

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3
4 STANDING ORDER RE: DISCOVERY AND DISPUTE PROCEDURES FOR
5 CASES ASSIGNED OR REFERRED TO MAGISTRATE JUDGE MARIA-ELENA
6 JAMES

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8 In ALL CASES, except those categories of cases listed in Fed.R.Civ.P. 26(a)(1)(E),
9 assigned to Magistrate Judge Maria Elena James for trial or referred to Magistrate Judge Maria-
10 Elena James for purposes of discovery, the parties shall follow the following procedures:

11 Discovery & Disclosure Dispute Procedures:

12 The Discovery and Disclosure Dispute Procedures inform a *pro se* party or counsel of
13 the specific procedures required by Judge James before filing a formal discovery motion,
14 pursuant to Civil L. R. 7, or when requesting a telephonic discovery conference, pursuant to
15 Paragraphs 4 or 5 below. Counsel and *pro se* parties are required to follow the Discovery and
16 Disclosure Dispute Procedures herein to resolve all discovery and disclosure disputes.

17 1. Parties (or counsel) shall propound disclosures and discovery in accordance with the
18 Fed. R. Civ. P. 26, 30, 31, 32, 33, 34, 35 and 36 and the Civil L. R. 26, 30, 33, 34 and 36. All
19 requests for protective orders must comply with Civil L. R. 79-5. A copy of the Civil Local
20 Rules for the Northern District of California is available at the Office of the Clerk of the Court
21 or are available for public viewing at the Court's internet site - <http://www.cand.uscourts.gov>.
22 Pursuant to Fed. R. Civ. P. 30(a)(2), no more than ten depositions may be taken except by order
23 of the Court. Pursuant to Fed. R. Civ. P. 33(a) and Civil L.R. 33-3, no more than 25
24 interrogatories shall be propounded except pursuant to stipulation or order of the Court.

25 2. The parties shall meet and confer regarding their initial disclosures pursuant to Fed. R.
26 Civ. P. 26(f) and shall make disclosures pursuant to Fed. R. Civ. P. 26(a)(1)(E). The parties
27 shall supplement their initial disclosures when required under Fed. R. Civ. P. 26(e)(1).

28 3. Civil law and motion is heard on Thursday mornings at 10:00 a.m. Motions to compel

1 may be noticed pursuant to Civil L. R. 7-2, without calling the Court. However, before the
2 Court will consider a motion to compel a **joint** meet and conferral letter must be filed, as
3 described in paragraph 4 below.

4 4. Prior to filing any discovery motion under Civil L. R. 7, or before requesting a
5 telephonic discovery conference, counsel must meet and confer **in person** for the purpose of
6 resolving all disclosure and/or discovery disputes. Thereafter, counsel shall draft and file a
7 jointly signed letter which (1) attests that prior to filing the motion to compel the parties met
8 and conferred **in person** on the unresolved discovery dispute; (2) sets forth the unresolved
9 discovery dispute; and (3) states each party's position as supported by statutory and/or case law.
10 Said joint letter shall be signed by both parties, shall be limited to five pages and may not be
11 accompanied by exhibits or affidavits other than exact copies of disputed interrogatories,
12 requests for production of documents and/or responses.

13 5. Generally, the Court will not consider a motion to compel. Instead, the parties shall file
14 a joint meet and confer letter. In the event that counsel was unable to meet and confer with
15 opposing counsel and/or party as directed above, counsel shall request in writing a telephonic
16 discovery conference for the purpose of enforcing the Court's requirement to meet and confer
17 or for the Court to fashion an alternative procedure which satisfies the meet and confer
18 requirement. Counsel's written request shall state (1) three agreed upon prospective times and
19 dates for the telephonic discovery conference to take place, (2) the anticipated length of the
20 telephonic discovery conference, and (3) the phone numbers at which counsel shall be
21 contacted on the day of the telephonic discovery conference. A copy of the written request shall
22 be served on opposing counsel and/or party and verification of said service shall be submitted
23 to the Court. Additionally, counsel shall file a declaration which states the attempt and reasons
24 for the failure to meet and confer. Counsel may attach exhibits to support the declaration, but
25 the declaration and exhibits combined may not exceed seven pages. The Court will not excuse
26 a party from the requisite meet and conferral unless good cause is shown. Counsel's refusal to
27 meet and confer without good cause shown will result in sanctions, pursuant to Fed. R. Civ. P.
28 16(f) and Civil L. R. 37-3.

1 6. In all “E-Filing” cases, when filing papers that require the Court to take any action (e.g.
2 motions, meet and confer letters, administrative requests), the parties shall, in addition to filing
3 papers electronically, lodge with chambers a printed copy of the papers by the close of the next
4 court day following the day the papers are filed electronically. These printed copies shall be
5 marked “Chambers Copy” and shall be submitted to the Clerk’s Office in an envelope clearly
6 marked “Magistrate Judge Maria-Elena James”, case number and “E-Filing Chambers Copy.”
7 Parties shall not file a paper copy of any document with the Clerk’s Office that has already been
8 filed electronically. **Any proposed orders must also be emailed to:**
9 **mejpo@cand.uscourts.gov**

10 7. Pursuant to Civil L. R. 37-1(b), in lieu of filing a formal motion, discovery conferences
11 may be conducted telephonically. Parties shall request a telephonic discovery conference in
12 writing which shall include (1) the joint meet and confer letter, as set forth above, (2) three
13 agreed upon prospective times and dates for the telephonic discovery conference to take place,
14 (3) the anticipated length of the telephonic discovery conference, and (4) the telephone numbers
15 at which the parties shall be contacted on the day of the telephonic discovery conference. A
16 copy of the written request shall be served on the opposing party or counsel and verification of
17 said service shall be submitted to the Court.

18 The parties shall not telephone the Court to arrange a telephonic discovery conference
19 without first sending the Court a written request for the telephonic discovery conference. The
20 Court will not consider a written request for a telephonic discovery conference which is not
21 accompanied by said joint meet and confer letter.

22 Upon approval, the Court shall contact the parties to inform them of the time and date of
23 the telephonic discovery conference. Unless excused for good cause, the party requesting the
24 telephonic discovery conference shall arrange the conference call on the date and time ordered
25 by the Court.

26 8. In the event that the parties are participating in a deposition or a site inspection and a
27 discovery dispute arises regarding the deposition and/or site inspection, the parties may contact
28 Judge James’ Courtroom Deputy, Brenda Tolbert, at 415-522-4708, to inquire whether Judge

1 James' is available to resolve the parties' impending dispute telephonically. In the event that
2 Judge James is not available or the parties are unable to contact Judge James' Courtroom
3 Deputy for any reason, the parties shall follow the procedures set forth in paragraph 7 above.

4 9. In the event that a matter is to be taken off calender, or continued to a further date, a
5 written stipulation signed by the parties shall be submitted to the Court for approval; said
6 stipulation must be received by the Court at least five business days prior to the scheduled
7 hearing date.

8 10. Other than scheduling matters, pursuant to Civil L. R. 11-4(c), a party shall not contact
9 the Court *ex parte* without prior notice to opposing party. All communications or questions to
10 the Court shall be presented to the Court in writing. Parties must certify to the Court that all
11 parties were faxed or mailed a copy of the written communication. Unless expressly requested
12 by the Court, documents should not be faxed to chambers but should be filed or lodged in
13 accordance with the Local Rules of Court.

14 11. Parties shall not mail or fax to the Court copies of correspondence from a party
15 regarding any dispute pending before the Court.

16 12. Parties have a continuing duty to supplement the initial disclosures when required under
17 Fed. R. Civ. P. 26(e)(1).

18 13. Motions for sanctions shall be filed separately, pursuant to Fed. R. Civ. P. 37 and Civil
19 L. R. 37-3. Any party seeking an award of attorney's fees or other expenses in connection with
20 a motion shall file a declaration with the opposition or reply memorandum which itemizes with
21 particularity the fees and expenses claimed.

22 The failure of a party to abide by Judge James' Discovery and Disclosure Dispute
23 Procedures may result in sanctions, pursuant to Fed. R. Civ. P. 16(f).

24 IT IS SO ORDERED.

25 DATED: September 17, 2004

26 _____
27 /s/
28 MARIA-ELENA JAMES
United States Magistrate Judge