

INSTRUCTIONS FOR SCHEDULING CONFERENCE

Senior District Judge Richard P. Matsch

When the court has set a scheduling conference pursuant to Fed. R. Civ. P. 16 and D.C.COLO.LR 16.1 and 16.2, a scheduling order shall be prepared in accordance with these instructions. In accordance with Fed.R.Civ.P. 26(f), no discovery shall be done by the parties until the parties meet and attempt to agree on a scheduling order. The rule 26(f) meeting shall be held at least 21 days before the proposed scheduling order is due to be tendered. The disclosures required by Fed.R.Civ.P. 26(a)(1) shall be exchanged at or within 14 days after the rule 26(f) meeting. Do not file any disclosure statements with the court.

Five days before the scheduling conference (see Fed.R.Civ.P. 6 for all computations of time), counsel are to tender a proposed scheduling order which shall include the signatures of counsel and *pro se* parties and shall provide for approval by the court as specified on the attached form. Counsel and *pro se* parties should try, in good faith, to agree upon matters covered in the scheduling order. Any area of disagreement should be set forth with a brief statement concerning the basis for the disagreement. **THE PARTIES SHOULD EXPECT THAT THE COURT WILL MAKE MODIFICATIONS IN THE PROPOSED SCHEDULING ORDER AND WILL WANT TO DISCUSS ALL ISSUES AFFECTING MANAGEMENT OF THE CASE.**

Reference is made to D.C.COLO.LCivR. 72.2 for the procedure for consent to the exercise of jurisdiction for trial by a magistrate judge.

Attached is the format for the proposed scheduling order. **This form is different from Appendix F to the Local Rules in that Sections 7, 11 and 12 are omitted.** The bracketed and italicized information on the form explains what the court expects.

Scheduling orders shall be double-spaced in accordance with D.C.COLO.LCivR 10.1, even though the instructions in the following format for the proposed scheduling order are single-spaced.

The original proposed scheduling order must be delivered, on paper, directly to chambers by 4:00 p.m. DO NOT USE ELECTRONIC FILING.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.

@,

Plaintiff(s),

v.

@,

Defendant(s).

SCHEDULING ORDER

**1. DATE OF CONFERENCE
AND APPEARANCES OF COUNSEL**

[Provide the date of the conference and the names, addresses, and telephone numbers of counsel for each party. Identify by name the party represented by each counsel.]

2. STATEMENT OF JURISDICTION

[Provide a concise statement of the basis for subject matter jurisdiction with appropriate statutory citations. If jurisdiction is denied, give the specific reason for the denial.]

3 STATEMENT OF CLAIMS AND DEFENSES

- a. *Plaintiff(s):*
- b. *Defendant(s):*
- c. *Other Parties:*

[Provide concise statements of all claims or defenses. Each party should, in light of formal or informal discovery undertaken thus far, take special care to eliminate frivolous claims or defenses. Fed. R. Civ. P. 16(c)(1), 11. Do not summarize the pleadings. Statements such as “defendant denies the material allegations of the complaint,” are not acceptable.]

4. UNDISPUTED FACTS

The following facts are undisputed:

[When counsel have their rule 26(f) meeting, they should make a good faith attempt to determine which facts are not in dispute.]

5. COMPUTATION OF DAMAGES

[Include a computation of all categories of damages sought and the basis and theory for calculating damages. See Fed. R. Civ. P. 26(a)(1)(C). This should include the claims of all parties. It should also include a description of the economic damages, non-economic damages, and physical impairment claimed, if any.]

6. REPORT OF PRE-CONFERENCE DISCOVERY & MEETING UNDER FED. R. CIV. P. 26(F)

- a. Date of rule 26(f) meeting.
- b. Names of each participant and party he/she represented.
- c. Proposed changes, if any, in timing or requirement of disclosures under Fed. R. Civ. P. 26(a)(1).
- d. Statement as to when rule 26(a)(1) disclosures were made or will be made.

[If a party's disclosures were not made within the time provided in Fed. R. Civ. P. 26(a)(1), the party must here provide an explanation showing good cause for the omission.]

- e. Statement concerning any agreements to conduct informal discovery, including joint interviews with potential witnesses, exchanges of documents, and joint meetings with clients to discuss settlement. If there is agreement to conduct joint interviews with potential witnesses, list the names of such witnesses and a date and time for the interview which have been agreed to by the witness, all counsel, and all *pro se* parties.

- f. Statement as to whether the parties anticipate that their claims or defenses will involve extensive electronically stored information, or that a substantial amount of disclosure or discovery will involve information or records maintained in electronic form. In those cases, the parties must indicate what steps they have taken or will take to (i) preserve electronically stored information; (ii) facilitate discovery of electronically stored information; (iii) limit associated discovery costs and delay; and (iv) avoid discovery disputes relating to electronic discovery.

Describe any agreements the parties have reached for asserting claims of privilege or of protection as trial-preparation materials after production of computer-generated records.

[When the parties have their Rule 26(f) meeting, they must discuss any issues relating to the disclosure and discovery of electronically stored information, including the form of production, and also discuss issues relating to the preservation of electronically stored information, communications, and other data. At the Rule 26(f) conference, the parties should make a good faith effort to agree on a mutually acceptable format for production of electronic or computer-based information. In advance of the Rule 26(f) meeting, counsel should carefully investigate their client's information management system so that they are knowledgeable as to its operation, including how information is stored and how it can be retrieved.]

7. CASE PLAN AND SCHEDULE

a. Deadline for Joinder of Parties and Amendment of Pleadings:

[Set time period within which to join other parties and to amend all pleadings. This portion of the Scheduling Order relates to timing only. It does not eliminate the necessity to file an appropriate motion and to otherwise comply with Fed. R. Civ. P. 15. Unless otherwise ordered in a particular case, for good cause, these dates should be no later than forty-five days after the date of the scheduling conference, so as to minimize the possibility that late amendments and joinder of parties will precipitate requests for extensions of discovery cutoff, final pretrial conference, and dispositive motion dates. Counsel should plan discovery so that discovery designed to identify additional parties or claims is completed before these deadlines.]

b. Discovery Cut-off:

c. Dispositive Motion Deadline:

[Set time periods in which discovery is to be completed and dispositive motions filed.]

d. Expert Witness Disclosure

(1) State anticipated fields of expert testimony, if any.

(2) State any limitations proposed on the use or number of expert witnesses.

(3) The party bearing the burden of persuasion on the issues for which expert opinion is to be offered shall designate the expert and provide opposing counsel with all information specified in Fed.R.Civ.P. 26(a)(2) on or before _____, 20____.

(4) The parties shall designate all contradicting experts and provide opposing counsel with all information specified in Fed. R. Civ. P. 26(a)(2) on or before _____, 20__.

(5) Any rebuttal opinions will be exchanged on or before _____,20_____.

(6) Notwithstanding the provisions of Fed. R. Civ. P. 26(a)(2)(B), no exception to the requirements of the rule will be allowed by stipulation of the parties unless the stipulation is approved by the court.

e. Deposition Schedule:

<i>Name of Deponent</i>	<i>Date of Deposition</i>	<i>Time of Deposition</i>	<i>Expected Length of Deposition</i>

[List the names of persons to be deposed and a schedule of any depositions to be taken, including (i) a good faith estimate of the time needed for the deposition and (ii) time(s) and date(s) for the deposition which have been agreed to by the deponent and persons signing the Scheduling Order.]

f. Interrogatory Schedule

[Set a schedule for the submission of and response to written interrogatories, if any are desired.]

g. Schedule for Request for Production of Documents

[Set a schedule for the submission of and response to requests for documents, if any are desired.]

h. Discovery Limitations:

(1) Any limits which any party wishes to propose on the number of depositions.

(2) Any limits which any party wishes to propose on the length of depositions.

(3) Modifications which any party proposes on the presumptive numbers of depositions or interrogatories contained in the federal rules.

(4) Limitations which any party proposes on number of requests for production of documents and/or requests for admissions.

[At the rule 26(f) meeting, the parties should make a good faith attempt to agree to limit the number of depositions, interrogatories, requests for admissions, and requests for production. In the majority of cases, the parties should anticipate that discovery will be limited as specified in Fed. R. Civ. P. 30(a)(2)(A), 33.]

i. Other Planning or Discovery Orders

[Set forth any other proposed orders concerning scheduling or discovery.]

8. SETTLEMENT

[The parties must certify here that, as required by Fed. R. Civ. P. 26(f), they have discussed the possibilities for a prompt settlement or resolution of the case by alternate dispute resolution. They must also report the result of any such meeting, and any similar future meeting, to the magistrate judge within ten days of the meeting.]

9. OTHER SCHEDULING ISSUES

a. A statement of those discovery or scheduling issues, if any, on which counsel, after a good faith effort, were unable to reach an agreement.

b. Anticipated length of trial and whether trial is to the court or jury.

10. AMENDMENTS TO SCHEDULING ORDER

Include a statement that the Scheduling Order may be altered or amended only upon a showing of good cause.

* * * * *

Provide names, addresses, telephone numbers, and signatures of counsel and provision for approval of the court and signature line for the judge, using the following format:

DATED this ___ day of _____, 200__.

BY THE COURT:

United States District Judge

SCHEDULING ORDER REVIEWED:

(Name)
(Address)
(Telephone Number)
Attorney for Plaintiff

(Name)
(Address)
(Telephone Number)
Attorney for Defendant

Please affix counsel' s signatures before submission of the proposed Scheduling Order to the court.

