

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA



NOTICE TO COUNSEL

The attached Conference and Scheduling Order contains a number of important changes required by recent amendments to the Federal Rules of Civil Procedure, effective December 1, 2000. Additional amendments became effective August 1, 2001.

Counsel should carefully review the Order and note all deadlines on a calendaring system.

Counsel should also review the referenced rules and become familiar with these significant changes.

The amended Local Civil Rules for the District of South Carolina are available at:

www.scd.uscourts.gov.

s/ Margaret B. Seymour
Senior United States District Judge

November 27, 2012
Columbia, South Carolina

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF SOUTH CAROLINA
[DIVISION (all caps)] DIVISION

[Plaintiff(s)])	C/A No. <u>[Case #]</u>
)	
Plaintiff(s),)	
)	
-versus-)	CONFERENCE AND
)	SCHEDULING ORDER
[Defendant(s)])	
)	
Defendant(s).)	

Pursuant to the Federal Rules of Civil Procedure and the Local Civil Rules of this Court, the following schedule is established for this case. Discovery may begin upon receipt of this order.

1. A conference of the parties pursuant to Fed.R.Civ.P. 26(f) shall be held no later than **[Conference date]**.¹ At conference the parties shall confer concerning all matters set forth in Fed.R.Civ.P. 26(f) and whether the schedule set forth in this order is appropriate and, if not, what modifications are necessary.²
2. No later than **[Initial Disclosures date]** the required initial disclosures under Fed.R.Civ.P. 26(a)(1) shall be made.³
3. No later than **[Report Filing date]** the parties shall file a Rule 26(f) Report in the form attached to this order. Parties are hereby notified that Local Civil Rule 26.03 lists additional queries to be answered in the Rule 26(f) Report.
4. Motions to join other parties and amend the pleadings (Fed.R.Civ.P.16(b)(1)) shall be filed no later than **[Motion to join/amend date]**.

¹Plaintiff’s counsel shall initiate the scheduling of the Rule 26(f) conference with all counsel known to plaintiff regardless of whether they have filed appearances.

²The parties shall also consider whether they wish to consent to trial before a United States Magistrate Judge. See attached Notice of Availability of United States Magistrate Judge.

³Pursuant to Fed.R.Civ.P. 26(a)(1), the parties may, by stipulation, agree not to make some or all of the Rule 26(a)(1) initial disclosures. If such a stipulation is made, it shall be confirmed in writing between the parties. See Fed.R.Civ.P. 29 and Local Civil Rule 29.01.

5. Plaintiff(s) shall file and serve a document identifying by full name, address, and telephone number each person whom Plaintiff(s) expects to call as an expert at trial and certifying that a written report prepared and signed by the expert including all information required by Fed. R. Civ. P. 26(a)(2)(B) has been disclosed to other parties by **[Plaintiff ID experts date]**.
6. Defendant(s) shall file and serve a document identifying by full name, address, and telephone number each person whom Defendant(s) expects to call as an expert at trial and certifying that a written report prepared and signed by the expert including all information required by Fed. R. Civ. P. 26(a)(2)(B) has been disclosed to other parties by **[Defendant ID experts date]**.
7. Counsel shall file and serve affidavits of records custodian witnesses proposed to be presented by affidavit at trial no later than **[Custodian Witnesses date]**. Objections to such affidavits must be made within fourteen (14) days after the service of the disclosure. (See Fed.R.Evid. 803(6), 902(11), or 902(12) and Local Civil Rule 16.02(D)(3)).
8. Discovery shall be completed no later than **[Discovery Date]**. All discovery requests shall be served in time for the responses thereto to be served by this date. De bene esse depositions must be completed by discovery deadline. No motions relating to discovery shall be filed until counsel have consulted and attempted to resolve the matter as required by Local Civil Rule 7.02.
9. Motions in limine must be filed at no later than **[Motion in Limine date]**.
10. All other motions, except those to complete discovery, those nonwaivable motions made pursuant to Fed.R.Civ.P. 12, and those relating to the admissibility of evidence at trial, shall be filed on or before **[Other Motions date]**. (Fed.R.Civ.P.16(b)(2)).
11. Mediation, pursuant to Local Civil Rules 16.03 - 16.11, shall be completed in this case on or before **[Mediation date]**. See Mediation Order filed this date which sets forth mediation requirements. At least thirty (30) days prior to this mediation deadline, counsel for each party shall file and serve a statement certifying that counsel has: (1) provided the party with a copy of the Mediation Order; (2) discussed the availability of mediation with the party; and (3) discussed the advisability and timing of mediation with opposing counsel.

12. No later than **[Pretrial Disclosures date]** the parties shall file and exchange Fed.R.Civ.P. 26(a)(3) pretrial disclosures. Within fourteen (14) days thereafter, a party shall file and exchange Fed.R.Civ.P. 26(a)(3) objections, any objections to use of a deposition designated by another party and any deposition counter-designations under Fed.R.Civ.P. 32(a)(6). **Deposition designations and counter-designations must specifically identify the portions to be offered, including page and line citations.**
13. Parties shall furnish the Court pretrial briefs seven (7) days prior to the date set for jury selection (Local Civil Rule 26.05).⁴ Attorneys shall meet at least seven (7) days prior to the date set for submission of pretrial briefs for the purpose of exchanging and marking all exhibits. See Local Civil Rule 26.07.
14. This case is subject to being called for jury selection and/or trial on or after **[Jury Selection date]**.

United States District Judge

Dated: _____

Columbia, South Carolina

⁴ Requirements for cases assigned to Judge Seymour as to submission/filing of pretrial briefs can be found at www.scd.uscourts.gov.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
[DIVISION (all caps)] DIVISION

[Plaintiff(s)])	CA <u>[Case #]</u>
)	
Plaintiff(s),)	
)	RULE 26(f) REPORT
-versus-)	
)	
[Defendant(s)])	
)	
Defendant(s).)	

The parties, having consulted pursuant to Rule 26(f), Fed. R. Civ. P., hereby report as follows (check one below):

_____ We agree that the schedule set forth in the Conference and Scheduling Order filed **November 27, 2012** is appropriate for this case. The parties' proposed discovery plan as required by Fed. R. Civ. P. Rule 26(f) and the information required by Local Civil Rule 26.03 are attached.

_____ We agree that the schedule set forth in the Conference and Scheduling Order filed **November 27, 2012** requires modification as set forth in the attached proposed Consent Amended Scheduling Order (use format of the Court's standard scheduling order attached hereto). The parties' proposed discovery plan as required by Fed. R. Civ. P. Rule 26(f) and the information required by Local Civil Rule 26.03 are attached.

_____ We are unable, after consultation, to agree on a schedule for this case. We, therefore, request a scheduling conference with the Court. The parties' proposed discovery plan as required by 26(f) Fed. R. Civ. P., with disagreements noted, is attached. The information required by Local Civil Rule 26.03 is also attached.

(SIGNATURE PAGE ATTACHED)

PLAINTIFF(S)

DEFENDANT(S)

Signature of Plaintiff's Counsel

[Plaint Atty & Pty Rep]
*Printed Name of Plaintiff's Counsel
and Party Represented*

Signature of Defendant's Counsel

[Def Atty & Pty Rep]
*Printed Name of Defendant's Counsel
and Party Represented*

Signature of Plaintiff's Counsel

[Plaint Atty & Pty Rep 2]
*Printed Name of Plaintiff's Counsel
and Party Represented*

Signature of Defendant's Counsel

[Def Atty & Pty Rep 2]
*Printed Name of Defendant's Counsel
and Party Represented*

Signature of Plaintiff's Counsel

[Plaint Atty & Pty Rep 3]
*Printed Name of Plaintiff's Counsel
and Party Represented*

Signature of Defendant's Counsel

[Def Atty & Pty Rep 3]
*Printed Name of Defendant's Counsel
and Party Represented*

Signature of Plaintiff's Counsel

[Plaint Atty & Pty Rep 4]
*Printed Name of Plaintiff's Counsel
and Party Represented*

Signature of Defendant's Counsel

[Def Atty & Pty Rep 4]
*Printed Name of Defendant's Counsel
and Party Represented*

Dated: [Plaintiff Dated]

Dated: [Defense Dated]

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
[DIVISION (all caps)] DIVISION**

[Plaintiff(s)])	
)	
Vs.)	C/A No. <u>[Case #]</u>
)	
[Defendant(s)])	ORDER TO CONDUCT MEDIATION
)	
)	
)	
)	
<hr style="width:100%; border: 0.5px solid black;"/>)	

A mediation is to be completed in this matter in accordance with the time limits set forth in the scheduling order issued in this case. Upon completion of the mediation, counsel shall advise the court in writing only that the mediation has occurred, the date of the mediation, whether the case was settled in whole or in part, and whether a trial is necessary.

Attorneys primarily responsible for handling the trial, parties and/or insurer representatives with full settlement authority¹ are ORDERED to be present in person and will be excused only for good cause shown. Every person who is excused from attending in person must be available to participate by telephone, unless otherwise ordered. At the mediation, primary trial counsel, along with parties and/or their insurer representatives, should be prepared to participate in a mutual, good faith effort to negotiate a fair and reasonable settlement. All necessary discovery must be completed prior to mediation. Lack of discovery or settlement authority is no excuse for failure to appear and/or participate. See Local Rule 16.09 DSC.

Communications made in connection with or during the mediation are confidential and protected by Federal Rule of Evidence 408, Local Rule 16.08(c) DSC, and Federal Rule of Civil Procedure 68. If a settlement is not reached at the mediation, settlement discussions are neither admissible at trial nor to be disclosed to the presiding judge, see Local Rules 16.08(c) and 16.10 (h) DSC, except as allowed by Local Rule 26.05(f) DSC.

¹“Full settlement authority” for the defendant means an individual who can decide to offer the plaintiff a sum up to the existing demand of the plaintiff or the policy limits of any applicable insurance policy, whichever is less. “Full settlement authority” for the plaintiff means the plaintiff himself or herself or a representative of the plaintiff who can make a binding decision on behalf of the plaintiff or plaintiffs.

If any reason exists why any person, party or counsel subject to this Order should not participate in this mediation, the court is to be advised of these reasons in writing immediately.

Notices have been mailed to all counsel of record and any *pro se* parties. Counsel are responsible for notifying and ensuring the presence of parties and/or insurer representatives as described above.

Any questions concerning the selection of a mediator or the mediation process generally should be referred to the court's ADR Program Director, Danny Mullis, at (843) 579-1435.

AND IT IS SO ORDERED.

s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina