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# Procedures for Civil Proceedings Before MJS

## Exhibit II-3

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Magistrate Judge Michael J. Seng

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### I. GENERAL INFORMATION

**A. Filing.** No civil filings are accepted in Yosemite. We are supported by the Fresno Division of the Clerk's Office. Please contact them at (559) 499-5600 for filing procedures.

**B. Telephonic Appearances.**

Parties in civil matters proceeding before Magistrate Judge Seng may appear telephonically. Please contact Courtroom Deputy, Megan Lafata at (209) 372-0320. or [mlafata@caed.uscourts.gov](mailto:mlafata@caed.uscourts.gov) at least one full week prior to the scheduled hearing .

**C. Documents Requiring Court Approval.**

Counsel shall comply with the Local Rules of the Eastern District and email to [mjsorders@caed.uscourts.gov](mailto:mjsorders@caed.uscourts.gov) all proposed orders, applications, requests, stipulations, etc., in either Word Perfect (preferred) or Microsoft Word Format. As per Local Rule 131(a)(c), the document shall include the attorney(s) electronic signature(s) (i.e. /s/ First Last name), as well as the date the document was signed.

## II. CIVIL CASES

### A. Scheduling Conferences

A Joint Scheduling Conference Report carefully prepared and executed by all counsel, shall be electronically filed in CM/ECF in full compliance with the requirements set forth in the previously served ORDER SETTING MANDATORY SCHEDULING CONFERENCE at least one (1) full week prior to the Scheduling Conference, and shall be emailed, in Word format, to [mjsorders@caed.uscourts.gov](mailto:mjsorders@caed.uscourts.gov)

### B. Motion Schedule.

Civil motions are heard at 9:30 a.m. on the 2nd and 4th Friday of every month in Courtroom 6 of the Fresno courthouse. **Dates DO NOT need to be cleared in advance with the Court.** Moving papers are to be filed in accordance with the Local and Federal Rules. If the date chosen by the filing party conflicts with the Court's calendar, the Court will reschedule the matter by minute order.

### C. Discovery Motions

No discovery motion may be noticed or set for hearing before Magistrate Judge Michael J. Seng without his prior approval obtained in accordance with the following **Telephonic Discovery Dispute Conference** procedures:

#### 1. Requesting a Conference.

A party with a discovery dispute shall confer with the opposing party in a good faith effort to resolve the dispute without court action. If such effort fails, the moving party shall, prior to filing a notice of motion, contact Courtroom Deputy, Megan Lafata at [mlafata@caed.uscourts.gov](mailto:mlafata@caed.uscourts.gov) to request a pre-motion telephone conference with Magistrate Judge Seng. The request shall be deemed to include a professional representation by the requesting lawyer that a good faith effort to resolve the dispute took place but failed, and it shall advise the Court of dates and times in the next ten day period when all concerned parties can be available to confer regarding the dispute.

## Discover Motions Continued.

### 2. Scheduling.

The Court will issue a Minute Order advising counsel of the time and date of the telephone conference. The Court will provide the parties with the conference call number and access code for joining the scheduled telephonic conference.

### 3. Briefing.

Not later than four business hours before the scheduled conference, each party may submit a **two page** brief **objectively and factually** outlining the dispute, the party's position on it, and the reasons therefore to [mjsorders@caed.uscourts.gov](mailto:mjsorders@caed.uscourts.gov). The two pages shall be in at least twelve point type and include the name of the party and the date of submission. It shall contain nothing more. There shall be no attachments. There shall be no editorializing. Inclusion therein of adjectives or adverbs or any characterization of an opponent's motives, methods, character, past practices, or the like shall subject the author to sanctions.

### 4. The Conference.

At the conference, the Court will discuss the issue raised and announce its anticipated ruling on the dispute. If a party is dissatisfied with that ruling, it may seek permission to file a formal motion.

### 5. Further Proceedings.

If it is determined that motion papers and supporting memoranda are needed to satisfactorily resolve the dispute, Magistrate Judge Seng shall approve the filing of a written motion filed in conformity with Local Rule 251(a). (The provisions of Local Rule 251 (b) through (f) will not apply unless the Magistrate Judge so orders.)

## **Discover Motions Continued.**

### **Further Proceedings continued**

Such motion shall, without limitation, (1) quote in full each interrogatory, deposition question, request for admission, or request for production in dispute and (2) the response or objection and grounds therefor as stated by the opposing party. Unless otherwise ordered by the Court, deposition transcripts or discovery papers shall not be lodged or filed with the Court.

## **D. Settlement Conferences.**

Settlement Conferences will be scheduled on the 2nd and 4th Thursday of each month in Courtroom 6 of the Fresno Courthouse. Parties with **full authority** to settle must appear with counsel unless otherwise ordered. Telephonic appearances are discouraged but a written request for same will be considered by Judge Seng if it shows good cause, it is filed at the time of the requesting party's Settlement Conference Statement, and it is copied to all parties.

Each party must submit a Settlement Conference Statement to Judge Seng's Yosemite chambers at least one week prior to the Settlement Conference. Electronic versions may be emailed to [mjsorders@caed.uscourts.gov](mailto:mjsorders@caed.uscourts.gov). Each party's Settlement Conference Statement should be brief but as lengthy as the party deems necessary to provide the information requested by the Court. However, any Settlement Conference Statement that exceeds six (6) double-spaced pages, **MUST** be accompanied by a summary or outline of same not to exceed three (3) double-spaced pages.

At least two weeks prior to the Settlement Conference, Plaintiff's counsel shall submit a **good faith settlement demand** to Defendant's counsel. At least one week

prior to the Settlement Conference, Defendant's counsel shall submit a **good faith** written offer to Plaintiff's counsel. The amounts of said demand and offer shall be disclosed in the Settlement Conference Statements forwarded to the Magistrate Judge who may impose sanctions if a demand or offer is determined to be in bad faith.