UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

, Plaintiff, v. , Defendant(s).	CASE NO. (SKx) **STANDING ORDER ON DISCOVERY DISPUTES**

The following order shall apply in all cases where the assigned District Judge has referred discovery matters to the undersigned Magistrate Judge, whether automatically or by specific referral. Nothing in this order is intended to displace or alter any contrary order by the assigned District Judge, nor does this order change the parties' obligations under the existing federal rules and local rules of the Court. Failure to comply with any part of this order may result in discovery sanctions, including payment by the non-compliant party and/or its counsel of the opposing party's reasonable attorney's fees.

1. The parties shall be familiar with the December 2015 revisions to the Federal Rules of Civil Procedure, including the advisory committee notes, that affect civil discovery practice. The parties shall not cite to cases

that rely on language, principles, or holdings derived from the pre-December 2015 versions of the Federal Rules of Civil Procedure that are inconsistent with the text and purposes of the December 2015 revisions.

2. Emails and written correspondence may supplement, but shall not replace, required telephonic and in-person conferences of counsel to resolve discovery disputes. Pro forma or perfunctory email exchanges shall not be considered adequate pre-filing conferences of counsel.

3. If the parties have a dispute on the scope of discovery, they shall include in their meet-and-confer discussions the relevance and proportionality factors set forth in Rule 26(b)(1), as amended in December 2015. Relevance in discovery is broader than how relevance is defined in Federal Rule of Evidence 401, but parties may no longer assert relevant discovery includes any matter relating to "any issue that is or may be in the case," or that discovery is relevant so long as it relates to the subject matter of the action. Relevance in discovery means it must relate to the legal elements of the parties' "claims or defenses," and even then, relevant information may be produced only if it is proportional to the needs of the case considering the proportionality factors.

4. Parties responding to document requests shall not use boilerplate objections that violate Rule 34(b)(2), as amended in December 2015. Nor shall responding parties use the concept of "disproportionality" as a synonym for previous boilerplate objections of irrelevance, overbreadth, undue burden, or the like. Discovery may be proportional to the needs of a case even if producing it may be burdensome, time-consuming, and costly; and conversely, discovery that is not unduly burdensome to produce does not mean it is necessarily proportional to the needs of the case. Conclusory objections based on alleged disproportionality, burden, cost, or overbreadth without any basis in fact shall be summarily rejected and/or deemed waived.

5. Parties shall not agree to or file pro forma discovery plans that do not substantively and meaningfully discuss the topics laid out in Rule 26(f)(3). Issues, subjects, or disputes that could have been raised in a substantive, meaningful discovery plan, but are only raised for the first time in a motion to compel, may be deemed waived or resolved against the non-compliant parties and/or their counsel.

6. Ex parte applications to shorten time for hearing on a motion to compel because of an impending Discovery Cutoff date ordered by the assigned District Judge are not permitted and shall be summarily rejected absent a showing of due diligence and good cause why the disputed motion could not have been raised sufficiently in advance of the Discovery Cutoff date. If no such diligence and cause can be shown, the parties must seek and obtain relief from the District Judge's scheduling order first before filing a motion to compel.

7. In any discovery dispute about waiver of attorney-client privilege or work product protection, especially with respect to electronically stored information, the parties' failure to have obtained a non-waiver agreement under Fed. R. Evid. 502(e) or a non-waiver order under Fed. R. Evid. 502(d) may be considered as a factor in the court's determination of the dispute.

8. Parties moving for sanctions based on failure to preserve electronically stored information shall be familiar with and seek relief only as permitted by amended Rule 37(e). Sanctions cases decided before the December 2015 amendments to Rule 37(e) should be used cautiously considering the changes to the rule.

IT IS SO ORDERED.

UPDATED: **February 2018**

HON. STEVE KIM
U.S. MAGISTRATE JUDGE