

1 Superior Court of California
2 County of San Bernardino
3 247 W. Third Street, Dept. S17
4 San Bernardino, CA 92415-0210
5
6
7

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SAN BERNARDINO, SAN BERNARDINO DISTRICT
10

11
12
13
14
15 INITIAL CASE MANAGEMENT
16 CONFERENCE ORDER
17
18
19
20
21

22 This case is assigned for all purposes to Judge Joseph T. Ortiz in the Complex
23 Litigation Program, Department S-17, located at the San Bernardino Justice Center, 247
24 West Third Street, San Bernardino, California, 92415-0210. Telephone numbers for
25 Department S-17 are (909) 708-8715 (Judicial Assistant) and (909) 708-8716 (Court
26 Attendant).
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Counsel may attend the initial CMC either in person or remotely, via CourtCall or Zoom. Contact CourtCall at (888) 882-6878 (www.CourtCall.com) to schedule your appearance. Please review the Zoom guidelines attached to the back of this order for Zoom appearances. In Person Attendance is not required at the initial CMC or at subsequent conferences unless specifically ordered by the Court.

Counsel may attend the initial CMC either in person or remotely, via CourtCall or Zoom. Contact CourtCall at (888) 882-6878 (www.CourtCall.com) to schedule your appearance. Please review the Zoom guidelines attached to the back of this order for Zoom appearances. In Person Attendance is not required at the initial CMC or at subsequent conferences unless specifically ordered by the Court.

RESPONSIVE PLEADINGS

Unless otherwise agreed by the parties, responsive pleadings are due as provided by statute. There is no stay on the pleadings or motions pending the initial CMC. If, however, counsel agree to stay formal proceedings to facilitate settlement discussions or for other reasons, each defendant is directed to file either a Notice of General Appearance or a Notice of Special Appearance (if counsel intends to challenge personal jurisdiction). The notices are for purposes of identification of counsel and

Unless otherwise agreed by the parties, responsive pleadings are due as provided by statute. There is no stay on the pleadings or motions pending the initial CMC. If, however, counsel agree to stay formal proceedings to facilitate settlement discussions or for other reasons, each defendant is directed to file either a Notice of General Appearance or a Notice of Special Appearance (if counsel intends to challenge personal jurisdiction). The notices are for purposes of identification of counsel and

1 preparation of a service list. The filing of a Notice of General Appearance is without
2 prejudice to any substantive or procedural challenges to the complaint (including subject
3 matter jurisdiction), without prejudice to any denial or affirmative defense, and without
4 prejudice to the filing of any cross-complaint. The filing of a Notice of Special
5 Appearance is without prejudice to any challenge to the court's exercise of personal
6 jurisdiction.
7

8 DISCOVERY

9 Unless all counsel agree otherwise, discovery is stayed until lifted by the Court,
10 typically at the initial CMC.
11

12 AGENDA FOR THE INITIAL CASE MANAGEMENT CONFERENCE

13 Counsel for all parties are ordered to meet and confer in person no *later* than
14 fourteen days before the initial CMC to discuss the subjects listed below. Counsel
15 must be fully prepared to discuss these subjects with the court:
16

- 17 1. Any issues of recusal or disqualification;
- 18 2. Any potentially dispositive or important threshold issues of law or fact that, if
19 considered by the court, may simplify or further resolution of the case;
- 20 3. Appropriate mechanisms for Alternative Dispute Resolution;
- 21 4. A plan for the preservation of evidence and a uniform system for the identification
22 of documents to be used throughout the course of this litigation, including
23 discovery and trial;
- 24 5. A discovery plan for the disclosure and production of documents and other
25 discovery, including whether the court should order automatic disclosures,
26 patterned on Federal Rule of Civil Procedure 26(a) or otherwise;
27
28

6. Whether it is advisable to conduct discovery in phases so that information needed to conduct meaningful ADR is obtained early in the case;
7. Any issues involving the protection of evidence and confidentiality;
8. The use and selection of an electronic service provider;
9. The handling of any potential publicity issues;
10. Any other issues counsel deem appropriate to address with the court.

THE JOINT REPORT

Counsel are ordered to meet and confer, in person or by telephone or video conference, and to prepare a joint report for the initial CMC, to be filed in advance of the conference date. Separate reports from each party are not allowed. Judicial council form CMC statements are not allowed.

The joint report must be filed in the regular course in the Clerk's office in advance of the hearing, but to assure that the report is timely received in the department, a courtesy copy of the report will be submitted directly into Department S17.

The joint report must include the following:

1. Whether the case should or should not be treated as complex;
2. Whether additional parties are likely to be added and a proposed date by which all parties must be served;
3. A service list (the service list should identify all primary and secondary counsel, firm names, addresses, telephone numbers, email addresses, and fax numbers for all counsel.)
4. Whether the court should issue an order requiring electronic service. Counsel should advise the court regarding any preferred web-based electronic service provider;

- 1 5. Whether any issues of jurisdiction or venue exist that might affect this court's
- 2 ability to proceed with this case.
- 3 6. Whether there are applicable arbitration agreements, and the parties' views on
- 4 their enforceability;
- 5 7. A list of all related litigation pending in this or other courts (state and federal), a
- 6 brief description of any such litigation, including the name of the judge assigned
- 7 to the case, and a statement whether any additional related litigation is
- 8 anticipated;
- 9 8. A description of the major factual and legal issues in the case. The parties
- 10 should address any contracts, statutes, or regulations on which claims or
- 11 defenses are based, or which will require interpretation in adjudicating the claims
- 12 and defenses;
- 13 9. The parties' tentative views on an ADR mechanism and how such mechanism
- 14 might be integrated into the course of the litigation;
- 15 10. A discovery plan, including the time needed to conduct discovery and whether
- 16 discovery should be conducted in phases or limited (and, if so, the order of
- 17 phasing or types of limitations). With respect to the discovery of electronically
- 18 stored information (ESI), the plan should include:
- 19 a. Identification of the Information Management Systems used by the parties;
- 20 b. The location and custodians of information that is likely to be subject to
- 21 production (including the identification of network and email servers and
- 22 hard-drives maintained by custodians);
- 23 c. The types of ESI that will be requested and produced, e.g. data files,
- 24 emails, etc.;
- 25
- 26
- 27
- 28

- d. The format in which ESI will be produced;
- e. Appropriate search criteria for focused requests.
- f. A statement whether the parties will allow their respective IT consultants or employees to participate directly in the meet and confer process.

11. Whether the parties will stipulate that discovery stays or other stays entered by the court for case management purposes will be excluded in determining the statutory period for bringing the case to trial under Code of Civil Procedure Section 583.310 (the Five Year Rule).

12. Recommended dates and times for the following:

- a. The next CMC (absent special circumstances, the court typically schedules the next CMC approximately six to eight months out);
- b. A schedule for any contemplated ADR;
- c. A filing deadline (and proposed briefing schedule) for any anticipated non-discovery motions.
- d. With respect to class actions, the parties' tentative views on an appropriate deadline for a class certification motion to be filed.

To the extent the parties are unable to agree on any matter to be addressed in the Joint Report, the positions of each party or of various parties should be set forth separately. The parties are encouraged to propose, either jointly or separately, any approaches to case management that they believe will promote the fair and efficient handling of this case.

Any stipulations to continue conferences or other hearings throughout this litigation must be filed with the court directly in Department S-17 (not in the Clerk's office), no later than five court days before the conference or hearing date. Stipulations

1 filed only in the Clerk's office or submitted late to the Department likely cannot be
2 accommodated.

4 JOINT REPORTS FOR SUBSEQUENT CONFERENCES

5 Counsel must submit a joint report for each conference after the initial CMC. The
6 report should address how the case has moved forward since the last conference, what
7 needs to be accomplished in the future, and how the court can assist the parties move
8 the case towards resolution. As with the initial report, subsequent joint reports must be
9 filed in the regular course in the Clerk's office in advance of the hearing, but to assure
10 that the reports are timely received in the department, courtesy copies should be
11 submitted directly into Department S17.
12
13

15 INFORMAL DISCOVERY CONFERENCES

16 Motions concerning discovery cannot be filed without first requesting an informal
17 discovery conference (IDC) with the court. IDCs are conducted by remote video
18 conference, using Zoom. In-person attendance at the IDC is permissible only if all
19 counsel are appearing in person. The Court will provide a link to join the remote
20 conference at the appointed time. Please provide Department S-17's Judicial Assistant
21 ((909) 708-8715) or Court Attendant ((909) 708-8716) with an e-mail address. No
22 briefing is allowed for the IDC, but counsel (either jointly or separately) should lodge
23 (not file) a one page statement of the issues in dispute in Department S-17 no later than
24 the day before the IDC. All IDCs are off the record.
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

If all counsel agree, remote conferences are not limited to discovery issues;
counsel may address other matters with the court, with the understanding that the
conferences are off the record and that the court will make no orders absent agreement
among the parties.

Dated: 2024



Joseph T. Ortiz,
Judge of the Superior Court

ZOOM APPEARANCES

Judge Joseph Ortiz, Dept. S-17

ATTENTION: As of January 9, 2023, the court no longer provides an official Court Reporter to transcribe proceedings. Parties who wish to have a transcript must retain their own private reporter and must submit a “Stipulation and Order to Use Certified Shorthand Reporter.” Please contact the Department if you need this form. Prior to the hearing, you can email the completed Stipulation to Department S-17 at jgarcez@sb-court.org. Parties who do not retain their own reporter have waived the right to one.

Except for settlement conferences, trial, or contested evidentiary hearings, Department S-17 allows remote appearances via CourtCall (888-882-6878 or www.courtcall.com) or by ZOOM video. ZOOM appearances are subject to these guidelines:

1. Sufficient Technology: Parties using ZOOM in Department S-17 are affirming that they possess and will use sufficient technology and connectivity to allow them to properly and safely attend a court hearing. This means you are using a computer capable of running the software; you have a reliable connection sufficient to support a video connection; and you have a microphone and camera. Generally speaking, a mobile phone is not appropriate for an appearance.
2. Advanced Login: Parties must log on to ZOOM at least 15 minutes in advance of the scheduled hearing time. Unlike CourtCall, there is no dedicated attendance available to handle a late login. The ZOOM link will be locked approximately ten minutes before the hearings begin, and you will not be allowed in to the ZOOM meeting.
3. Identification: Parties will use a ZOOM login that reflects the name of the person appearing. (Please do not log in with a “handle” or phone number). The Court Attendant may change your login to reflect case calendar information. Prior to the start of the hearings, the parties appearing by ZOOM will provide, via the chat box feature, the name of the party appearing and the case name relevant to the appearance, if any. Attorneys will also provide their Bar Number and name of the client being represented. Provisionally licensed attorneys must identify themselves as such and identify their supervising attorney.
4. Etiquette: Parties using ZOOM should have their cameras on once their case is called and be in proper court room attire. Similarly, parties must make sure that their backgrounds are appropriate for a court setting. The parties must also remain on mute except when their matter is called. Importantly, general court room etiquette applies to ZOOM appearances. The Court reserves the right to terminate the connection for any reason it might escort a party out of the court room. (E.g., profane or sexually charged comments or materials, improper attire, etc.)
5. Waiver of Review: Parties who choose to appear remotely understand that the technology has limitations. While the court will try to accommodate questions about documents and other items produced in person at the hearing, remote participants are waiving the right to inspect such documents and other items.