

HONORABLE DANIEL E. BUTCHER
UNITED STATES MAGISTRATE JUDGE
CIVIL CHAMBERS RULES

Updated June 5, 2025

NOTE: These rules apply to all civil cases, except Social Security appeals and habeas petitions, unless otherwise ordered. All parties must comply with the Civil Local Rules for the Southern District of California (“Local Rules”) and the Electronic Case Filing Administrative Policies and Procedures Manual (“ECF Manual”), which are available on the Court’s website.

I. CIVILITY AND PROFESSIONALISM

The Court places a high premium on civility and professionalism in all matters, including those occurring outside the presence of the Court. All counsel and unrepresented parties must read and familiarize themselves with Local Rule 2.1 (Professionalism).

II. COMMUNICATING 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) 446-3704. The telephone number for the courtroom deputy is (619) 446-3576. The email address for communications to the law clerks or the courtroom deputy is efile_butcher@casd.uscourts.gov.

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 Section VI of these Rules. Court personnel are prohibited from giving legal advice or discussing the merits of a case. Only counsel with knowledge of the case may contact Chambers, except for exigent circumstances when counsel is unavailable.

Letters and emails to Chambers are prohibited unless authorized elsewhere in these Rules or otherwise requested by the Court.

For technical questions relating to the Case Management/Electronic Case Filing system (“CM/ECF”), please contact the CM/ECF Help Desk at (866) 233-7983. In addition, there is detailed guidance on CM/ECF on the Court’s website.

III. EARLY NEUTRAL EVALUATION (“ENE”), CASE MANAGEMENT CONFERENCE (“CMC”) AND MANDATORY SETTLEMENT CONFERENCE (“MSC”)

Pursuant to Local Rule 16.1(c), the Court will hold an ENE within 45 days of the filing of an answer. Requests to continue an ENE are strongly disfavored and will only be granted upon a strong showing of good cause.

The ENE is an informal, off-the-record settlement conference. The purpose of the ENE is to have a meaningful settlement conference before sunken attorneys’ fees and costs present an impediment to resolving the dispute.

Counsel and parties with unrestricted settlement authority must come prepared to engage in a detailed discussion of the merits of their respective cases and engage in good faith settlement discussions. The purpose of this authority requirement is to have representatives present who can settle the case during the conference without consulting a superior. If counsel or party representatives who are planning to participate in the ENE/MS C would need to communicate with anyone else for authority, approval, acceptance, agreement, or similar confirmation regarding a final resolution of the case, that person is the client representative who must be present throughout the entire ENE/MS C. Counsel attending the ENE/MS C are expected to have a command of the facts and applicable law.

Unless otherwise ordered by the Court, the following are required to attend a settlement conference with full settlement authority:¹

¹ Full authority to settle means that the individuals at the Conference are 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, 653 (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, 485–86 (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 the face-to-face conference. *Id.* at 486. Limited or

1. Counsel with primary responsibility for handling the case;
2. All individual parties, and, for corporate and organizational parties, a representative who has authority over the litigation and full and unlimited settlement authority;²
3. Adjusters for all insured defendants and counter-defendants, including parties that are indemnified by others. Any deviation from this Order requires prior Court approval; and
4. All third parties who are contractually obligated to indemnify any defendant or counter-defendant.

A. ENE Statements

No later than seven (7) calendar days before the ENE, each party must lodge a “Confidential ENE Statement” by email to efile_butcher@casd.uscourts.gov.

ENE Statements must include all matters listed in the Court’s Order Setting the Early Neutral Evaluation and Case Management Conference, which includes participant names, titles, telephone numbers, and email addresses that permit the Court to send Zoom connection information, as well as the names of non-attorney(s) who will attend the conference, including the name(s) and title(s)/position(s) of the party/party and any insurance carrier representative(s).

Unless pre-approved by the Court, ENE Statements must not exceed seven (7) pages formatted in accordance with Local Rule 5.1(a), including use of line-numbered pleading paper, double spaced, 14-point Times New Roman, Calibri, or

sum certain authority is not adequate. *Nick v. Morgan’s Foods, Inc.*, 270 F.3d 590, 595–97 (8th Cir. 2001). District courts have the power to require a representative with full settlement authority to be present or reasonably and promptly accessible at pretrial conferences. *United States v. U.S. Dist. Ct. for N. Mariana Islands*, 694 F.3d 1051, 1058 (9th Cir. 2012) (citing *In re Novak*, 932 F.2d 1397, 1405 (11th Cir. 1991); *G. Heileman Brewing Co., Inc. v. Joseph Oat Corp.*, 871 F.2d 648, 653 (7th Cir. 1989) (en banc)).

² Government entities are excused from this requirement provided that an attorney attends who has: (1) primary responsibility for handling the case; and (2) authority to negotiate and recommend settlement offers to the official(s) having ultimate settlement authority.

similar font. Parties may attach significant materials pertaining to their claim(s) or defense(s) as exhibits. Parties attaching exhibits must attach only the relevant pages of multi-page exhibits and highlight the most relevant portions. The parties are also encouraged in appropriate cases to attach a chronology setting forth a timeline of the events at issue. If submitted, the chronology should be in a chart or column format with the column headings “DATE,” “EVENT,” and “EXHIBIT” (if the event is documented by an attached exhibit). A chronology attached to the settlement brief is not counted against the page limit.

B. The CMC

The Court will conduct the Case Management Conference (“CMC”) required by Fed. R. Civ. P. 16 immediately following the ENE if the case does not settle.

At least seven (7) days prior to the scheduled ENE/CMC, the parties must file a Joint Discovery Plan on CM/ECF. The Joint Discovery Plan must include: (1) the parties’ positions and proposals for each item listed in Fed. R. Civ. P. 26(f)(3); and (2) all other matters requested in the Court’s Order Setting the Early Neutral Evaluation and Case Management Conference.

C. Additional Settlement Conferences

All ENE requirements apply to MSCs and settlement conferences.

Pursuant to Local Rule 16.3, the Court will hold an MSC at the conclusion of fact discovery and will hold additional settlement conferences as needed. The Court will entertain a request to hold a voluntary settlement conference upon the request of any party.

Each party must lodge a Confidential Settlement Statement at least seven (7) days before the settlement conference by email to efile_butcher@casd.uscourts.gov. The Confidential Settlement Statement may not exceed ten (10) pages, excluding exhibits, and must be formatted according to the requirements of Local Rule 5.1(a).

All Confidential Settlement Statements must comply with the same parameters set forth above in Section III(A), and include the following:

- (1) the party’s position on liability and damages supported by relevant facts, a discussion of the significant facts established during discovery, and legal analysis with citations to controlling legal authority;

- (2) **for plaintiffs**, a specific and current settlement demand addressing all relief sought and an itemization of the damages sought, and, **for defendants**, a specific and current offer and the bases for that offer. (Note: a general statement that a party will “negotiate in good faith,” “offer a nominal cash sum,” or “be prepared to make a demand or offer at the conference” is not a specific demand or offer. If a specific offer or demand cannot be made at the MSC or settlement conference, state the reasons why and explain what additional information is required to make a settlement demand or offer.); and
- (3) a brief description of any previous settlement negotiations or mediations.

IV. NOTIFICATION OF CASE RESOLUTION

If the parties reach a settlement outside the presence of the Court, counsel must promptly call or email Chambers to advise of the settlement and file a Notice of Settlement on the CM/ECF system.

V. DISCOVERY DISPUTES (Fed. R. Civ. P. 26–37, 45; Civ.LR 26.1)

A. Meet and Confer Requirement. Before bringing any dispute to the Court, lead counsel (or attorneys with full authority to make decisions on the matter in dispute) must promptly and thoroughly meet and confer in person or, if counsel does not reside in the same county, by videoconference regarding all disputed issues. Letters, emails, or telephone calls do not satisfy this requirement.

B. Disputes During Depositions. If a dispute requiring immediate resolution by the Court arises during a deposition, the parties must suspend the deposition and immediately meet and confer. If the dispute is not resolved after meeting and conferring, the parties may call Chambers for an immediate ruling on the dispute. If Judge Butcher is available, he will rule on the dispute or give instructions on how to proceed. If Judge Butcher is not available, the parties must mark the deposition at the point of the dispute and continue with the deposition. Upon completion of the deposition, the parties must once again meet and confer and, if the dispute is still not resolved, follow the procedures set out in sections C, D, and E below.

C. Disputes Over Written Discovery Requests. For disputes over written discovery, the parties must jointly call Chambers and speak to the law clerk assigned to the case. Counsel will be asked to explain without argument: (1) the issues in dispute; (2) the parties’ respective positions; (3) the date(s), duration, and nature of meet and confer efforts that have taken place; and (4) the relief requested.

Following that call, the law clerk will either schedule an informal discovery conference with Judge Butcher or direct the parties to file a motion and set a briefing schedule and page limits. An informal discovery conference is off-the-record, via Zoom audio-only technology. Prior to the informal discovery conference, parties must share with the opposing side and send to efile_Butcher@casd.uscourts.gov a maximum three-page, single-spaced, letter brief, using 14-Point, Times New Roman, Calibri, or similar font, summarizing their position and the legal authority that supports their position. The law clerk will provide counsel the letter briefing schedule. The parties must attach to their letter brief(s) one copy of the written discovery and written objections at issue (highlighting relevant portions), which does not count against the page limitation.

D. Discovery Motions. A discovery motion (e.g. motion to compel or an opposed motion for a protective order) must include the following:

1. The verbatim Interrogatory, Request for Admission, Request for Production, Request for Inspection, or deposition question in dispute (highlighting relevant portions);
2. The verbatim response to the request or question;
3. A statement with applicable authorities explaining what relief the moving party seeks and why the Court should grant it; and
4. If a privilege or protection from disclosure is asserted, the line item(s) of the privilege log describing the document(s) in question.

The parties should not attach correspondence between counsel unless it evidences an agreement alleged to have been breached, or is material to the substance of the motion. If the motion quotes and cites written assertions that support the motion, then counsel must include copies of that correspondence (highlighting relevant portions).

The parties are not required to lodge a proposed order.

E. Timing. The parties must initiate the procedure described in sections B and C above within **thirty (30) days** of the date of the event giving rise to the dispute. For depositions, the event giving rise to the dispute is the completion of the relevant portion of the transcript. For written discovery, the event giving rise to the dispute is the date the response was served. If a party fails to respond, the event giving rise to the discovery dispute is the date the response was due. The Court may extend the

time limitation upon a showing of good cause. The parties may seek an extension by sending an email or placing a joint call to chambers.

F. Disputes Concerning Electronically Stored Information. Before bringing any dispute over electronically stored information, the parties must consult and comply with the Checklist for Rule 26(f) Meet and Confer Regarding Electronically Stored Information, found at:

<https://www.casd.uscourts.gov/judges/butcher/docs/Electronically%20Stored%20Information%20Checklist.pdf>

G. Discovery Disputes Involving Third Parties. If a discovery dispute involves a third-party subpoena, and compliance is required in the Southern District of California pursuant to Fed. R. Civ. P. 45(c), the procedures described in sections B and C above apply if the third party is represented. If the third party is not represented, the party bringing the dispute may file an appropriate motion within the time set out in section E above.

VI. REQUESTS TO CONTINUE

A. Early Neutral Evaluation and Settlement Conferences. Parties may request the continuance of an ENE, MSC, or settlement conference by placing a joint call or sending an email to Chambers after counsel have met and conferred regarding whether the parties agree to the requested continuance. The request must be made as soon as counsel is aware of the circumstances that warrant rescheduling the conference. When requesting a continuance of the ENE, the parties must remember that Local Rule 16.1.c.1. requires that the ENE take place within 45 days of the filing of the first answer.

B. Deadline to Contact the Court re Discovery Disputes. The parties may initiate a request to extend the 30-day deadline to contact Chambers about a discovery dispute by placing a joint call or email to Chambers.

C. Scheduling Order Dates & Deadlines. Parties may make a request to continue a Scheduling Order deadline through a Joint Motion for Continuance. The parties must file the Joint Motion in accordance with Local Rule 7.2 no less than seven (7) days before the affected date. The parties are not required to lodge a proposed order.

The Joint Motion must include the following information:

1. The original deadline(s) or date(s) and proposed new dates in table format;
2. The number of previous requests for continuance;
3. A showing of good cause for the request;
4. If the request is opposed, a description of the parties' meet and confer efforts and a statement by the opposing party explaining the basis for its opposition;
5. Whether the requested continuance will affect other case management dates; and,
6. If the reason for the requested continuance is to engage in private mediation, the date of the scheduled mediation.

The filing of a Joint Motion for Continuance does NOT permit the parties to disregard the current deadlines. Unless and until the Court grants the Joint Motion, the parties must continue to comply with all deadlines in the Scheduling Order.

Requests to amend the Scheduling Order that necessitate an extension of the motion filing cut-off, pre-trial conference, and/or trial date are strongly disfavored and require a showing of exceptional circumstances.

VII. PRIVILEGE LOGS

Unless the parties' Joint Discovery Plan or a Court order provides otherwise, a party withholding documents based upon a claimed protection or privilege must produce a privilege log that contains sufficient information to allow the requesting party to understand and evaluate the basis for withholding the documents. The privilege log must include the following information:

1. Date of the document;
2. Bates number range of the document;
3. Author;
4. Primary addressee (and the relationship of that person(s) to the client and/or author of the document);
5. Secondary addressee(s) (and the relationship of that person(s) to the client and/or author of the document);

6. Any other individual(s) to whom the document was disseminated (and the relationship of that person(s) to the client and/or author of the document);
7. Type of document (e.g., internal memo, letter with enclosures, draft affidavit, etc.);
8. Client (i.e., party asserting privilege);
9. Attorney(s) involved and party represented;
10. Subject matter of document or privileged communication;
11. Basis for withholding the document or communication (e.g., work product, attorney client privilege, or some other asserted privilege or protection); and
12. Identification and description of any attachments.

VIII. PROTECTIVE ORDERS

If a protective order is requested, the parties must file a Joint Motion on the CM/ECF system and lodge the proposed protective order (in Word format) by email to efile_butcher@casd.uscourts.gov.

The proposed protective order must contain a provision regarding the disposition of confidential or sealed documents and information upon conclusion of the case.

The proposed protective order must also contain the following provisions:

1. At any stage of the proceedings, any party may object to a designation of materials as confidential information. The objecting party must notify the designating party, in writing, of the materials objected to and the ground(s) for the objection. Thereafter, lead counsel (or attorneys with full authority to make decisions and bind the client without later seeking approval from a supervising attorney) must promptly meet and confer, pursuant to Local Rule 26.1.a. If the dispute is not resolved within seven (7) days of receipt of the objections, and after counsel have thoroughly and completely met and conferred, the parties must place a joint call to the assigned magistrate judge's

chambers to explain the dispute and the parties' respective positions. The materials at issue must be treated as confidential until the Court has ruled on the objection or the matter has been otherwise resolved.

2. No party may file any document under seal, except pursuant to a court order that authorizes the filing of the document, or portion of the document, under seal. A sealing order will issue only upon a showing that the information is privileged or protectable under the law. The party seeking to file under seal must limit its sealing request to the specific portion of the document that contains the confidential or privileged material.
3. The Court may modify the terms and conditions of this Order for good cause, or in the interest of justice, or on its own order at any time in these proceedings. The parties prefer that the Court provide them with notice of the Court's intent to modify the Order and the content of those modifications, prior to entry of such an order.

IX. EX PARTE PROCEEDINGS

Ex parte motions are appropriate only in exigent circumstances when opposing counsel is not reachable or refuses to participate in the preparation of a Joint Motion, or when the Court directs a party to submit the requested relief as an ex parte motion.

The Court does not have regular ex parte hours. A party seeking ex parte relief must file a motion on the CM/ECF system that includes: (1) a short description of the dispute and the relief sought; (2) a declaration describing efforts to meet and confer with the opposing party; and (3) a proof of service if the opposing party is not registered on the CM/ECF system.

The Court will ordinarily give the opposing party until 5:00 p.m. the next business day to respond. If more time is required, the opposing party must contact the Court's law clerk at (619) 446-3704. Unless otherwise ordered, the Court will issue a decision without a hearing.

X. MISCELLANEOUS MATTERS

A. Lodging Documents. When these Chambers Rules direct a party to “lodge” a document, email the document to efile_butcher@casd.uscourts.gov and do not file the document on the CM/ECF system.

B. Filing Documents Under Seal. The party seeking to file a document under seal must comply with Local Rule 79.2 and Section 2(j) of the ECF Manual. Instructions on how to file a motion to file documents under seal in CM/ECF can be found at

https://www.casd.uscourts.gov/_assets/pdf/cmecf/How%20to%20File%20Civil%20Sealed%20Documents.pdf

The party requesting sealing must file a "public" version of the document it seeks to file under seal. In the public version, the party may redact only that information that is deemed confidential or privileged. The party must file the redacted document(s) simultaneously with the motion requesting that the confidential portions of the document(s) be filed under seal (and the lodging of the proposed unredacted, sealed documents). E-filings of motions to seal and sealed documents must comply with ECF Manual Section 2(j).

C. Technical Questions Relating to CM/ECF. Guidance regarding CM/ECF is available in the ECF Manual found at:

https://www.casd.uscourts.gov/_assets/pdf/cmecf/Electronic%20Case%20Filing%20Procedures%20Manual.pdf and the User’s Manual for Electronic Case Filing found at:

https://www.casd.uscourts.gov/_assets/pdf/cmecf/Users%20Manual%20for%20Electronic%20Case%20Filing.pdf. Parties may also direct technical questions to the CM/ECF Help Desk at (866) 233-7983.

D. Transcripts. Transcript orders for proceedings before Judge Butcher must be electronically filed. Instructions, including how to determine page estimates, a blank transcript order form, and where to find the page rates can be found at <https://www.casd.uscourts.gov/attorney/transcript-order.aspx>.