

CIVIL AND DISCOVERY REFERRAL MATTERS STANDING ORDER

MAGISTRATE JUDGE SUSAN VAN KEULEN

Updated January 2023

1. LOCATION

The parties must check ECF for the status as to whether any hearing will be in-person or by Zoom video link.

- All civil discovery and motion hearings will be **in person** unless otherwise noticed by the Court in Courtroom 6, 4th Floor, San Jose Federal Courthouse.
- Initial case management conferences, status conferences, and order to show cause hearings in re settlement/dismissal will be by Zoom video link. Specific call-in/Zoom instructions will be posted on ECF no later than 48 hours in advance. General information is available in Judge van Keulen's scheduling notes on the Court website.
- Any deviation from the appearance standards above requires prior approval of the Court. The requesting party must file an administrative motion to appear by Zoom video link 5 days before the conference. If the request is granted, specific call-in/Zoom instructions will be posted on ECF no later than 48 hours in advance.
- Telephonic appearances have largely been replaced by Zoom video link. In the event a party wishes to appear by telephone at a Court hearing, she/he must file a written request at least 5 days in advance of the hearing. If a request to appear telephonically is granted, the parties must contact CourtCall Phone Conferencing at (866) 582-6878 in advance of the hearing to schedule a telephonic appearance. Please inform CourtCall you have been approved for a telephonic appearance by the Court. The parties are to adhere to CourtCall's procedures. To ensure the quality of the record, the parties should avoid the use of mobile phones, speakerphones, or phones in other public places. If your matter is vacated after arranging for an appearance through CourtCall, please notify CourtCall that your matter has been taken off calendar and you do not need a telephonic appearance.

2. SCHEDULING

Civil case management conferences are held on Tuesdays at 9:30 a.m.

Civil motions are heard on Tuesdays at 10:00 a.m.

Civil pretrial conferences are held on Thursdays at 9:30 a.m.

Parties are not required to reserve a hearing date but should confirm the Court's availability at cand.uscourts.gov. Hearings and motions may be reset by the Court as its calendar requires. For questions regarding scheduling, please contact courtroom deputy Justine Fanthorpe at 408.535.5375 or Justine_Fanthorpe@cand.uscourts.gov.

3. **CASES INITIALLY ASSIGNED TO JUDGE VAN KEULEN: CONSENT OR DECLINATION**

In civil cases initially assigned to this Court for all purposes, each party must file written consent to the jurisdiction of a magistrate judge or a written request for reassignment to a district judge as soon as possible but no later than the deadlines specified in Civil Local Rule 73-1(a). **If a party files a dispositive motion (such as a motion to dismiss or a motion for remand), the moving party must file the consent or declination simultaneously with the motion.**

4. **CASE MANAGEMENT CONFERENCE STATEMENTS**

In civil cases assigned to this Court for all purposes, all joint case management statements are due one week before the case management conference. Joint case management statements must include as the first item the case schedule, if it has been set, as well as all information required under the Standing Order for All Judges of the Northern District of California – Contents of Joint Case Management Statement.

5. **PROPOSED ORDERS AND STIPULATIONS**

All stipulations and proposed orders are to be emailed in Word format to SvKCRD@cand.uscourts.gov on the same day as the documents are e-filed.

6. **POST-ANSWER DISPOSITIVE MOTIONS**

Unless otherwise permitted by the Court, only one Motion for Summary Judgment, Partial Summary Judgement, or Summary Adjudication may be filed by each party.

7. **PROTECTIVE ORDERS**

All proposed discovery protective orders in cases in which Judge van Keulen is the assigned discovery referral judge and in cases that are assigned to Judge van Keulen for all purposes through consent of the parties shall be submitted for Judge van Keulen's signature in text- searchable PDF format. **If the submitting party or parties have used one of this district's model protective orders as the basis for their proposed protective order, their submission of the proposed protective order must be accompanied by either: (1) a redline version indicating any changes from the model order or (2) a statement in the caption or a cover pleading that the parties have not made any changes from the model order.**

8. DISCOVERY

Discovery disputes in cases in which Judge van Keulen is the assigned discovery referral judge and in cases that are assigned to Judge van Keulen for all purposes through consent of the parties shall follow the same procedures as set forth below:

- For all discovery disputes, the parties must meet and confer to attempt to resolve the dispute. The meet and confer must be in person or by telephone. *A mere exchange of letters, emails, or messages does not satisfy the requirement to meet and confer.*
- If the parties are unable to reach a resolution, they must file a joint statement not to exceed 10 pages, exclusive of the caption page, double-spaced with 12-point font and in text-searchable PDF format. Footnotes, if any, must comply with section 9 below. The joint statement must: (1) state the number of days remaining before the close of fact discovery and/or days until trial; (2) briefly describe each unresolved issue without undue argument; and (3) set forth each party's proposed compromise with respect to each unresolved issue.
 - In addition, when specific discovery requests are disputed, the parties must include as an exhibit a joint chart that sets forth in columns the disputed request, the response thereto, the parties' respective proposed compromises, and a blank column for the Court's use. The joint statement must be filed in ECF under the Civil Events category of Motions and Related Filings > Motions: General > Discovery Letter Brief. The joint chart exhibit in Word format must also be emailed to SvKCRD@cand.uscourts.gov.
- Absent prior leave of Court, the only additional exhibit(s) permitted to the joint statement are a copy of the specific discovery request(s) at issue and the response(s) to it (e.g., requests for production, interrogatories, privilege log, nonparty subpoena, deposition excerpts, initial disclosures, contentions, etc.).
- Each party will also submit a proposed order in accordance with section 5 above.
- Upon review of the statement, the Court will advise the parties regarding the need, if any, for more briefing, a hearing, or a telephonic conference.
- *For all cases, the joint statement must be filed no later than 7 days after the discovery cut-off date(s) pursuant to Civil Local Rule 37-3.*

9. FORMAT OF MOTIONS:

a. USE OF FOOTNOTES

Use of footnotes in Court filings is to be limited to providing points of clarification or cross-references. Argument in footnotes will not be considered by the Court. The form of footnotes must comply with Civil Local Rule 3-4(c)(2). The Court may strike any filing that includes excessive or improper footnotes.

b. EXHIBITS

The cover page of any exhibit submitted in connection with briefing on a motion must include the exhibit number and the title or brief description of the exhibit (e.g., “Ex. 1 – 1/1/2023 email from Joe Smith to Nancy Jones”).

10. HEARING MATERIALS

Any party who distributes materials at the hearing on any matter must supply the Court with two color copies of those materials at the hearing.

11. CHAMBERS COPIES NOT REQUIRED; EXCEPTIONS

Pursuant to Civil Local Rule 5-1(d)(7), no chambers copies are required unless specifically requested by the Court. If chambers copies are requested by the Court, parties are to notify the courtroom deputy at SvKCRD@cand.uscourts.gov when they have been delivered.

12. PRIVILEGE LOGS

If a party withholds information that is responsive to a discovery request, and is otherwise discoverable under the Federal Rules of Civil Procedure, by claiming that it is privileged or protected from discovery under the attorney work product doctrine or any other protective doctrine (including, but not limited to, privacy rights), that party shall prepare a privilege log (Fed. R. Civ. P. 26(b)(5)) setting forth the privilege relied upon and specifying separately for each document or for each category of similarly situated documents:

- a. The name and job title or capacity of the author;
- b. The name and job title or capacity of each recipient;
- c. The date the document was prepared and, if different, the date(s) on which it was sent to or shared with persons other than its author(s);
- d. The title and description of the document;
- e. The subject matter addressed in the document;
- f. The purpose(s) for which it was prepared or communicated; and
- g. The specific basis for the claim that it is privileged.

The privilege log will be produced as quickly as possible, but no later than 14 days after the discovery responses are due, unless the parties stipulate or the Court orders otherwise in a particular case.

13. MOTIONS TO STRIKE AFFIRMATIVE DEFENSES

Motions to strike affirmative defenses may not be filed without leave of Court. Leave of Court may be sought by a motion for administrative relief pursuant to Civil Local Rule 7-11.

14. MOTIONS TO SEAL

Motions to seal shall be filed in accordance with Civil Local Rule 79-5. When submitting a proposed order pursuant to Civil Local Rule 79-5(c)(3), the table format included in the order shall comply with the below format:

Document	Text to be Sealed	Basis for Sealing
	[redacted portions to be identified by page and line number]	

SO ORDERED.

January 18, 2023



SUSAN VAN KEULEN
United States Magistrate Judge