

MATERIALS TO BE PROVIDED TO PARTIES IN CIVIL CASES REMOVED TO THE SOUTHERN DISTRICT OF IOWA

The Clerk of Court hereby provides the parties in this case with a copy of the following materials:

- 1.** A copy of this rule and Local Rules 7.1, 10.h, and 16;
- 2.** The instructions for the scheduling order and discovery plan and worksheet;
- 3.** A scheduling order and discovery plan form;
- 4.** A disclosure statement form; and
- 5.** A “notice of public availability of case file information.”

LR 7.1 DISCLOSURE STATEMENT

a. Plaintiff's Disclosure Statement. Within 21 days after a civil complaint is filed, each nongovernmental plaintiff that is not a natural person must file with the Clerk of Court a statement containing the following:

1. The names of all associations, firms, partnerships, corporations, and other artificial entities that either are related to the plaintiff as a parent, subsidiary, or otherwise, or have a direct or indirect pecuniary interest in the plaintiff's outcome in the case; and

2. With respect to each such entity, a description of its connection to or interest in the litigation.

b. Defendant's Disclosure Statement. Within 30 days after service of a civil complaint on a nongovernmental defendant that is not a natural person, such defendant must file with the Clerk of Court a statement containing the following:

1. The names of all associations, firms, partnerships, corporations, and other artificial entities that either are related to the defendant as a parent, subsidiary, or otherwise, or have a direct or indirect pecuniary interest in the defendant's outcome in the case; and

2. With respect to each such entity, a description of its connection to or interest in the litigation.

c. Disclosure Statement Forms. A disclosure statement must be filed on the form attached to these rules as appendix A. The form also is available from the Clerk of Court, and may be found on the court's website at the web address given in Local Rule 1.i. The disclosure statement form is designed to enable the involved federal judges to evaluate possible bases for disqualification or recusal.

d. Conflicts List. After entering an appearance in a pending civil case, the lawyers for the parties must determine promptly if the presiding judge has filed a conflicts list with the Clerk of Court by doing one of the following:

1. Inspecting the court's website at the web address given in Local Rule 1.i; or

2. Inquiring of the Clerk of Court of the district.

If a conflicts list for the presiding judge has been filed with the Clerk of Court, the lawyer must review the list and notify the Clerk of Court immediately if it appears the presiding judge may have a conflict with any association, firm, partnership, corporation, or other artificial entity either related to any party or having a pecuniary interest in the case.

e. Notification by Clerk of Court. After a civil case is filed, the Clerk of Court will provide the plaintiff with a copy of this rule and a disclosure statement form. The plaintiff must attach a copy of the rule and the form to each service copy of the summons and complaint.

Any failure of the Clerk of Court or the plaintiff to provide a party with a copy of this rule or the form does not excuse the party from compliance with the rule.

**LR 10 FORM OF DOCUMENTS FILED WITH THE COURT;
CITATIONS TO STATUTES; PERSONAL IDENTIFIERS**

a. Size. All documents filed with the court in paper form must be on 8.5 inch x 11 inch size paper. All electronic filings must be similarly formatted.

b. Form. All documents filed with the court must be in the following form:

1. Double spaced;
2. Printed on only one side of the page; and
3. Have a top margin of at least one inch on each page.

Documents more than one page in length must be numbered at the bottom of each page. Exhibits included in an appendix or attached to a pleading, motion, or brief must be imaged or reproduced in a clear, legible, and high-quality form.

c. Documents Filed in Paper Form. To facilitate electronic imaging, a document filed non-electronically must be delivered to the Clerk of Court with no tabs, staples, or permanent clips, but may be organized with paperclips, clamps, or some other type of temporary fastener, or delivered to the Clerk of Court in an expandable file folder, except as follows:

1. Transcripts may be bound.
2. Copies of exhibits may be provided to the court in a notebook.
3. If a motion, resistance, or reply, together with any supporting filings, totals more than 100 pages in length and is filed electronically, within 7 days after the document is filed, the filer must deliver to the Clerk of Court, for use by the presiding judge, a paper copy of the motion, resistance, or reply, together with any supporting filings, reproduced on one side of the page, bound or fastened at the left margin, and tabbed to facilitate ready reference.

d. Captions. Captions of filings must include the district and division in which the case is filed, the case number, the names of the litigants in the manner prescribed in Federal Rule of Civil Procedure 10(a), and a designation of the content, and must specify clearly the party filing the document.

e. Citations to Statutes. All citations to statutes in motions, briefs, pleadings, and other requests for court action must refer to the United States Code or to the appropriate state code and not to a common name or designation for a statutory provision. For example, parties should not cite to the Internal Revenue Code or the Bankruptcy Code, but to the statutory equivalent in the United States Code.

f. Consolidated Cases. If two or more cases have been consolidated, the caption on all filings in the cases must be in the name of the lead case, but also must include the case numbers of all other member cases. If two or more cases have been consolidated for pretrial purposes only, the caption on all filings in the cases must include the full captions of all member cases.

g. Return of Copies by Mail. If a party requests that a copy of a document filed in paper form be returned by mail, the party must deliver to the Clerk of Court a self-addressed, stamped envelope, with proper postage, and large enough to accommodate the requested copy.

h. Personal Data Identifiers. Unless otherwise permitted or required by law, a party filing a document containing personal data identifiers should, unless the document is filed under seal, modify or partially redact the document to prevent disclosure of the identifiers. (*See* Fed. R. Civ. P. 5.2(a).) Personal data identifiers include the following:

1. Social Security numbers;
2. Dates of birth;
3. Names of minor children; and
4. Financial account numbers.

By way of example, and not limitation, if the Social Security number of an individual must be included in a document, only the last four digits of that number should be used. If an individual's date of birth is necessary, only the year should be used. If a minor child must be mentioned, only that child's initials should be used. If financial account numbers are relevant, only incomplete numbers should be recited in the document.

In addition, parties should exercise caution when filing unsealed documents that contain the following information:

5. Other personal identifying numbers, such as driver's license numbers;
6. Information concerning medical treatment or diagnosis;
7. Employment history;
8. Personal financial information;
9. Proprietary or trade secret information;
10. Information concerning a person's cooperation with the government;
11. Information concerning crime victims;
12. Sensitive security information; and
13. Home addresses.

It is the responsibility of counsel and the parties to assure that appropriate redactions from documents have been made before they are filed; the Clerk of Court will not review filings to determine whether such redactions have been made.

i. Notification by Clerk of Court. After a civil case is filed, the Clerk of Court will provide the plaintiff with a copy of section "h" of this rule and a "notice of public availability of case file information." A copy of this notice is attached to these rules as appendix B. The plaintiff must attach a copy of section "h" of this rule and the notice to each service copy of the summons and complaint.

Any failure of the Clerk of Court or the plaintiff to provide a party with a copy of the rule or the notice does not excuse the party from compliance with the Local Rules. Counsel are strongly urged to share the notice with their clients so informed decisions may be made about the inclusion, redaction, or exclusion of sensitive information in documents that will be available to the public as part of a public case file.

LR 16 SCHEDULING ORDER AND DISCOVERY PLAN

a. Timing of Proposed Order and Plan. Within 120 days after the filing of the complaint, all attorneys of record and all unrepresented parties must submit to the Clerk of Court for approval by a magistrate judge a proposed Rule 16(b) and 26(f) scheduling order and discovery plan.

The parties must confer to complete the proposed scheduling order and discovery plan as soon as practicable, but at least 14 days before the proposed scheduling order and discovery plan is due.

b. Completion of Proposed Order and Plan. The attorneys of record and all unrepresented parties who have appeared in the case are jointly responsible for preparing a proposed scheduling order and discovery plan. The proposed scheduling order and discovery plan must be prepared using the form supplied by the Clerk of Court, and must contain all of the information requested in the form. The form may be downloaded from the court's website at the web address given in Local Rule 1.i. In the Northern District, the completed form must be e-mailed to the Clerk of Court at ecfmail@iand.uscourts.gov. In the Southern District, the completed form must be filed.

c. Dismissal for Failure to Submit Timely Proposed Order and Plan. The failure to submit timely a proposed scheduling order and discovery plan may result in dismissal of the case.

d. Cases Not Subject to Requirement. A proposed scheduling order and discovery plan must be submitted in all civil cases, except for the following:

1. An action for judicial review based on an administrative record, such as a Social Security benefits case or a claim-review case brought under the Employee Retirement Income Security Act of 1974;
2. A petition, application, or motion for habeas corpus, or other proceeding to challenge a criminal conviction or sentence;
3. An action brought without counsel by a person in custody of the United States, a state, or a state subdivision;
4. An action to enforce or quash an administrative summons or subpoena;
5. An action by the United States to recover benefit payments;

6. An action by the United States to collect on a student loan guaranteed by the United States;
7. A proceeding ancillary to proceedings in other courts;
8. An action to enforce an arbitration award;
9. A foreclosure or civil forfeiture action filed by the United States;
10. An IRS summons enforcement action; and
11. Any other class of cases so designated by order of the court.

e. Scheduling Conference. After reviewing the proposed scheduling order and discovery plan, the magistrate judge may issue the Rule 16(b) and 26(f) scheduling order and discovery plan, either as submitted or with revisions, or may set a scheduling conference. Nothing in this rule precludes the parties from requesting a scheduling or planning conference with the magistrate judge at any time.

f. Requests for Extensions of Deadlines. The deadlines established by the Rule 16(b) and 26(f) scheduling order and discovery plan will be extended only upon written motion and a showing of good cause. Local Rule 7.1, requiring consultation with the other parties before filing certain motions, applies to motions to extend Rule 16(b) and 26(f) scheduling order and discovery plan deadlines. A motion to extend these deadlines also must contain the following:

1. A description of the discovery not completed;
2. A description of the discovery that has been completed;
3. An explanation of why all discovery cannot be completed by the existing deadline;
4. A statement of when discovery will be completed; and
5. A statement of whether the moving party believes the requested extension will affect any scheduled trial date.

g. Notification by Clerk of Court. After a civil case subject to this rule is filed, the Clerk of Court will provide the plaintiff with the following:

1. A copy of this rule;

2. The instructions and worksheet for the scheduling order and discovery plan; and
3. A scheduling order and discovery plan form.

The plaintiff must attach a copy of the rule to each service copy of the summons and complaint.

Any failure of the Clerk of Court or the plaintiff to provide a party with any of these documents does not excuse the party from compliance with the Local Rules.

h. Dispositive Motion Deadline. The deadline in the proposed scheduling order and discovery plan for filing dispositive motions must be at least 120 days before the proposed ready-for-trial date.

i. Deadlines in Actions for Judicial Review Based on Administrative Record. In actions for judicial review based on an administrative record, such as claim-review cases brought under the Employee Retirement Income Security Act of 1974, within 90 days after the filing of the complaint, all attorneys of record and all unrepresented parties must confer and submit to the Clerk of Court for approval by a magistrate judge a proposed scheduling order setting forth deadlines for the filing of the administrative record and briefs. This section does not apply to Social Security benefits cases, which are scheduled *sua sponte* by the court.

j. Sanctions. The failure to comply with a deadline established in the Rule 16(b) and 26(f) scheduling order and discovery plan may result in sanctions, including the exclusion of evidence, the prevention of witnesses from testifying, the striking of pleadings or other documents, the denial of oral argument, and the imposition of attorney fees and costs.

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, 2009

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

Please carefully review the Local Rules, revised as of December 1, 2009, 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 and 26, 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.

/S/

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 AND ELECTRONICALLY STORED INFORMATION:**
State whether the parties (a) 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, and (b) discussed the preservation, disclosure, and discovery of electronically stored information.

_____ 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.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, electronically stored information, 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 Rule 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 Rule 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 the preservation, disclosure, or discovery of electronically stored information, 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. **FILING OR 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 (a) in the Southern District of Iowa, electronically file the form in the court's electronic case filing system, or (b) in the Northern District of Iowa, e-mail the form to the following e-mail address: efcmail@iand.uscourts.gov. **Be sure to include *both* pages of the proposed order and plan, and include the signature line for the magistrate judge.**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IOWA
DIVISION

_____,)
)
Plaintiff(s),) NO. _____
)
vs.)
)
_____,)
)
Defendant(s).)

**SCHEDULING ORDER AND
DISCOVERY PLAN**

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

1. Did the parties both (a) enter into an agreement at the Rule 26(f) conference resolving all issues relating to initial disclosures, and (b) discuss the preservation, disclosure, and discovery of electronically stored information? ____ 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? 28 U.S.C. § 636(c).
____ yes ____ no

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

Attorney for Defendant(s):
Address:
Telephone:
Facsimile:
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

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE [NORTHERN][SOUTHERN] DISTRICT OF IOWA
@ DIVISION

@,

Plaintiff(s),

vs.

@,

Defendant(s).

No. @

DISCLOSURE STATEMENT

As required by LR 7.1 and LR 81.c and d, @, [plaintiff][defendant] in this case, provides the following information to the court:

(a) *The following are the names of all associations, firms, partnerships, corporations, and other artificial entities that either are related to the [plaintiff][defendant] as a parent, subsidiary, or otherwise, or have a direct or indirect pecuniary interest in the [plaintiff's][defendant's] outcome in the case:*

(b) *With respect to each entity named in response to (a), the following describes its connection to or interest in the litigation, or both:*

Date: _____

Name of lawyer
Name of lawyer's law firm
Lawyer's office address
Lawyer's telephone number
Lawyer's facsimile number
Lawyer's e-mail address
Contact person's e-mail address
Attorney for (plaintiff/defendant)

NOTICE OF PUBLIC AVAILABILITY OF CASE FILE INFORMATION

All documents filed with the court, unless sealed, will be available to the public, and may be accessible over the Internet. Therefore, you should not include certain types of sensitive information in any document filed with the court unless such inclusion is necessary.

If sensitive information must be included in a document, certain personal and identifying information should be redacted from the document, whether it is filed traditionally or electronically. This information includes the following: (1) Social Security numbers, (2) financial account numbers, (3) dates of birth, and (4) the names of minor children. Also, you should exercise caution when filing documents that contain the following: (1) other personal identifying numbers, such as driver's license numbers; (2) information concerning medical treatment or diagnosis; (3) employment history; (4) personal financial information; and (5) proprietary or trade secret information.

Counsel are strongly urged to share this notice with their clients so that informed decisions may be made concerning the redaction of sensitive information from documents that will be available to the public as part of a case file. It is the sole responsibility of counsel and the parties to ensure all filed documents comply with the rules of this court requiring redaction of personal data identifiers; the Clerk of Court will not review filings to determine whether appropriate redactions have been made.