Superior Court of California

County of San Bernardino

247 W. Third Street, Dept. S-26

San Bernardino, CA 92415-0210

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN BERNARDINO, SAN BERNARDINO DISTRICT

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| Click or tap here to enter text.  vs.  Click or tap here to enter text. | )  )  )  )  )  )  )  )  )  ) )  )  )  )  )  )  )  )  )  ) | Case No.: CIVDSClick or tap here to enter text.  INITIAL CASE MANAGEMENT CONFERENCE ORDER |

This case is assigned for all purposes to Judge David Cohn in the Complex Litigation Program, Department S-26, located at the San Bernardino Justice Center, 247 West Third Street, San Bernardino, California, 92415-0210. Telephone numbers for Department S-26 are (909) 521-3519 (Judicial Assistant) and (909) 708-8866 (Court Attendant).

THE INITIAL CASE MANAGEMENT CONFERENCE

An initial Case Management Conference (CMC) is scheduled for \_\_\_\_\_\_\_\_\_\_\_\_ at 9:00 a.m. The initial CMC will be conducted remotely, via CourtCall. Contact CourtCall at (888) 882-6878 ([www.CourtCall.com](http://www.CourtCall.com)) to schedule your appearance. CourtCall may be used for all CMCs, motions, and other hearings. In person attendance is not required except as specifically ordered by the court.

Counsel for all parties are ordered to attend the initial CMC. If there are defendants who have not yet made a general or special appearance, those parties who are presently before the court may jointly request a continuance of the initial CMC to allow additional time for such non-appearing defendants to make their general or special appearances. Such a request should be made by submitting a Stipulation and Proposed Order to the Court, filed directly in Department S-26, no later than five court days before the scheduled hearing.

STAY OF THE PROCEEDINGS

Pending further order of this Court, and except as otherwise provided in this Order, these proceedings are stayed in their entirety. This stay precludes the filing of any amended complaint, answer, demurrer, motion to strike, motion to compel arbitration, or motion challenging the jurisdiction of the Court. Violation of this order may result in the imposition of monetary sanctions.

Each defendant, however, is directed to file a Notice of General Appearance (or Notice of Special Appearance if counsel intends to challenge personal jurisdiction) for purposes of identification of counsel and preparation of a service list. The filing of a

Notice of General Appearance is without prejudice to any substantive or procedural challenges to the complaint (including subject matter jurisdiction), without prejudice to any denial or affirmative defense, and without prejudice to the filing of any cross-complaint. The filing of a Notice of Special Appearance is without prejudice to any challenge to the court’s exercise of personal jurisdiction. This stay of the proceedings is issued to assist the court and the parties in managing this case through the development of an orderly schedule for briefing and hearings on any procedural or substantive challenges to the complaint and other issues that may assist in the orderly management of this case. This stay shall not preclude the parties from informally exchanging documents and other information that may assist them in their initial evaluation of the issues.

SERVICE OF THIS ORDER

Plaintiffs’ counsel is ordered to serve this Order on counsel for each defendant, or, if counsel is not known, on each defendant within five days of the date of this Order. If the complaint has not been served as the date of this Order, counsel for plaintiff is to serve the complaint along with this Order within ten days of the date of this Order. Failure to serve this order may result in the imposition of monetary sanctions.

AGENDA FOR THE INITIAL CASE MANAGEMENT CONFERENCE

Counsel for all parties are ordered to meet and confer in person no *later* than fourteen days before the initial CMC to discuss the subjects listed below. Counsel

must be fully prepared to discuss these subjects with the court:

1. Any issues of recusal or disqualification;
2. Any potentially dispositive or important threshold issues of law or fact that, if considered by the court, may simplify or further resolution of the case;
3. Appropriate mechanisms for Alternative Dispute Resolution;
4. A plan for the preservation of evidence and a uniform system for the identification of documents to be used throughout the course of this litigation, including discovery and trial;
5. A discovery plan for the disclosure and production of documents and other discovery, including whether the court should order automatic disclosures, patterned on Federal Rule of Civil Procedure 26(a) or otherwise;
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 prepare a Joint Report for the initial CMC, to be filed directly in Department S-26 (not in the Clerk’s office), no later than ten days before the conference date. Separate reports from each party are not allowed. Judicial Council form CMC statements are not allowed. 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;
5. Whether any issues of jurisdiction or venue exist that might affect this court’s ability to proceed with this case.
6. Whether there are applicable arbitration agreements, and the parties’ views on their enforceability;
7. A list of all related litigation pending in this or other courts (state and federal), a brief description of any such litigation, including the name of the judge assigned to the case, and a statement whether any additional related litigation is anticipated;
8. A description of the major factual and legal issues in the case. The parties should address any contracts, statutes, or regulations on which claims or defenses are based, or which will require interpretation in adjudicating the claims and defenses;
9. The parties’ tentative views on an ADR mechanism and how such mechanism might be integrated into the course of the litigation;
10. A discovery plan, including the time need to conduct discovery and whether discovery should be conducted in phases or limited (and, if so, the order of phasing or types of limitations). With respect to the discovery of electronically

stored information (ESI ), the plan should include:

* 1. Identification of the Information Management Systems used by the parties;
  2. The location and custodians of information that is likely to be subject to production (including the identification of network and email servers and hard-drives maintained by custodians);
  3. The types of ESI that will be requested and produced, e.g. data files, emails, etc.;
  4. The format in which ESI will be produced;
  5. Appropriate search criteria for focused requests.
  6. A statement whether the parties will allow their respective IT consultants or employees to participate directly in the meet and confer process.

1. 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).
2. Recommended dates and times for the following:
   1. The next CMC (absent special circumstances, the court typically schedules the next CMC approximately six months out);
   2. A schedule for any contemplated ADR;
   3. A filing deadline (and proposed briefing schedule) for any anticipated non-discovery motions.
   4. 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-26 (not in the Clerk’s office), no later than five court days before the conference or hearing date.

INFORMAL DISCOVERY CONFERENCES

Motions concerning discovery cannot be filed without first requesting an informal discovery conference (IDC) with the court. Making a request for an IDC automatically stays the deadline for filing any such motion. IDCs are conducted remotely, via the

BlueJeans Video Conferencing program. Attendees will need to download the BlueJeans program (available from the app stores for IOS or Android) to a computer, laptop, tablet, or smartphone. If the device being used does not have camera capability, the BlueJeans application offers an audio-only option. Video appearance at the IDC, however, is encouraged. The Court will provide a link to join the conference at the appointed time. Please provide Department S-26’s Judicial Assistant ((909) 521-3519) or Court Attendant ((909) 708-8866) with an e-mail address. No briefing is required for the IDC, but counsel (either jointly or separately) should lodge (not file) a one page statement of the issues in dispute in Department S-26 no later than the day before the IDC.

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ , 2021.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
 David Cohn,

Judge of the Superior Court