

FILED
San Francisco County Superior Court

JAN 05 2023

CLERK OF THE COURT
BY:  Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
DEPARTMENT 304

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

Case No. CGC-22-601826

ORDER AFTER INITIAL CASE
MANAGEMENT CONFERENCE

The Court held the initial Case Management Conference in this action on January 4, 2023. Counsel for the parties were present. The appearances are as stated in the record. The matter was reported. Based on a review of the Joint Case Management Statement and the file, and a detailed discussion with the parties, the case will proceed as follows:

1. Defendant's Renewed Motion to Seal Portions of the Complaint is hereby continued from February 6, 2023 to March 7, 2023 at 9:00 a.m.

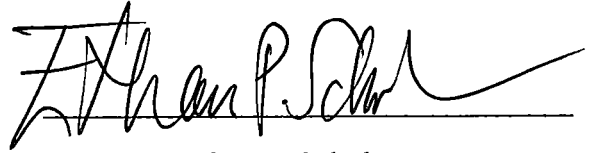
2. The next Case Management Conference is set for May 5, 2023 at 11:00 a.m. A joint case management conference statement shall be filed and two courtesy copies delivered to Department 304 no later than five court days prior to the Case Management Conference. The joint case management conference statement must include a proposed pre-trial schedule through fact discovery.

3. The Court adopts the procedures set forth in Exhibit A, a copy of which can also be found at <https://www.sfsuperiorcourt.org/divisions/civil/litigation>. The procedures for challenging

1 confidentiality designations are included as Attachment 1 to Exhibit A.

2 IT IS SO ORDERED.

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4 Dated: January 9, 2023



Ethan P. Schulman
Judge of the Superior Court

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EXHIBIT A

Superior Court of California

County of San Francisco

Department 304 - Judge Ethan P. Schulman

Complex Litigation – Procedures

Department 304 Staff:

- Clerk: Ericka Larnauti
- Clerk Phone: 415-551-3729/5948
- Attorney: Kiara Canales
- Department 304 Email: complexlit@sftc.org

Communications with the Court and Reserving Hearing Dates:

- Prior to filing any motion, all motion hearing dates must be reserved with the clerk of Department 304. Parties may not file a motion without Court approval of the hearing date and time.
- Generally, the clerk of Department 304 prefers email communications. If a party emails the clerk, they must include all counsel on the email.

Continuances:

- If the parties wish to continue a motion or a CMC, the parties may (1) submit a stipulation and proposed order; or (2) email the Court (copying all parties) at least three court days prior to the scheduled matter requesting a continuance and indicating that all parties agree to the continued date/time.

Hearing Date Vacated by Party:

- If a moving party removes a motion from the Court's calendar (either on its own, or by submitting to the Court's tentative ruling on the motion), the party must notify all other parties by email or telephone.

Appearances:

- Counsel may appear for hearings in person, via Zoom, or via CourtCall. Should the parties wish to appear via Zoom, they are to jointly email the Complex Litigation Department to make that request. The request must include each attorney's name, firm, address, telephone number, and email address and the name(s) of the client(s) each is representing. Upon receipt, the clerk will send a Zoom link for the conference. The parties may not split an appearance via Zoom and CourtCall due to sound interference.

Discovery:

- The procedures outlined below apply only to parties. With regard to discovery disputes with non-parties, the interested parties may elect to participate in this procedure, but are not required to do so.
- All deadlines for filing motions to compel discovery pursuant to the Civil Discovery Act, Code of Civil Procedure section 2016.010 *et seq.*, are vacated and suspended. No party may move to compel discovery, or file any other discovery motion, until the parties have had a discovery conference with the Court.
- Counsel must have completed all meet and confer obligations before scheduling a discovery conference.
- To request a discovery conference with the Court, counsel must contact the clerk of Department 304. Once a conference is scheduled, counsel are responsible for setting up a Zoom link or telephone conference line.
- At least three court days before the conference, counsel must email a **joint** letter outlining the discovery dispute, not exceeding 5 pages, single-spaced.
- If the discovery dispute is not resolved following the conference, any party may proceed to file a motion. Any such motion must be filed within 10 court days of the conference.
- The parties are relieved of the requirement to file a separate statement in discovery motions.
- For discovery motions, the Court prefers streamlined papers in which counsel state the discovery request and response followed by a discussion of whether a further response is or is not required. In lieu of the usual discovery motion briefing, the parties may instead provide one single filing that includes the question, the response and why more information is owed or not owed. The Court is open to the parties agreeing to an expedited briefing schedule where one side files a 5-page motion, the other side files a 5-page response, the moving party a 3-page reply and a hearing date is set 10 days out from the last filing.

E-Filing:

- The e-filing vendor for the San Francisco Superior Court Complex Department is File&Serve*Xpress*. Counsel must register with and submit all filings through said vendor. Counsel must also add themselves to the vendor's e-service list. Customer Service for e-filing registration, training information, and service list assistance can be found at support@fileandservexpress.com or by calling File&Serve*Xpress* at 888-529-7587.
- All court orders will be e-served through File&Serve*Xpress*. All counsel must add their office to the service list at File&Serve*Xpress*.
- Pursuant to California Code of Civil Procedure section 1010.6, California Rules of Court, rule 2.251 *et seq.*, and San Francisco Superior Court Local Rule 2.11, all discovery requests and responses, not filed with the court, must be electronically served, unless it is not feasible to do so (e.g., drawings, charts, etc.).
- Pursuant to Code of Civil Procedure section 1010.6(b)(3), any document received electronically by the court between 12:00 a.m. and 11:59:59 p.m. on a court day shall be deemed filed that day; any document received by a court on a non-court day will be deemed filed on the next court day.

- Pursuant to Code of Civil Procedure section 1010.6(a)(5), any document served electronically between 12:00 a.m. and 11:59:59 p.m. on a court day will be deemed served that day; any document electronically served on a non-court day will be deemed served the next court day.

Courtesy Copies:

- Counsel are directed to deliver two hard copies of all e-filed documents to Department 304, which includes proposed orders.

Challenging Confidentiality Designations:

- If the parties enter into a stipulation for a protective order, the protective order must include the language found in Attachment 1 governing the process for any party to challenge the confidentiality designation.

Sealing Motions:

- Regarding motions to seal, the Court reminds counsel to follow California Rules of Court, rules 2.550-2.551. These requirements do not apply to discovery motions but do apply to all other types of motions. Please do not submit sealed documents unless the parties need the Court to consider them. Please read *Overstock.Com, Inc. v. Goldman Sachs Grp., Inc.* (2014) 231 Cal.App.4th 471. The Court is required to follow the California Rules of Court and make specific findings.
- For motions to seal (and accompanied unredacted versions of documents conditionally lodged under seal with the Court,) the parties must highlight in yellow the proposed sealing request in the unredacted documents.

Tentative Rulings:

- For most motions, tentative rulings will be emailed directly to counsel prior to the hearing.

Court Reporters:

- The Court does not provide court reporters for hearings.
- The Court recommends that the parties obtain court reporters for substantive motions.
- The Court requests that the parties arrange for the Court to be provided with hearing transcripts following substantive motions. This is not required.

CMC Statements:

- A joint case management conference statement must be filed, and two copies delivered to Department 304, no later than five court days prior to the case management conference. Individual statements will not be considered. Do not use the Judicial Council form for case management conference statements.

- The purpose of the joint statement is that it requires counsel to confer. It shows the Court that the parties have been in direct communication.
- CMC statements are not advocacy statements. They are an agenda for a discussion. CMC statements should explain where the case is, where it is going, and how it can most efficiently reach its destination.

ATTACHMENT 1

1
2 SUPERIOR COURT OF CALIFORNIA
3 COUNTY OF SAN FRANCISCO
4 COMPLEX LITIGATION
5
6

7 CHALLENGING CONFIDENTIALITY DESIGNATIONS

8 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at
9 any time. Unless a prompt challenge to a Designating Party's confidentiality designation is necessary to
10 avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or
11 delay of the litigation, a Party does not waive its right to challenge a confidentiality designation by
12 electing not to mount a challenge promptly after the original designation is disclosed.

13 Meet and Confer. The Challenging Party shall initiate the dispute resolution process by providing
14 written notice of the designations it is challenging and generally describing the basis for the challenges.
15 To avoid ambiguity as to whether a challenge has been made, the written notice must recite that the
16 challenge to confidentiality is being made in accordance with this specific paragraph of the Protective
17 Order. The parties shall attempt to resolve each challenge in good faith and must begin the process by
18 conferring directly (in voice to voice dialogue; other forms of communication are not sufficient) within 10
19 days of the date of service of notice. In conferring, the Challenging Party must explain the basis for its
20 belief that the confidentiality designation was not proper and must give the Designating Party an
21 opportunity to review the designated material, to reconsider the circumstances, and, if no change in
22 designation is offered, to explain the basis for the chosen designation. A Challenging Party may proceed
23 to the next stage of the challenge process only if it has engaged in this meet and confer process first or
24 establishes that the Designating Party is unwilling to participate in the meet and confer process in a timely
25 manner.

26 Judicial Intervention. If the Parties cannot resolve a challenge without court intervention through
27 the procedure set forth above, they must hold an informal in-person conference with the Court. If the
28 Parties still cannot resolve the challenge, the Designating Party shall file and serve a motion to retain

1 confidentiality within 10 days of the informal in-person conference. Each such motion must be
2 accompanied by a competent declaration affirming that the movant has complied with the meet and confer
3 requirements imposed in the preceding paragraph. Failure by the Designating Party to timely make such a
4 motion shall automatically waive the confidentiality designation for each challenged designation. In
5 addition, the Challenging Party may file a motion challenging a confidentiality designation at any time if
6 there is good cause for doing so, including a challenge to the designation of a deposition transcript or any
7 portions thereof. Any motion brought pursuant to this provision must be accompanied by a competent
8 declaration affirming that the movant has complied with the meet and confer requirements imposed by the
9 preceding paragraph. The burden of persuasion in any such challenge proceeding shall be on the
10 Designating Party. The Court recommends that the parties obtain a court reporter for the hearing on this
11 motion. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose
12 unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. The
13 party losing any motion concerning the confidentiality of materials will pay the successful party's
14 attorneys' fees incurred in the making of or opposing the motion if the losing position was not
15 substantially justified. Unless the Designating Party has waived the confidentiality designation by failing
16 to file a motion to retain confidentiality as described above, all parties shall continue to afford the material
17 in question the level of protection to which it is entitled under the Producing Party's designation until the
18 court rules on the challenge.


CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.251)

I, Ericka Larnauti, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On January 5, 2023, I electronically served the attached document via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: January 5, 2023

Mark Culkins, Interim Clerk

By: 

Ericka Larnauti, Deputy Clerk