UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TENNESSEE

# CASE MANAGEMENT INSTRUCTIONS – STANDARD CIVIL CASES

Fed.R.Civ.P 26 and Local Rule 16 shall guide the conduct of the parties in their preparation of the case.

1. SCHEDULING CONFERENCE

A Rule 16 scheduling conference will be conducted by the Court as soon as possible, but within 180 days after the filing of the complaint or within 45 days of the filing of the return of service or waiver of service of the last defendant, whichever is earlier.

1. ATTENDANCE REQUIRED

The attendance of counsel with significant knowledge of the case and all unrepresented parties is required at the scheduling conference. Counsel and unrepresented parties must be prepared to address any pending motions as well as motions which may be raised orally at the conference. Counsel and unrepresented parties must also be prepared to discuss the case in depth and make binding decisions regarding how the case will proceed. Within five (5) days of the conference, out-of-town counsel may request permission from the Court to participate in the conference by phone. The request to participate by phone must be in writing and include the names and telephone numbers of all parties participating via phone.

1. INITIAL DISCLOSURES

Pursuant to Fed.R.Civ.P 26(f), the parties shall, at least 14 days prior to the Rule 16 scheduling conference, meet for discussion and the preparation of a proposed discovery plan. The parties shall file with the Court a written report outlining the proposed discovery plan, and a proposed scheduling order using the format of Exhibit “A” hereto, at least four (4) days before the first scheduling conference. Please see Form 52, Appendix to Fed.R.Civ.P, for a checklist of the items to be discussed at the Rule 26 (f) meeting which should be included in your written report. No more than 10 days after the Rule 26 (f) conference (i.e., at least 4 days before the scheduling conference), the parties shall make disclosures pursuant to Rule 26 (a)(1) without formal discovery requests. Counsel are further advised that, absent any agreement of the parties, no formal discovery demand may issue before the meeting under Rule 26(f). Unless the parties stipulate otherwise, the number of interrogatories will be limited to 25 in accordance with Fed.R.Civ.P. 33, and the number of depositions will be limited to ten in accordance with Fed.R.Civ.P. 30.

1. SUBJECTS TO BE DISCUSSED AT SCHEDULING CONFERENCE

Generally, at the scheduling conference, the following subjects will be addressed: The status of the case, the general nature of the claims and defenses, issues in the case, and potential use of experts;

Jurisdictional and statute of limitations issues (all jurisdictional questions or timeliness questions should be reviewed in advance of the scheduling conference and, if motions have not already been filed, the Court should be advised at the scheduling conference that there are preliminary matters which require early disposition);1

Setting of all deadlines for filing preliminary motions, discovery (including disclosure of expert witness information where appropriate), the filing of pretrial motions (including all motions for summary judgment), joining parties and amending pleadings.

**DISCUSS:**  Consent to all further proceedings in the case being handled by the magistrate judge in accordance with 28 U.S.C. 636(c) (including entry of final judgment, with any appeal directly to the Sixth Circuit Court of Appeals);

The possibility of settlement, your position regarding settlement, and the desire of the parties to utilize alternative dispute resolution and setting of a mediation deadline;

Status of all document discovery (parties are encouraged to promptly exchange core document information and, where necessary, to promptly issue requests for production of documents and subpoenas duces tecum to third parties);

Any anticipated discovery problems (i.e., the necessity of protective orders, the necessity of inspection of facilities, witness unavailability, delays which may be occasioned because of an individual’s physical or mental condition, etc.);

# Estimated trial time, and any special issues anticipated in connection with trial; and Any pending motions or motions which may be raised orally at the conference.

1 Similarly, questions of class certification, qualified immunity, or conflict of interest should be raised at the first possible occasion and no later than the initial Rule 16(b) scheduling conference.

1. ORDER TO BE ENTERED

An order will be entered reflecting the results of the scheduling conference. The order will include deadlines for filing motions and completing discovery, and mediation. Attached as Exhibit A to this notice is a Form Rule 16(b) Scheduling Order which counsel should use in preparing the proposed order.

1. SANCTIONS FOR FAILURE TO APPEAR

Failure to appear at the scheduling conference, or to comply with the directions of the Court set forth herein, may result in an ex parte hearing being held and the entry of such order as is just, including a judgment of dismissal with prejudice or entry of a default judgment, or other appropriate sanctions, such as attorney’s fees and expenses of opposing counsel, without further notice to the party who fails to appear.

**EXHIBIT “A”**

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION**

**, )**

**)**

**Plaintiff, )**

**)**

**v**. **) Case x:xx-cv-xxxxx-XXX-xxx**

**)**

**, )**

**)**

**Defendant. )**

**SCHEDULING ORDER**

Pursuant to Local Rule 16.2, the parties met on [insert date], conferred in compliance with Federal Rule of Civil Procedure 26(f), and agreed upon the matters set forth herein. Present were, counsel for plaintiff, and , counsel for defendant. The following dates are established as the final deadlines for:

**CONSENT TO TRIAL BEFORE THE MAGISTRATE JUDGE:** The parties [do] / [do not] consent to trial before the Magistrate Judge.

**INITIAL DISCLOSURES PURSUANT TO FED. R. CIV. P. 26(a)(1)**: [insert date 14 days after submission of the proposed scheduling order]

**MOTIONS TO JOIN PARTIES**: [insert date 30 days after submission of the proposed scheduling order]

**MOTIONS TO AMEND PLEADINGS**: [insert date 30 days after submission of the proposed scheduling order]

**MOTIONS TO DISMISS**: [insert date 60 days after submission of the proposed scheduling order]

**COMPLETING ALL DISCOVERY**: [insert date 180 days after service or waiver of service of the first defendant]

* 1. **WRITTEN DISCOVERY**: [insert date 45 days before the deadline for completing all discovery]
  2. **DEPOSITIONS**: [insert the deadline for completing all discovery]

**EXPERT WITNESS DISCLOSURES PURSUANT TO FED. R. CIV. P. 26(a)(2)**:

1. **DISCLOSURE OF PLAINTIFF’S (OR PARTY WITH BURDEN OF PROOF) RULE 26(a)(2) EXPERT INFORMATION**: [insert date 30 days before the deadline

for completing all discovery]

1. **DISCLOSURE OF DEFENDANT’S (OR OPPOSING PARTY) RULE 26(a)(2) EXPERT INFORMATION**: [insert date 15 days before the deadline for completing all

discovery]

1. **EXPERT WITNESS DEPOSITIONS**: [insert the deadline for completing all discovery]

**MOTIONS TO EXCLUDE EXPERTS UNDER F.R.E. 702/DAUBERT MOTIONS**:

[insert date 15 days after the deadline for completing all discovery]

**FILING DISPOSITIVE MOTIONS**: [insert date 30 days after the deadline for completing all discovery]

**MEDIATION:** The parties are ordered to engage in ADR [insert date 7 days before deadline for completing all discovery]. Pursuant to Local Rule 16.2(d), within 7 days of completion of ADR, the parties shall file a notice confirming that the ADR was conducted and indicating whether it was successful or unsuccessful, without disclosing the parties’ respective positions at the ADR.

**OTHER RELEVANT MATTERS**:

As required by Local Rule 26.1(e), the parties have conferred as to whether they will seek discovery of electronically stored information (“e-discovery”) and [have agreed that e-discovery is not appropriate in this case and therefore they will not seek e-discovery] / [have reached an agreement regarding e-discovery and hereby submit the parties’ e-discovery plan for the Court’s approval] / [have not reached an agreement regarding e-discovery and will comply with the default standards described in Local Rule 26.1(e) until such time, if ever, the parties reach an agreement and the Court approves the parties’ e-discovery plan].

[Pursuant to agreement of the parties, if privileged or protected information is inadvertently produced, the producing party may, by timely notice, assert the privilege or protection and obtain the return of the materials without waiver.]

No depositions may be scheduled to occur after the discovery deadline. All motions, discovery requests, or other filings that require a response must be filed sufficiently in advance of the discovery deadline to enable the opposing party to respond by the time permitted by the Rules prior to that date.

Motions to compel discovery are to be filed and served by the discovery deadline or within 30 days of the default or the service of the response, answer, or objection that is the subject of the motion, if the default or the service of the response, answer, or objection occurs within 30 days of the discovery deadline, unless the time for filing of such motion is extended for good cause shown, or the objection to the default, response, answer, or objection is waived.

This case is set for a [jury] / [non-jury] trial. The pretrial order deadline, pretrial conference date, and trial date will be set by separate Order. The parties anticipate the trial will last approximately [insert number] days.

Pursuant to Local Rule 7.2(a)(1)(A), all motions, except motions pursuant to Fed. R. Civ.

P. 12, 56, 59, and 60, shall be accompanied by a proposed order in a word processing format sent to the ECF mailbox of the presiding judge.

Pursuant to Local Rule 7.2(a)(1)(B), the parties are required to consult prior to filing any motion (except motions filed pursuant to Fed. R. Civ. P. 12, 56, 59, and 60).

The opposing party must file a response to any opposed motion. Pursuant to Local Rule 7.2(a)(2), a party’s failure to respond timely to any motion, other than one requesting dismissal of a claim or action, may be deemed good grounds for granting the motion.

Neither party may file an additional reply to any motion, other than a motion filed pursuant to Fed. R. Civ. P. 12(b) or 56. As provided by Local Rule 7.2(c), if a party believes that a reply is necessary, it shall file a motion for leave to file a reply accompanied by a memorandum setting forth the reasons for which a reply is required within seven days of service of the response. Pursuant to Local Rules 12.1(c) and 56.1(c), a party moving for summary judgment or to dismiss may file a reply within 14 days after being served with the response in opposition to the motion.

This order has been entered after consultation with the parties. Absent good cause shown, the deadlines set by this order will not be modified or extended.

IT IS SO ORDERED.

JOHN T. FOWLKES, JR.,

UNITED STATES DISTRICT JUDGE