signed by their client prior to the scheduled hearing.