

**Courtroom Conversation with
U.S. Magistrate Judge Lupe Rodriguez, Jr. Written Materials**

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General Order 748 available at

[https://www.casd.uscourts.gov/ assets/pdf/rules/General%20Order%20748%20-%20Amendments%20to%20the%20Local%20Rules.pdf](https://www.casd.uscourts.gov/assets/pdf/rules/General%20Order%20748%20-%20Amendments%20to%20the%20Local%20Rules.pdf)

Southern District of California Civil Local Rules available at

[https://www.casd.uscourts.gov/ assets/pdf/rules/2023.6.30%20Local%20Rules.pdf](https://www.casd.uscourts.gov/assets/pdf/rules/2023.6.30%20Local%20Rules.pdf)



UNITED STATES DISTRICT COURT
Southern District of California
Honorable Lupe Rodriguez, Jr.
U.S. Magistrate Judge

CIVIL CHAMBERS RULES

Please Note: The Court provides this information for general guidance to counsel. The Court may, however, vary these procedures as appropriate in any case.

I. Civility and Professionalism. All counsel appearing before the Court must review Civil Local Rule 2.1 and act in compliance with the Code of Conduct set forth in that rule.

II. Communications with Chambers. For civil matters, contact the law clerks in chambers at (760) 339-4250. For criminal matters, please refer to the Court's Criminal Chambers Rules.

A. Letters, Faxes, E-mails, and Telephone Calls. Letters, faxes, or e-mails to chambers are prohibited unless specifically requested by the Court. Telephone calls are permitted only for scheduling and calendaring matters, or as specifically permitted in 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.

B. Lodging Documents. When an order or these Rules direct counsel to "lodge" a document with chambers, the document should either be sent via e-mail to efile_rodriguez@casd.uscourts.gov, or delivered to Judge Rodriguez's chambers, 2003 W. Adams Avenue, El Centro, Suite 220, CA 92243. Lodged documents **shall not** be filed with the Clerk of Court or on the Case Management/Electronic Case Filing ("CM/ECF") system unless the Court directs otherwise.

C. Courtesy Copies. Courtesy copies of filings **exceeding 20 pages** must be submitted directly to chambers, 2003 W. Adams Avenue, Suite 220, El Centro, CA 92243. Courtesy copies of electronically filed documents **must be printed from CM/ECF**, with the CM/ECF stamp displayed on the top of each page. The pages must be firmly bound, and exhibits must be tabbed.

D. Transcript Requests. Transcript requests for proceedings before Judge Rodriguez must be electronically filed. Detailed instructions can be found at <https://www.casd.uscourts.gov/attorney/transcript-order.aspx>.

E. Questions Relating to the CM/ECF system. For technical questions relating to the CM/ECF system, the parties should contact the CM/ECF Help Desk at (866) 233-7983.

III. Settlement Conferences. All named parties (including those who are indemnified by others), claims adjusters for insured defendants, and client representatives with full and unlimited authority to enter into a binding settlement, as well as the principal attorney(s) responsible for the litigation, must be present, and legally and factually prepared to discuss and resolve the case at the settlement conference. However, where the suit involves the United States or one of its agencies, only counsel for the United States with full settlement authority are required to appear. Further, if Plaintiff is incarcerated in a penal institution or other facility, the Plaintiff may participate by videoconference or by telephone, and defense counsel should coordinate the Plaintiff's appearance. **Please see the order scheduling the conference for more information.**

IV. Discovery Disputes.

A. Meet and Confer Requirement. Before contacting the Court regarding a discovery dispute, counsel must **thoroughly** meet and confer regarding all disputed issues pursuant to Civil Local Rule 26.1.a. **The parties must meet and confer in person, by videoconference, or by telephone, and may not satisfy the meet and confer requirement by exchanging e-mails or other written correspondence.**

B. Deadline to Raise Discovery Dispute with the Court.

1. Written Discovery. For written discovery, the event giving rise to the discovery dispute is the date of service of the response, **not** the date on which counsel reach an 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 response was due. The parties must contact the Court to request an informal discovery conference within **forty-five (45) days** of the event giving rise to the discovery dispute.

2. Depositions. If the dispute arises during a deposition, counsel may call chambers to seek a ruling. If Judge Rodriguez is available, he will either rule on the dispute or give counsel further instructions on how to proceed. If Judge Rodriguez is unavailable, counsel should proceed with the deposition in other areas of inquiry and Judge Rodriguez will respond as soon as practicable.

3. Parties' Stipulations are not Binding Unless Approved by the Court. The parties are required to obtain leave of Court to extend a deadline to raise a discovery dispute with the Court.

C. Informal Discovery Dispute Conference. If the dispute is not resolved in the meet and confer process, the moving party must e-mail chambers at efile_rodriguez@casd.uscourts.gov and request a conference to discuss the discovery dispute. The e-mail must include: (1) at least three proposed times mutually agreed upon by the parties for the telephonic conference; (2) a neutral statement of the dispute; and (3) one sentence describing (not arguing) each parties' position. The movant must copy opposing counsel on the e-mail.

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

D. Joint Discovery Motion. If the parties cannot resolve their discovery dispute during the discovery conference with Judge Rodriguez, **they will be given a deadline to file a Joint Discovery Motion.** The Joint Discovery Motion must include the following:

1. The exact wording of the discovery request or deposition question in dispute, and the exact response to the request or question;
2. An explanation as to why the response is inadequate, what relief the moving party seeks, and legal authority supporting the motion;
3. A statement by the responding party as to the basis for all objections and/or claims of privilege; and
4. A declaration from counsel of record establishing compliance with the meet and confer requirement.

The Joint Discovery Motion shall not exceed fifteen (15) pages. The parties may not attach copies of correspondence or e-mails between counsel unless those documents evidence an agreement alleged to have been breached.

E. These rules address the most common discovery disputes. **If litigants encounter circumstances that do not fit within these rules, they should contact Judge Rodriguez's law clerk for applicable procedures.**

V. Continuances. Any request to continue shall be **filed as a joint motion** pursuant to Civil Local Rule 7.2 or, if opposed, as an *ex parte* motion pursuant to Civil Local Rule 83.3(g). Whether filed as a joint motion or an *ex parte* motion, the parties are not required to obtain a hearing date. The motion shall include:

- A. The original deadline(s) or date(s);
- B. The number of previous requests for continuance;
- C. A showing of good cause for the request;
- D. Whether the request is opposed and why;
- E. Whether the requested continuance will affect other case management dates; and
- F. A declaration from counsel of record detailing the steps taken to comply with the dates and deadlines set in the order, and the specific reasons why the deadlines cannot be met.

The filing of a motion to continue any date or deadline **does not** permit the parties to disregard the date or deadline(s) at issue. Unless and until the Court grants the joint motion, the parties must continue to comply with all scheduling deadlines.

VI. 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.

VII. 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 Rodriguez.

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

A. 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.

B. Filing Documents Under Seal. No document may be filed under seal, except pursuant to a court order that authorizes the sealing of the particular document, or portion of the document. 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 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 order should 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."

VIII. Ex Parte Motions. All *ex parte* motions must comply with Civil Local Rule 83.3(g). Further, declaration(s) 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.

IX. Notice of Settlement. If the parties reach a settlement, counsel must promptly file a Notice of Settlement. If a scheduled date with the Court is imminent, counsel must also contact chambers to advise of the settlement.



UNITED STATES DISTRICT COURT
Southern District of California
Honorable Lupe Rodriguez, Jr.
U.S. Magistrate Judge

CRIMINAL CHAMBERS RULES

Please Note: The Court provides this information for general guidance to counsel. The Court may, however, vary these procedures as appropriate in any case.

I. Communications with Chambers and the Clerk's Office

- 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.
- B. Telephone Calls.** Telephone calls concerning general criminal matters should be directed to the **Clerk's Office at (760) 339-4242**. For questions related to specific criminal matters or to calendar a change of plea or motion, please inquire with Judge Rodriguez' Courtroom Deputy ("CRD"), **Teresa Romero at (760) 339-4248**.
- C. Lodging Documents.** When an order directs counsel to lodge a document with the Court, the document may be sent via email to efile_rodriguez@casd.uscourts.gov or delivered to the Clerk's Office at 2003 W. Adams Avenue, Suite 140, El Centro, CA 92243.

II. Criminal Calendar

- A. General Criminal Calendar.** Criminal matters are heard Monday through Friday at 10:00 a.m. and 1:00 p.m. unless otherwise scheduled by the Court. Counsel is expected to be punctual and check in with the CRD fifteen (15) minutes prior to commencement of the calendar. Counsel should advise the CRD of any scheduling conflicts in advance of the hearing. Matters will only be moved upon a showing of good cause.
- B. Other-Than-Spanish Language Interpretation.** Changes of pleas, detention hearings, and matters requiring other-than-Spanish language interpretation, are set at 10:00 a.m. unless otherwise scheduled by the Court.

III. Change of Plea Hearings

- A. **Calendaring Change of Plea Hearings and Submission of Documents.** Change of Plea hearings will not be heard unless calendared a minimum of two (2) court days in advance. The plea agreement and Consent to Rule 11 Plea form shall be lodged with the Court no later than two (2) court days prior to the hearing. Original plea agreements shall be submitted to Judge Rodriguez' CRD twenty-four (24) hours prior to the hearing. **Additionally, absent extraordinary circumstances, the change of plea will be taken off calendar and rescheduled if plea agreements are not timely submitted and/or lodged with the Court.**

IV. Presentation of Bail Documents

Bail documents, in the format approved by the Court, shall be presented to Judge Rodriguez' CRD in the Clerk's Office for review prior to being accepted in chambers. Bail documents must include a copy of the Order of Conditions of Release applicable to the defendant in the case.

Material witness bonds must include a notation in the upper right-hand corner of the document listing the arraignment date of the material witness.

V. Bail Hearings

- A. **Calendaring Bail Modification Hearings and Submission of Documents.** Bail Modification Hearings will not be heard unless calendared in advance and with at least two (2) court days' notice to the opposing party, Pretrial Services, and any surety(ies). All documents supporting or opposing bail modification must be provided to Judge Rodriguez' CRD two (2) court days in advance of the hearing.
- B. **Joint Motions and Requests to Modify Bail or Conditions of Release.** The Court will consider written joint motions or requests for modification of pretrial release and travel requests. Any joint motion or request for modification of any conditions of pretrial release, including travel requests, must contain the following:
- (1) The party seeking modification must: (i) confirm he or she met and conferred with opposing counsel and the assigned pretrial services officer regarding the modification; and (ii) state the respective positions of opposing counsel and the assigned pretrial services officer and whether consent to the modification is given;
 - (2) An attached declaration signed by the surety(ies), if any, stating whether the surety consents to the specific modification; and

- (3) If the modification is for travel or another time-sensitive purpose, the stipulation or request must be submitted at least two (2) court days before the requested travel date or time-sensitive event is to occur.

The Court will hold a bail modification hearing only if the parties or the Court are not in agreement on the requested modification.

VI. Nebbia and Surety Examination Hearings

Nebbia and surety examination hearings will not be heard unless calendared in advance and with at least two (2) court days' notice to all parties and the assigned Pretrial Services Office. Defense counsel must furnish a copy of the proposed bail package, including appraisals, title documents, and other relevant materials, to the Court and the United States Attorney's Office at least two (2) court days in advance of the hearing.

VII. Misdemeanor Sentencing

In a Class A Misdemeanor case, counsel shall file a sentencing summary chart and/or sentencing memorandum no later than two (2) court days before the sentencing hearing or change of plea hearing (if requesting immediate sentencing).

VIII. Waiver of Preliminary Hearing

All parties must appear at a scheduled preliminary hearing. A Waiver of Preliminary Hearing Form ("Waiver") must be filed no later than two (2) court days in advance of the date and time of the preliminary hearing. For example, if the preliminary hearing is set for March 6, 2023 at 1:30 p.m., the Waiver must be filed by 1:30 p.m. on March 4, 2023. If a Waiver is not timely filed, the preliminary hearing will proceed as scheduled.

IX. Material Witness Motion Hearings

Counsel may appear telephonically for Material Witness motion for deposition hearings only if counsel arranges for telephonic appearance with Judge Rodriguez' CRD two (2) court days in advance of the hearing. The Material Witness attorney must meet and confer with Government and Defense counsel prior to the motion hearing to determine if the parties can stipulate to a date for the setting of the Material Witness(es) deposition. The parties should also meet and confer concerning all discovery issues prior the scheduled motion hearing to allow the Court to set a deadline for the disclosure of all necessary discovery required for the deposition to be completed.

**CHECKLIST FOR RULE 26(f) MEET AND CONFER
REGARDING ELECTRONICALLY STORED INFORMATION**

(Adapted from the U.S. District Court for the Northern District of California)

In cases where the discovery of electronically stored information (“ESI”) is likely to be a significant cost or burden, the Court encourages the parties to engage in on-going meet and confer discussions and use the following Checklist to guide those discussions. These discussions should be framed in the context of the specific claims and defenses involved. The usefulness of particular topics on the checklist, and the timing of discussion about these topics, may depend on the nature and complexity of the matter.

I. Preservation

- The ranges of creation or receipt dates for any ESI to be preserved.
- The description of data from sources that are not reasonably accessible and that will not be reviewed for responsiveness or produced, but that will be preserved pursuant to Fed. R. Civ. P. 26(b)(2)(B).
- The description of data from sources that (a) the party believes could contain relevant information but (b) has determined, under the proportionality factors, should not be preserved.
- Whether or not to continue any interdiction of any document destruction program, such as ongoing erasures of e-mails, voicemails, and other electronically-recorded material.
- The names and/or general job titles or descriptions of custodians for whom ESI will be preserved (e.g., “HR head,” “scientist,” “marketing manager,” etc.).
- The number of custodians for whom ESI will be preserved.
- The list of systems, if any, that contain ESI not associated with individual custodians and that will be preserved, such as enterprise databases.
- Any disputes related to scope or manner of preservation.

II. Informal Discovery About Location and Types of Systems

- Identification of systems from which discovery will be prioritized (e.g., email, finance, HR systems).

- Description of systems in which potentially discoverable information is stored, including software platforms.
- Location of systems in which potentially discoverable information is stored.
- How potentially discoverable information is stored.
- How discoverable information can be collected from systems and media in which it is stored.

III. Proportionality and Costs

- The amount and nature of the claims being made by either party.
- The nature and scope of burdens associated with the proposed preservation and discovery of ESI.
- The likely benefit of the proposed discovery.
- Costs that the parties will share to reduce overall discovery expenses, such as the use of a common electronic discovery vendor or a shared document repository, or other cost-saving measures.

IV. Search

- The search method(s), including specific words or phrases or other methodology, that will be used to identify discoverable ESI and filter out ESI that is not subject to discovery.
- The quality control method(s) the producing party will use to evaluate whether a production is missing relevant ESI or contains substantial amounts of irrelevant ESI.

V. Phasing

- Whether it is appropriate to conduct discovery of ESI in phases.
- Sources of ESI most likely to contain discoverable information and that will be included in the first phases of Fed. R. Civ. P. 34 document discovery.
- Sources of ESI less likely to contain discoverable information from which discovery will be postponed or avoided.

VI. Production

- The formats in which structured ESI (database, collaboration sites, etc.) will be produced.
- The formats in which unstructured ESI (email, presentations, word processing, etc.) will be produced.
- The extent, if any, to which metadata will be produced and the fields of metadata to be produced.
- The production format(s) that ensure(s) that any inherent searchability of ESI is not degraded when produced.

VII. Privilege

- How any production of privileged or work product protected information will be handled.
- Whether the parties can agree upon alternative ways to identify documents withheld on the grounds of privilege or work product to reduce the burdens of such identification.
- Whether the parties will enter into a Fed. R. Evid. 502(d) Stipulation and Order that addresses inadvertent or agreed production.