

**SUPPLEMENTAL STANDING ORDER ON
PRETRIAL PROCEDURES IN CIVIL CASES**

Pretrial Procedures - Civil

This standing order establishes a general trial preparation procedure to be used in civil cases unless otherwise ordered. It is intended to supplement, and in some aspects modify LR 16.1 of the Local Civil Rules. If any party believes that a different procedure is warranted in a particular case, please raise that issue with the court at the initial Rule 16(b) (Fed. R. Civ. P.) conference.

A. Rule 16(b) Conference

1. Approximately thirty (30) to forty-five (45) days after the filing of each civil case assigned to Judge Coar (hereinafter the "Court"), the Court will notify counsel of a scheduling conference at which scheduling and planning (including discovery) will be addressed. This scheduling conference will constitute the conference required by Rule 16(b) (Fed. R. Civ. P.). (See also LR 16.1 of the Local Rules, U.S. District Court, Northern District of Illinois.)

2. At least fourteen (14) days before the scheduling conference, counsel shall meet as required by Rule 26(f) (Fed. R. Civ. P.) to discuss the nature and basis of their claims and defenses and the possibilities for a prompt settlement or resolution of the case, and to develop a proposed discovery plan. In addition, counsel shall discuss the scheduling matters addressed in Rule 16(b) and (c) (Fed. R. Civ. P.). At the conclusion of the meeting of counsel, discovery may commence.

3. Unless otherwise ordered, within ten (10) days after the meeting described in paragraph A.2 above, counsel shall file with the Court a proposed discovery plan pursuant to Rule 26(f) and a proposed scheduling order pursuant to Rule 16(b). Failure to file a

discovery plan will not be excused on the basis that counsel will be unable to estimate what discovery needs to be taken until answers to written discovery are received. While it is desirable that the parties reach agreement on a discovery plan, agreement is not mandated. If there are matters about which the parties cannot agree, the areas of disagreement should be set forth in a joint document, or separately.

4. If a defendant has not been served, or if no attorney has filed an appearance for a defendant who has been served, counsel for the plaintiff may advise the Court of that fact, in writing, and request a continuance of the Rule 16(b) scheduling conference. Any such request shall include a detailed statement as to why service has not been accomplished and what steps are currently being taken to achieve service. If counsel for the plaintiff has been contacted by (or otherwise knows) counsel who has not filed an appearance, counsel for the plaintiff shall forward to other counsel a copy of the order setting the Rule 16 scheduling conference and proceed to schedule the Rule 26(f) meeting as if an appearance had been filed.

5. At the conclusion of the Rule 16(b) scheduling conference, a scheduling order will be entered. The deadlines and other dates contained in that order are not merely goals. The Court expects that counsel for all parties will take all necessary actions to meet the deadlines established in the scheduling order. It is unlikely that any portion of the schedule will be extended except for extraordinary cause. Failure to initiate timely discovery, or to seek relief from another party's failure to respond to timely discovery, will preclude a finding of extraordinary cause.

6. All discovery requests/notices should be initiated in time for responses to be completed (within the time limits set forth in the Federal Rules) by the discovery cut-off date.

B. Discovery

Civil discovery motions shall not be heard without an affidavit attesting to the efforts to resolve the motion without resort to court intervention. In addition, no party shall serve on any other party more than twenty-five (25) interrogatories in the aggregate without leave of court or by stipulation.

If disputes arise during the conduct of depositions, counsel may contact the court by phone to seek a resolution. If the court cannot be reached immediately, counsel should proceed with the deposition as to areas (questions) not in dispute and the court will call back as soon as possible.

Federal Rule of Civil Procedure 26 (2000)

(1) Failure to provide the mandatory discovery provided for in the Rule 26(a)(1) will result in sanctions.

(2) Disclosures regarding experts' opinions, the basis and supporting data, information and exhibits, qualifications, fees, and other cases in which the expert has testified in the last four years are automatically required by Rule 26(a)(2).

(3) Unless otherwise ordered, expert disclosures required by Rule 26(a)(2) shall be made by plaintiffs no later than forty-five (45) days before the discovery cut-off date, and by defendants no later than thirty (30) days before the discovery cut-off date. Rebuttal information required by Rule 26(a)(2) must be provided no later than ten (10) days before the discovery cut-off date, unless ordered otherwise. Ordinarily, the timing of Rule 26(a)(2) disclosure will be set out in the Rule 16 scheduling order.

(4) Compliance with Rule 26(a)(2) is required before a retained expert may be designated as a trial witness in the final pretrial order.

(5) See Standing Order on Expert Disclosure and Discovery.

C. Final Pretrial Conference

1. The Final Pretrial Conference has among its purposes the following: define and simplify the trial issues; improve trial preparation; minimize surprise at trial and risk of judicial or attorney error; minimize length and cost of trial by advance stipulations and agreements; and guarantee a fair trial to all parties. When counsel attend the Final Pretrial Conference, they must be fully prepared to accomplish these purposes.

2. To avoid the risks and costs of trial, counsel are urged to seek to resolve this dispute by voluntary settlement before undertaking the substantial labor and expense of preparing the Final Pretrial Order. Should any party wish the Court to participate in a settlement conference, please telephone the Minute Clerk (confidentially, if you wish), so that a conference can be scheduled. Even if the case is placed on the Court's trial calendar, counsel are urged to continue to seek settlement of the dispute.

3. In the Rule 16(b) scheduling order, or thereafter, the Court will schedule a Final Pretrial Conference. At least three weeks prior to the Final Pretrial Conference, the parties by their counsel shall take the following action:

(a) Counsel for all parties shall confer at their earliest convenience in order to discuss settlement and, if that is not possible, then prepare the Final Pretrial Order in substantially the form set forth in the Local Rules. Plaintiff's counsel shall initiate the conference. All other counsel shall fully cooperate. If, after reasonable effort, any counsel cannot obtain sufficient cooperation of other counsel, it shall be the obligation of counsel to notify the Court. The Court will take whatever action is needed, including sanctions and assignment of the case to a U.S. Magistrate Judge to

supervise the preparation of the Final Pretrial Order.

(b) Prior to counsel's conference, the plaintiff shall submit to the defendant(s) materials required by the Final Pretrial Order, **including** copies of proposed exhibits which shall be premarked. Thereafter, the defendant(s) shall submit to plaintiff the defendant(s)' materials. At counsel's conference, copies of **ALL** exhibits, including rebuttal exhibits, shall be exchanged. At their meeting, counsel shall consider all of the matters included in the Final Pretrial Order so that it can be completed in time to deliver to the Court for the Final Pretrial Conference.

(c) Counsel for plaintiff will prepare a first draft of the Final Pretrial Order with attachments and submit it to other counsel for additions, suggestions, and revisions, after which all counsel shall complete, sign, and jointly submit to the Court duplicate originals of the Final Pretrial Order with all attachments.

(d) The Final Pretrial Order must be delivered in **triplicate** to the Court's chambers by the date set by order of court, along with a completed Final Pretrial Order Summary. A set of bound and tabbed (by exhibit number) exhibits shall be delivered to the court along with the Final Pretrial Order.

(e) All motions in limine, or other motions affecting witnesses or evidence to be introduced at trial and responses thereto, must be in writing and filed with, or prior to submission of, the Final Pretrial Order. If additional responses and/or briefs are required as to any motion in limine, the Court may set a schedule at or before the Final Pretrial Conference.

(f) The Committee on Federal Civil Jury Instructions for the Seventh Circuit has drafted proposed pattern jury instructions. The Circuit Council has approved the publication of these instructions, but has not approved their content. These

instructions are available on the Court's website. Counsel are urged to review these pattern instructions before preparing their proposed instructions.

(g) Modified, substitute, or additional jury instructions should be presented in the Final Pretrial Order. Whether agreed or unagreed, each marked copy of an instruction shall indicate the proponent and supporting authority and shall be numbered. Objections to tendered instructions shall be in writing and include citations of authority and, where appropriate, any variation of the tendered instruction that would be acceptable to the objector.

(h) Prior to submission of the Final Pretrial Order, counsel should number and exchange copies of exhibits (including documents, summaries, charts and other items) expected to be offered in evidence. Counsel should attempt to resolve any objections to exhibits informally. If objections cannot be resolved, written objections or motions in limine should be filed with the Final Pretrial Order. Failure to object or file a motion in limine in the manner described will constitute a waiver of any objection at trial. In trials before a jury, all objections as to relevance and foundation should be raised and, unless otherwise ordered, decided prior to trial. A bench book of exhibits should be prepared and delivered to the Court along with the Final Pretrial Order unless excused by the Court. The bench book should include an exhibit list and **the exhibits should be tabbed**. If the trial is a jury trial and counsel desires to display exhibits to the members of the jury, sufficient copies of such exhibits must be made available at trial so as to provide each juror with a copy.

4. At the Final Pretrial Conference, each party shall be represented by the attorney(s) who will try the case unless the Court authorizes otherwise for good cause shown. All attorneys will have complete knowledge of the case with full authority to accomplish all of the purposes of the Final Pretrial Conference, including: simplifying the

issues, expediting the trial, and saving expense to litigants. All attorneys shall be fully prepared and authorized to discuss and agree to a negotiated settlement of the case. Each party (or insurance representative where appropriate) must be present or available by telephone to permit settlement at the conference.

5. The Final Pretrial Conference date will not be continued except for good cause shown. Any request for a continuance must be presented by written motion accompanied by affidavit as to the reasons therefor at least four court days prior to the conference. Failure on the part of counsel to appear at the conference or otherwise to comply with the provisions of this order may result in dismissal of the suit, default, or other sanctions appropriate under Fed. R. Civ. P. 16, 37, 28 U.S.C. Section 1927, or any other applicable provision.

6. At the conclusion of the Final Pretrial Conference, the Court will enter the Final Pretrial Order. Ordinarily, no further pretrial conference will be held.

7. The Final Pretrial Order is intended to provide a basic script for the fair and efficient trial of the case. Please do careful and thorough work so that the Order can accomplish its purpose of expediting the effective presentation of each party's cause. This Order will control the subsequent course of the action, unless modified by the consent of the parties and the Court, or by order of the Court to prevent manifest injustice. At the time of trial (or before upon request), counsel will be given the Court's Standing Orders on Jury Selection and Jury Trial which will guide the trial of the case.

ENTER:
David H. Coar
United States District Judge

Revised: June 2005