

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT
LOCAL RULES OF CIVIL PROCEDURE**

(Effective January 1, 2004)

Amended January 2007

**JUDGES OF THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

Robert N. Chatigny, Chief Judge

Alvin W. Thompson

Janet Bond Arterton

Janet C. Hall

Christopher F. Droney

Stefan R. Underhill

Mark R. Kravitz

SENIOR JUDGES

Ellen Bree Burns

Warren W. Eginton

Peter C. Dorsey

Alan H. Nevas

Alfred V. Covello

Dominic J. Squatrito

RULE 16

STATUS AND SETTLEMENT CONFERENCES AND ADR

(a) Status Conferences

1. Pursuant to Fed. R. Civ. P. 16 and 26(f) and Local Rule 53, one or more status conferences may be scheduled before a Judge or a parajudicial officer or special master designated by the presiding Judge. Status conferences may be held in person or by telephone.

(b) Scheduling Orders

Within 90 days after the appearance of any defendant, the Court, after considering the parties' proposed case management plan under Fed. R. Civ. P. 26(f) and Local Rule 26(f), shall enter a scheduling order that limits the time:

1. to join other parties and to amend the pleadings;
2. to complete discovery;
3. to file dispositive motions; and
4. to file a joint trial memorandum.

The scheduling order will include a date by which the case will be deemed ready for trial and may also include dates for further status conferences, settlement conferences and other matters appropriate in the circumstances of the particular case. The scheduling order may include provisions for (a) disclosure or discovery of electronically stored information and (b) any agreed provisions for assertion of privilege over or protection of trial-preparation material, after production.

The schedule established by the Court for completing discovery, filing dispositive motions and filing a joint trial memorandum shall not be modified except by further order of the Court on a showing of good cause. The good cause standard requires a particularized showing that the schedule cannot reasonably be met, despite the diligence of the party seeking the modification, for reasons that were not reasonably foreseeable when the parties submitted their proposed case management plan. The trial ready date will not be postponed at the request of a party except to prevent manifest injustice.

This Rule does not require the entry of such a tailored scheduling order in the following categories of cases: pro se prisoner cases; habeas corpus proceedings; appeals from decisions of administrative agencies, including social security disability

appeals; recovery of defaulted student loans, recovery of overpayment of veterans' benefits, forfeiture actions, petitions to quash Internal Revenue Service summons, appeals from Bankruptcy Court orders, proceedings to compel arbitration or to confirm or set aside arbitration awards and Freedom of Information Act cases.

(Amended January 19, 2007, effective January 1, 2007, nunc pro tunc)

(c) Settlement Conferences

1. In accordance with Fed. R. Civ. P. 16, one or more conferences may be held for the purpose of discussing possibilities for settlement of the case. A mandatory settlement conference will be held at or shortly after the close of discovery. Counsel have a duty to discuss the possibility of settlement during the planning conference required by Fed. R. Civ. P. 26(f) and Local Rule 16 and may request that an early settlement conference be conducted before the parties undertake significant discovery or motion practice.

2. In a case that will be tried to a jury, such conferences shall be held with the presiding Judge, a Magistrate Judge, or a parajudicial officer or special master designated by the presiding Judge. In a case that will be tried to the Court, such conferences shall be held with a Judge other than the one to whom it has been assigned, a Magistrate Judge, or parajudicial officer or special master designated by the presiding Judge.

3. Counsel shall attend any settlement conference fully authorized to make a final demand or offer. Counsel on both sides must be authorized to act promptly on any proposed settlement. The judicial officer, parajudicial officer, or special master before whom a settlement conference is to be held may require that counsel be accompanied by the person or persons authorized and competent to accept or reject any settlement proposal.

(d) Pretrial Order

The Court may make an order reciting the action taken at any status or settlement conference and any amendments allowed to the pleadings, any agreements, concessions or admissions made by any party, and limiting the issues for trial to those not thereby disposed of. A pretrial order may be prepared by the Court and sent to counsel for each party subsequent to the conference, or the Court may require counsel for one of the parties to prepare a proposed written order for consideration and entry by the Court. The order shall become part of the record and shall be binding on the parties, unless modified by the Court at or before the trial so as to prevent manifest injustice.

(e) Trial Briefs

The Court may require the parties or any of them within such time as it directs to

serve and file a trial brief as to any doubtful points of law which may arise at the trial.

(f) Failure of Compliance

For failure to appear at a conference or to participate therein, or for failure to comply with the terms of this Rule or any orders issued pursuant to this Rule, the Court in its discretion may impose such sanctions as are authorized by law, including without limitation an order that the case be placed at the bottom of the trial list, an order with respect to the imposition on the party or, where appropriate, on counsel personally, of costs and counsel fees, or such other order with respect to the continued prosecution or defense of the action as is just and proper.

(g) Sanctions Against Counsel

(1) It shall be the duty of counsel to promote the just, speedy and inexpensive determination of every action. The Court may impose sanctions directly against counsel who disobey an order of the Court or intentionally obstruct the effective and efficient administration of justice.

(2) Failure to Pay Costs or Sanctions

The Clerk shall not accept for filing any paper from an attorney or pro se litigant against whom a final order of monetary sanctions has been imposed until the sanctions have been paid in full. Pending payment, such attorney or pro se litigant also may be barred from appearing in court. An order imposing monetary sanctions becomes final for the purposes of this local rule when the Court of Appeals issues its mandate or the time for filing an appeal expires.

(amended February 28, 2003, effective March 1, 2003)

(h) Alternative Dispute Resolution (ADR)

1. In addition to existing ADR programs (such as Local Rule 53's Special Masters Program) and those promulgated by individual judges (e.g., Parajudicials Program), a case may be referred for voluntary ADR at any stage of the litigation deemed appropriate by the parties and the judge to whom the particular case has been assigned.

2. Before a case is referred to voluntary ADR, the parties must agree upon, subject to the approval of the judge:

(a) The form of the ADR process (e.g., mediation, arbitration, summary jury trial, minitrial, etc.);

(b) The scope of the ADR process (e.g., settlement of all or specified issues, resolution of discovery schedules or disputes, narrowing of issues, etc.);

(c) The ADR provider (e.g., a court-annexed ADR project; a profit or not-for-profit private ADR organization; or any qualified person or panel selected by the parties);

(d) The effect of the ADR process (e.g., binding or nonbinding).

3. When agreement between the parties and the judge for a voluntary ADR referral has been reached, the parties shall file jointly for the judge's endorsement a "Stipulation for Reference to ADR." The Stipulation, subject to the judge's approval, shall specify:

(a) The form of ADR procedure and the name of the ADR provider agreed upon;

(b) The judicial proceedings, if any, to be stayed pending ADR (e.g., discovery matters, filing of motions, trial, etc.);

(c) The procedures, if any, to be completed prior to ADR (e.g., exchange of documents, medical examination, etc.);

(d) The effect of the ADR process (e.g., binding or nonbinding);

(e) The date or dates for the filing of progress reports by the ADR provider with the trial judge or for the completion of the ADR process; and

(f) The special conditions, if any, imposed by the judge upon any aspect of the ADR process (e.g., requiring trial counsel, the parties, and/or representatives of insurers with settlement authority to attend the voluntary ADR session fully prepared to make final demands or offers).

4. Attendance at ADR sessions shall take precedence over all non-judicially assigned matters (depositions, etc.). With respect to court assignments that conflict with a scheduled ADR session, trial judges may excuse trial counsel temporarily to attend the ADR session, consistent with the orderly disposition of judicially assigned matters. In this regard, trial counsel, upon receiving notice of an ADR session, immediately shall inform the trial judge and opposing counsel in matters scheduled for the same date of his or her obligation to appear at the ADR session.

5. All ADR sessions shall be deemed confidential and protected by the provisions of Fed. R. Evid. 408 and Fed. R. Civ. P. 68. No statement made or document produced as part of an ADR proceeding, not otherwise discoverable or

obtainable, shall be admissible as evidence or subject to discovery.

6. At the conclusion of the voluntary ADR session(s), the ADR provider's report to the judge shall merely indicate "case settled or not settled," unless the parties agree to a more detailed report (e.g., stipulation of facts, narrowing of issues and discovery procedures, etc.). If a case settles, the parties shall agree upon the appropriate moving papers to be filed for the trial judge's endorsement (Judgment, Stipulation for Dismissal, etc.). If a case does not settle but the parties agree to the narrowing of discovery matters or legal issues, then the ADR provider's report shall set forth those matters for endorsement or amendment by the judge.

RULE 26

DUTY OF DISCLOSURE

(a) Definitions Applicable to Discovery Requests.

The full text of the definitions and rules of construction set forth in paragraphs (c) and (d) herein is deemed incorporated by reference into all discovery requests filed in this District, but shall not preclude (i) the definition of other terms specific to the particular litigation, (ii) the use of abbreviations or (iii) a more narrow definition of a term defined in paragraph (c).

(b) This Rule is not intended to broaden or narrow the scope of discovery permitted by the Federal Rules of Civil Procedure for the United States District Courts.

(c) The following definitions apply to all discovery requests:

- (1) **Communication.** The term 'communication' means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).
- (2) **Document.** The term 'document' is defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a). A draft or non-identical copy is a separate document within the meaning of this term. A request for production of 'documents' shall encompass, and the response shall include, electronically stored information, as included in Federal Rule of Civil Procedure 34, unless otherwise specified by the requesting party.
- (3) **Identify (With Respect to Persons).** When referring to a person, to 'identify' means to provide, to the extent known, the person's full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.
- (4) **Identify (With Respect to Documents or Electronically Stored**

Information). When referring to documents or electronically stored information, to 'identify' means to provide, to the extent known, information about the (i) type of document or electronically stored information; (ii) its general subject matter; (iii) the date of the document or electronically stored information; and (iv) author(s), addressee(s) and recipient(s).

(5) **Parties.** The terms 'plaintiff' and 'defendant' as well as a party's full or abbreviated name or a pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.

(6) **Person.** The term 'person' is defined as any natural person or any business, legal or governmental entity or association.

(7) **Concerning.** The term 'concerning' means relating to, referring to, describing, evidencing or constituting.

The following rules of construction apply to all discovery requests:

(d)

(1) **All/Each.** The terms 'all' and 'each' shall both be construed as all and each.

(2) **And/Or.** The connectives 'and' and 'or' shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside its scope.

(3) **Number.** The use of the singular form of any word includes the plural and vice versa.

(e) **Privilege Log.** In accordance with Fed. R. Civ. P. 26(b), when a claim of privilege or work product protection is asserted in response to a discovery request for documents or electronically stored information, the party asserting the privilege or protection shall provide the following information in the form of a privilege log.

(1) The type of document or electronically stored information;

(2) The general subject matter of the document or electronically stored

- information;
- (3) The date of the document or electronically stored information;
 - (4) The author of the document or electronically stored information;
and
 - (5) Each recipient of the document or electronically stored information.

This rule shall apply only to requests for documents or electronically stored information.

If the information called for by one or more of the foregoing categories is itself privileged, it need not be disclosed. However, the existence of the document and any non-privileged information called for by the other categories must be disclosed.

This rule requires preparation of a privilege log with respect to all documents withheld on the basis of a claim of privilege or work product protection except the following: written or electronic communications between a party and its trial counsel after commencement of the action and the work product material created after commencement of the action.

(f) Parties' Planning Conference

(1) Within thirty days after the appearance of any defendant, the attorneys of record and any unrepresented parties who have appeared in the case shall confer for the purposes described in Fed. R. Civ. P. 26(f). If a government entity or official is a defendant, the conference shall be held within thirty days after the appearance of any such defendant. The conference shall be initiated by the plaintiff and may be conducted by telephone. Within ten days after the conference, the participants shall jointly complete and file a report in the form prescribed by Form 26(f), which appears in the Appendix to these Rules. A copy of the report shall be mailed to the chambers of the presiding Judge.

(2) After the parties' report is filed, the Court will issue a written scheduling order pursuant to Fed. R. Civ. P. 16(b). Until such a scheduling order is issued, the case will be governed by the provisions of the Standing Order On Scheduling In Civil Cases.

(3) This rule shall not apply to the following categories of cases: prisoner petitions; review of decisions by administrative agencies, including social security disability matters; recovery of defaulted student loans; recovery of overpayment of veterans' benefits; forfeiture actions; petitions to quash Internal Revenue summons; appeals from Bankruptcy Court orders; proceedings to compel arbitration or to

confirm or set aside awards and cases under the Freedom of Information Act.

(4) This rule applies to cases filed on or after June 1, 1995.

(Amended January 19, 2007, effective January 1, 2007. nunc pro tunc)

RULE 37

DISCOVERY DISPUTES

- (a) No motion pursuant to Rules 26 through 37, Fed. R. Civ. P., shall be filed unless counsel making the motion has conferred with opposing counsel and discussed the discovery issues between them in detail in a good faith effort to eliminate or reduce the area of controversy, and to arrive at a mutually satisfactory resolution. In the event the consultations of counsel do not fully resolve the discovery issues, counsel making a discovery motion shall file with the Court, as a part of the motion papers, an affidavit certifying that he or she has conferred with counsel for the opposing party in an effort in good faith to resolve by agreement the issues raised by the motion without the intervention of the Court, and has been unable to reach such an agreement. If some of the issues raised by the motion have been resolved by agreement, the affidavit shall specify the issues so resolved and the issues remaining unresolved.
- (b)
 - 1. Memoranda by both sides shall be filed with the Clerk in accordance with Rule 7(a)1 of these Local Rules before any discovery motion is heard by the Court. Each memorandum shall contain a concise statement of the nature of the case and a specific verbatim listing of each of the items of discovery sought or opposed, and immediately following each specification shall set forth the reason why the item should be allowed or disallowed. Where several different items of discovery are in dispute, counsel shall, to the extent possible, group the items into categories in lieu of an individual listing of each item. Every memorandum shall include, as exhibits, copies of the discovery requests in dispute.
 - 2. Where a discovery motion seeks disclosure of documents or electronically stored information, and the moving party believes in good faith that there is a significant risk that material information will be destroyed before the motion is decided in accordance with normal procedure, the moving party shall have good cause to seek expedited consideration of the motion in accordance with Rule 7(a)3.
- (c) Where a party has sought or opposed discovery which has resulted in the filing of a motion, and that party's position is not warranted under existing law and cannot be supported by good faith argument for extension, modification or reversal of existing law, sanctions will be imposed in accordance with applicable law. If a sanction consists of or includes a reasonable attorney's fee, the amount of such attorney's fee shall be calculated by using the normal hourly rate of the attorney for the party in whose favor a sanction is imposed, unless the party against whom a sanction is imposed can demonstrate that such amount is unreasonable.

in light of all the circumstances.

- (d) Unless a different time is set by the Court, compliance with discovery ordered by the Court shall be made within ten (10) days of the filing of the Court's order.

(Amended January 19, 2007, effective January 1, 2007, nunc pro tunc)

FORM 26(F) REPORT OF PARTIES' PLANNING MEETING

Caption of Case

[List all parties]

Date Complaint Filed:

Date Complaint Served:

Date of Defendant's Appearance:

Pursuant to Fed. R. Civ. P. 16(b), 26(f) and D. Conn. L. Civ. R. 16, a conference was held on [date]. The participants were:

_____ for plaintiff [party name]

_____ for defendant [party name]

I. Certification

Undersigned counsel certify that, after consultation with their clients, they have discussed the nature and basis of the parties' claims and defenses and any possibilities for achieving a prompt settlement or other resolution of the case and, in consultation with their clients, have developed the following proposed case management plan. Counsel further certify that they have forwarded a copy of this report to their clients.

II. Jurisdiction

A. Subject matter Jurisdiction

[Provide a statement of the basis for subject matter jurisdiction with appropriate statutory

citations. If plaintiff's allegation of subject matter jurisdiction is denied, specify the basis for the denial.]

B. Personal Jurisdiction

[State whether personal jurisdiction is contested and, if it is, summarize the parties' competing positions].

III. Brief Description of Case

[Briefly summarize the claims and defenses of all parties and describe the relief sought. If agreement cannot be reached on a joint statement, each party must provide a short separate statement. The requirement that the parties briefly summarize their claims and defenses is not intended to be unduly burdensome. The parties are obliged to discuss and consider the nature of their claims and defenses at the planning conference in order to formulate a meaningful case management plan. Moreover, the presiding judge needs to be informed of the nature of the claims and defenses in order to evaluate the reasonableness of the parties' proposed plan. The statement of the parties' claims and defenses, whether set forth jointly or separately, does not preclude any party from raising new claims and defenses as permitted by other applicable law.]

A. Claims of Plaintiff/s:

B. Defenses and Claims (Counterclaims, Third Party Claims, Cross Claims)
of Defendant/s:

C. Defenses and Claims of Third Party Defendant/s:
Statement of Undisputed Facts:

IV.

Counsel certify that they have made a good faith attempt to determine whether there are any material facts that are not in dispute. The parties state that the following material facts are undisputed:

V. Case Management Plan:

A. Standing Order on Scheduling in Civil Cases

The parties [request] [do not request] modification of the deadlines in the Standing Order on Scheduling in Civil Cases [as follows]:

B. Scheduling Conference with the Court

The parties [request] [do not request] a pretrial conference with the Court before entry of a scheduling order pursuant to Fed. R. Civ. P. 16(b). The parties prefer a conference [in person] [by telephone].

C. Early Settlement Conference

1. The parties certify that they have considered the desirability of attempting to settle the case before undertaking significant discovery or motion practice. Settlement [is likely] [is unlikely at this time] [may be enhanced by use of the following procedure]:

2. The parties [request] [do not request] an early settlement conference.

3. The parties prefer a settlement conference with [the presiding judge] [a magistrate judge] [a parajudicial officer] [special masters].

4. The parties [request] [do not request] a referral for alternative dispute resolution pursuant to D. Conn. L. Civ. R. 16.

E. Joinder of Parties and Amendment of Pleadings

1. Plaintiff(s) should be allowed until [date] to file motions to join additional parties and until [date] to file motions to amend the pleadings.

2. Defendant(s) should be allowed until [date] to file motions to join additional parties and until [date] to file a response to the complaint.

F. Discovery

1. The parties anticipate that discovery will be needed on the following subjects:
[list each of the principal issues of fact on which discovery will be needed; a statement that "discovery will be needed on liability and damages" is insufficient].

2. All discovery, including depositions of expert witnesses pursuant to Fed. R. Civ. P. 26(b)(4), will be commenced by [date] and completed (not propounded) by [date].

3. Discovery [will] [will not] be conducted in phases.

4. Discovery on _____ will be completed by [date].

5. The parties anticipate that the plaintiff(s) will require a total of ____ depositions of fact witnesses and that the defendant(s) will require a total of ____ depositions of fact witnesses. The depositions will commence by [date] and be completed by [date].

6. The parties [will] [will not] request permission to serve more than 25 interrogatories.

7. Plaintiff/s [intend] [do not intend] to call expert witnesses at trial. Plaintiff/s will designate all trial experts and provide opposing counsel with reports from retained experts pursuant to Fed. R. Civ. P. 26(a)(2) by [a date not later than 3 months before the deadline for completing all discovery]. Depositions of any such experts will be completed by [a date not later than 2 months before the deadline for completing all discovery].

8. Defendant/s [intend] [do not intend] to call expert witnesses at trial. Defendant/s will designate all trial experts and provide opposing counsel with reports from retained experts pursuant to Fed. R. Civ. P. 26(a)(2) by [a date not later than 1 month before the deadline for completing all discovery]. Depositions of such experts will be completed by [a

date not later than the discovery cutoff date].

9. A damages analysis will be provided by any party who has a claim or counterclaim for damages by [date].

10. Undersigned counsel have discussed the disclosure and preservation of electronically stored information, including, but not limited to, the form in which such data shall be produced, search terms to be applied in connection with the retrieval and production of such information, the location and format of electronically stored information, appropriate steps to preserve electronically stored information, and the allocation of costs of assembling and producing such information. [The parties agree to the following procedures for the preservation, disclosure and management of electronically stored information or the parties have been unable to reach agreement on the procedures for the preservation, disclosure and management of electronically stored information. Following is the position of each party:]

11. Undersigned counsel have discussed discovery procedures that minimize the risk of waiver of privilege or work-product protection, including procedures for asserting privilege claims after production. [The parties agree to the following procedures for asserting claims of privilege after production or the parties have been unable to reach agreement on the procedures for asserting claims of privilege after production. Following is the position of each party:]

G. Dispositive Motions:

Dispositive motions will be filed on or before [date].

H. Joint Trial Memorandum

The joint trial memorandum required by the Standing Order on Trial Memoranda in Civil Cases will be filed by [date].

VI. TRIAL READINESS

The case will be ready for trial by [date].

As officers of the Court, undersigned counsel agree to cooperate with each other and the Court to promote the just, speedy and inexpensive determination of this action.

Plaintiff

By _____ Date:

Defendant

By _____ Date:

The undersigned pro se parties certify that they will cooperate with all other parties, counsel of record and the Court to promote the just, speedy and inexpensive determination of this action.

Plaintiff _____ Date:

Defendant _____ Date: