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EASTERN DISTRICT OF CALIFORNIA
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

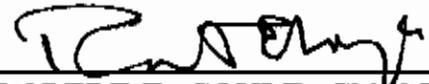
RE:)
) GENERAL ORDER NO. 304
ADOPTION OF AMENDMENTS TO)
LOCAL RULES 250 AND 251)
AND PROMULGATION OF)
LOCAL RULE 253)
_____)

Inasmuch as Congress has taken no action to alter the proposed amendments to the Federal Rules of Civil Procedure or to defer the effective date of December 1, 1993,

IT IS HEREBY ORDERED that pursuant to General Order No. 303, the Court hereby adopts the proposed amendments to Local Rules 250 and 251 and promulgates Local Rule 253, detailed in the attachment hereto.

DATED: December 1, 1993.

FOR THE COURT:


ROBERT E. COYLE, Chief Judge
Eastern District of California

RULE 250

DISCOVERY DOCUMENTS

(a) **Interrogatories.** Interrogatories shall be so arranged that after each separate question there shall appear a blank space reasonably calculated to enable the answering party to insert the answers and/or objections. The answering party shall answer or object within the spaces provided or, if unable to do so, shall retype the interrogatories along with the answers and/or objections.

(b) **Requests for Admission and Requests for Production.** Responses to requests for admission or requests for production shall set forth each request in full before each response.

(c) **Objections.** Each objection to any discovery request shall include a statement of reasons.

(d) **Filing of Discovery Documents.** The following documents and proofs of service thereof shall not be filed with the Clerk until there is a proceeding in which the document or proof of service is at issue:

- (1) transcripts of depositions upon oral examination;
- (2) transcripts of depositions upon written questions;
- (3) interrogatories;
- (4) answers or objections to interrogatories;
- (5) requests for the production of documents or to inspect tangible things;
- (6) responses or objections to requests for the production of documents or to inspect tangible things;
- (7) requests for admission; and
- (8) responses or objections to requests for admission.

When required in a proceeding, the original transcripts of depositions shall be filed. See L.R. 140(b), 260(d). As to other discovery materials, only that part of the document which is in issue shall be filed.

(e) **Custody and Maintenance of Deposition Transcripts.** Counsel noticing a deposition is responsible to obtain the original deposition transcript or audio or video tape record from the deposition reporter and to retain it under conditions suitable to protect it from loss, destruction or tampering until the earlier of (1) the date it is filed with the Court in accordance with L.R. 250(d), or (2) one year after the judgment has become final or other final disposition of the action. Prior to such date, for good cause,

any party or intervenor may move the Court for an order prohibiting the destruction of a transcript or record permitted hereunder or otherwise directing the custody and maintenance of the transcript or record.

(f) **Cross-Reference to Fed. R. Civ. P. 26.** See L.R. 253.

RULE 251

MOTIONS DEALING WITH DISCOVERY MATTERS

(a) **Hearing re Discovery Disagreements.** Except as provided in paragraph (e), a hearing of a motion pursuant to Fed. R. Civ. P. 26-37 may be had by the filing of a notice of motion and motion scheduling the hearing date on the appropriate calendar at least twenty-one (21) days from the date of filing. No other documents need be filed at this time. The hearing shall be dropped from the calendar without prejudice if the stipulation re discovery disputes or an affidavit as set forth below is not filed, with a copy provided for the Magistrate Judge or Judge hearing the motion, on or before three (3) court days prior to the scheduled hearing date. If the notice of motion and motion are filed concurrently with the stipulation, the motion shall be placed on the next regularly scheduled calendar for the Magistrate Judge or Judge hearing the motion at least three (3) court days thereafter.

(b) **Requirement of Conferring.** Except as hereinafter set forth, a motion made pursuant to Fed. R. Civ. P. 26-37 shall not be heard unless (1) the parties have conferred and attempted to resolve their differences, and (2) the parties have set forth their differences and the bases therefor in a joint stipulation re discovery disagreements. Counsel for all interested parties shall confer in advance of the filing of the motion or in advance of the hearing of the motion in a good faith effort to resolve the differences that are the subject of the motion. Counsel for the moving party or prospective moving party shall be responsible for arranging the conference, which shall be held at a time and place and in a manner mutually convenient to counsel. See L.R. 253.

(c) **Stipulation re Discovery Disagreement.** If the moving party is still dissatisfied after the conference of counsel, that party shall draft with the participation of the other interested parties, and shall file a document entitled "Stipulation re Discovery Disagreements." All parties who are concerned with the discovery motion shall assist in the preparation of, and shall sign the stipulation, which shall specify with particularity the following matters:

- (1) The details of the conference or conferences;
- (2) A statement of the nature of the case and its factual disputes insofar as they are pertinent to the matters to be decided and the issues to be determined at the hearing;
- (3) The contentions of each party as to each contested issue, including a memorandum of each party's respective arguments concerning the issues in dispute and the legal authorities in support thereof. Each specific interrogatory, deposition question or other item objected to, or concerning which a protective order is sought, and the objection thereto, shall be reproduced in full. The respective arguments and supporting authorities of the parties shall be set forth immediately following each such objection. When an objection is raised to a number of items or a general protective order is sought that is related to a number of specific items, the arguments and briefing need not be repeated. If a protective order is sought that is unrelated to specific, individual items,

repetition of the original discovery document is not required. All arguments and briefing that would otherwise be included in a memorandum of points and authorities supporting or opposing the motion shall be included in this stipulation, and no separate briefing shall be filed.

(d) Failure to Meet or Obtain Stipulation. If counsel for the moving party is unable, after a good faith effort, to secure the cooperation of counsel for the opposing party in arranging the required conference, or in preparing and executing the required stipulation, counsel for the moving party may file and serve an affidavit so stating, setting forth the nature and extent of counsel's efforts to arrange the required conference or procure the required stipulation, the opposing counsel's responses or refusals to respond to those efforts, the issues to be determined at the hearing, and the moving party's contentions with regard to the issues, including any briefing in respect thereto. Refusal of any counsel to participate in a discovery conference, or refusal without good cause to execute the required stipulation, shall be grounds, in the discretion of the Court, for entry of an order adverse to the party represented by counsel so refusing or adverse to counsel. See L.R. 110.

(e) Exceptions to Conference Requirement. The foregoing conference requirement shall not apply to the following situations: (1) when there has been a complete and total failure to respond to a discovery request or order, and (2) when the only relief sought by the motion is the imposition of sanctions. In either instance, the aggrieved party may bring a motion for relief for hearing on fourteen (14) days notice by personal service or seventeen (17) days notice by mail. The responding party shall file a response thereto not later than five (5) court days prior to the hearing date, accompanied by proof of personal service not less than five (5) court days preceding the hearing date or by proof of mailed service not less than eight (8) court days preceding the hearing date. The moving party may file and serve a reply thereto not less than three (3) court days prior to the hearing date.

(f) Notice Provisions. By reason of the notice provisions set forth in paragraphs (a) and (e) above, the provisions of L.R. 230 shall not apply to motions and hearings dealing with discovery matters.

RULE 253

DISCOVERY LIMITATIONS

(a) Pursuant to the provisions of Fed. R. Civ. P. 26(a)(1), the automatic disclosure procedures described therein shall not be required in any action pending in this Court, nor shall any automatic disclosures of any type be required in any action pending in this Court, except as otherwise provided by a scheduling or status order entered in a specific action.

(b) Pursuant to the provisions of Fed. R. Civ. P. 26(a)(2)(B), the expert witness disclosure requirements described therein shall not be required in any action pending in this Court, and all disclosure of matters pertaining to expert witnesses shall be performed in accordance with the provisions of a scheduling or status order entered in a specific action, or pursuant to the provisions of Fed. R. Civ. P. 30, 33 and 34, as applicable.

(c) Pursuant to the provisions of Fed. R. Civ. P. 26(a)(3), the pretrial disclosure requirements described therein shall not be required in any action pending in this Court, and all disclosure of matters of the type described therein shall be performed in accordance with the provisions of L.R. 281 and the Court's final pretrial order as provided for in Fed. R. Civ. P. 16(e) and L.R. 283.

(d) Pursuant to the provisions of Fed. R. Civ. P. 26(b)(2), there shall be no presumptive limitations upon the number of oral or written depositions taken (See Fed. R. Civ. P. 30(a)(2)(A) and 31(a)(2)(A)) or upon the number of interrogatories to parties served (See Fed. R. Civ. P. 33(a)) in any action pending in this Court. If any party believes that any such proposed discovery is burdensome, oppressive or otherwise improper, that party shall have the burden of seeking a protective order against such proposed discovery in accordance with the provisions of Fed. R. Civ. P. 26(c).

(e) Pursuant to the provisions of Fed. R. Civ. P. 26(d) and 26(f), there is no requirement that parties or counsel engage in any meet-and-confer procedure prior to any scheduling conference or prior to seeking discovery in the first instance. The parties and counsel shall comply with L.R. 240, as modified by any scheduling or status order entered in a specific action, and with L.R. 251 concerning discovery disagreements.