

U.S. DISTRICT COURTS FOR THE NORTHERN/SOUTHERN DISTRICTS OF IOWA

**INSTRUCTIONS AND WORKSHEET FOR PREPARATION OF
SCHEDULING ORDER AND DISCOVERY PLAN**

Effective December 1, 2000

**ORDER REQUIRING SUBMISSION OF SCHEDULING ORDER
AND DISCOVERY PLAN**

Please carefully review the Local Rules, revised as of January 1, 2001, for a more complete description of the District's requirements for pretrial case management (*available at www.iand.uscourts.gov or www.iasd.uscourts.gov*).

IT IS ORDERED THAT counsel for the parties shall confer, as required by Federal Rules of Civil Procedure 16 and 26 and Local Rules 16.1 and 26.1, and submit to the Clerk of Court on the attached form a stipulated proposed scheduling order and discovery plan. If counsel are not able to agree upon the deadlines required to complete the form or are requesting deadlines significantly beyond those suggested in the form, or if the case involves any special issues that require the early attention of the court, counsel should, in paragraph 11 of the form, request a Rule 16(b) and 26(f) scheduling and planning conference with the court.

U.S. MAGISTRATE JUDGE

Follow this worksheet at your Rule 16(b) and 26(f) conference. The deadlines referred to in the worksheet are suggested deadlines except for the dispositive motion deadline, which MUST be at least 120 days before the trial ready date. File only the attached two-page proposed scheduling order and discovery plan. DO NOT FILE THE WORKSHEET.

- 1 **INITIAL DISCLOSURES:** State whether the parties entered into an agreement at the Rule 26(f) conference resolving all issues relating to the Federal Rule of Civil Procedure 26(a)(1) initial disclosures in this action.

_____ yes _____ no

If you answered “no” to the last question, state whether any party objected at the Rule 26(f) conference either to making the initial disclosures or to the timing of the initial disclosures.

_____ yes _____ no

If any party objected at the Rule 26(f) conference either to making the initial disclosures or to the timing of the initial disclosures, then **within 10 days after the scheduling order and discovery plan is filed**, the objecting party must serve and file a document in which the objections are set forth with particularity.

If the parties have entered into an agreement concerning the timing of the initial disclosures, state the date by which the initial disclosures will be made.

(insert date)

Unless a different deadline is set by agreement of the parties or court order, or unless a party objects to making the initial disclosures or to the timing of the initial disclosures, Local Rule 26.1(a) requires that the initial disclosures be made **within 14 days after the Rule 26(f) conference**.

Federal Rule of Civil Procedure 26(a)(1) requires that the parties must, without awaiting a discovery request, provide to other parties:

- (A) the name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information;
- (B) a copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment;
- (C) a computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Federal Rule of Civil Procedure 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered; and
- (D) for inspection and copying as under Federal Rule of Civil Procedure 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

If the parties have any other disputes concerning initial disclosures or are aware of any other issues relating to scheduling or planning that might benefit from the early intervention of the court, the parties may, in paragraph 11 of the proposed scheduling order and discovery plan, request a court-sponsored pretrial discovery and planning conference.

2. **ADDING PARTIES**: State the deadline for filing motions to add parties.

(insert date)

This deadline should be **no more than 2 months after the date the proposed scheduling order and discovery plan is submitted to the court.**

3. **AMENDING PLEADINGS**: State the deadline for filing motions to amend pleadings.

(insert date)

This deadline should be **no more than 2 months after the date the proposed scheduling order and discovery plan is submitted to the court.**

4. **EXPERT WITNESSES**: State the deadlines for the parties to disclose, in accordance with Federal Rule of Civil Procedure 26(a)(2)(A) and (B), all “expert witnesses” who may be used at trial to present evidence under Federal Rules of Evidence 702, 703, or 705.

Plaintiff’s experts:

(insert date)

Defendant’s experts:

(insert date)

Plaintiff’s rebuttal experts:

(insert date)

The deadlines for the plaintiff to disclose experts, for the defendant to disclose experts, and for the plaintiff to disclose rebuttal experts should be no more than **3 months, 5 months, and 6 months**, respectively, after the date the proposed scheduling order and discovery plan is submitted to the Clerk of Court. Except as otherwise stipulated by the parties or ordered by the court, the parties must, by these deadlines, disclose to the other parties: (a) the identity of each expert witness; and (b) a written report prepared and signed by each expert witness, as required by Federal Rule of Civil Procedure 26(a)(2)(B). The report must contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

5. **DISCOVERY**: State the date by which all discovery will be ***completed***, not propounded.

(insert date)

This deadline should be **no more than 8 months after the date the proposed scheduling order and discovery plan is submitted to the court.**

Federal Rule of Civil Procedure 26(e) imposes a continuing duty to supplement discovery responses as soon as practicable. **All discovery responses must be supplemented at least 30 days before the close of discovery.**

6. **DISPOSITIVE MOTIONS**: State the deadline for filing dispositive motions.

(insert date)

This deadline **must be at least 120 days before the trial ready date**, but should be **no more than 9 months after the date the proposed scheduling order and discovery plan is submitted to the court.**

7. **TRIAL READY DATE**: State the date on which the parties anticipate the case will be ready for trial.

(insert date)

This deadline should be **no more than 13 months after the date the proposed scheduling order and discovery plan is submitted to the court**, but **must not be less than 120 days after the dispositive motion deadline.**

8. **JURY DEMAND**: State whether a jury demand has been filed.

_____ yes _____ no

9. **ESTIMATED LENGTH OF TRIAL**: State your estimate of the number of days required for trial. For jury trials, include in your estimate the time required for jury selection, opening statements, closing arguments and instructions. If circumstances change, the parties should immediately so notify the court. **In any event, the parties should notify the court of any change in the time required for trial and of their new estimated length of trial by at least 30 days before the trial readiness date in paragraph 7.**

(insert number of trial days)

10. **SETTLEMENT CONFERENCE:** Indicate one of the following two choices regarding a court-sponsored settlement conference:

_____ A court-sponsored settlement conference should be set by the court at this time for a date after: _____.
(insert date)

_____ A court-sponsored settlement conference is not necessary at this time.

11. **SCHEDULING AND PLANNING CONFERENCE:** State whether the parties believe a court-sponsored scheduling and planning conference pursuant to Federal Rules of Civil Procedure 16(b) and 26(f) would be appropriate in this case.

_____ yes _____ no

12. **CONSENT TO MAGISTRATE JUDGE:** State whether the parties unanimously consent, or do not unanimously consent, to trial, disposition, and judgment by a United States Magistrate Judge, with appeal to the Eighth Circuit Court of Appeals.

_____ yes, we unanimously consent _____ no, we do not unanimously consent

You may consent in either a jury or non-jury case. Cases consented to the United States Magistrate Judge will be set for trial on a **date certain**.

13. **DELIVERY OF FORM TO CLERK OF COURT:** Print or type the names, addresses, telephone and fax numbers, and e-mail addresses on the proposed scheduling order and discovery plan, sign the proposed order and plan, and deliver it to the Clerk of Court. **Be sure to deliver to the Clerk of Court both pages of the proposed order and plan.**

IN THE UNITED STATES DISTRICT COURT
 FOR THE [NORTHERN] [SOUTHERN] DISTRICT OF IOWA
 [WESTERN] [CENTRAL] [EASTERN] [CEDAR RAPIDS] [DAVENPORT] DIVISION

| | | |
|---------------|---|-----------------------------|
| _____ |) | |
| |) | |
| Plaintiff(s), |) | NO. _____ |
| |) | |
| vs. |) | |
| |) | |
| _____ |) | SCHEDULING ORDER AND |
| |) | DISCOVERY PLAN |
| Defendant(s). |) | |

Counsel have conferred and submit the following case information and proposed dates for case management:

1. Did the parties enter into an agreement at the Rule 26(f) conference resolving all issues relating to initial disclosures? _____ yes _____ no If you answer "no," state whether any party objected at the Rule 26(f) conference to making or to the timing of the initial disclosures: _____ yes _____ no ***If any party objected at the Rule 26(f) conference to making or to the timing of the initial disclosures, then the objecting party must, within 10 days after this order and plan has been filed, serve and file a document in which the objections are set forth with particularity.*** If the parties have agreed to a deadline for making the initial disclosures, state the date by which the initial disclosures will be made: _____
2. Deadline for motions to add parties: _____
3. Deadline for motions to amend pleadings: _____
4. Expert witnesses disclosed by: a) Plaintiff: _____
 b) Defendant: _____
 c) Plaintiff Rebuttal: _____
5. Deadline for **completion** of discovery: _____
6. Dispositive motions deadline (**at least 120 days before Trial Ready Date**): _____
7. Trial Ready Date (**at least 120 days after Dispositive Motions Date**): _____
8. Has a jury demand been filed? _____ yes _____ no
9. Estimated length of trial: _____ days
10. Settlement conference (choose one of the following): (a) _____ A court-sponsored settlement conference should be set by the court at this time for a date after: _____; or (b) _____ A court-sponsored settlement conference is not necessary at this time.
11. Should the court order a court-sponsored scheduling and planning conference pursuant to Fed. R. Civ. P. 16(b) and 26(f)? _____ yes _____ no
12. Do the parties unanimously consent to trial, disposition and judgment by a U.S. Magistrate Judge, with appeal to the Eighth Circuit Court of Appeals pursuant to 28 U.S.C. § 636(c)(3)?
 _____ yes _____ no

| | |
|----------------------------|----------------------------|
| _____ | _____ |
| Attorney for Plaintiff(s): | Attorney for Defendant(s): |
| Address: | Address: |
| Telephone: | Telephone: |
| Facsimile: | Facsimile: |
| E-mail address: | E-mail address: |

Attorney for Third-Party Defendant\Other:

Address:

Telephone:

Facsimile:

E-mail address:

JUDGE'S REVISIONS

The deadline in Paragraph _____ is changed to _____.

The deadline in Paragraph _____ is changed to _____.

The deadline in Paragraph _____ is changed to _____.

IT IS ORDERED that this proposed Scheduling Order and Discovery Plan
_____ **is** _____ **is not** approved and adopted by this court.

IT IS FURTHER ORDERED that a scheduling and planning conference:

_____ will not be scheduled at this time.

_____ will be held in the chambers of Judge _____ at the
U.S. Courthouse in _____, Iowa, on the _____ day
of _____, at _____ o'clock, ____m.

_____ will be held by telephone conference, initiated by the court, on the
_____ day of _____, at _____ o'clock, ____m.

DATED this _____ day of _____.

MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT

ORDER OF REFERENCE

IT IS HEREBY ORDERED that this case is referred to a U.S. Magistrate Judge for the conduct of all further proceedings and the entry of judgment in accordance with 28 U.S.C. § 636(c) and the consent of the parties.

DATED this _____ day of _____.

UNITED STATES DISTRICT JUDGE