



UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

The United States District Court for the District of New Jersey, in conjunction with the Association of the Federal Bar of New Jersey, presents:

Brown Bag Lunch Series: Insights into Federal Practice: Perspectives of the Bench and Bar

Panelists

Hon. Noel L. Hillman, U.S. District Judge Hon. Ann Marie Donio, U.S. Magistrate Judge
Hon. Joel Schneider, U.S. Magistrate Judge Christine O'Hearn, Esq., Brown & Connery, LLP

This program is designed to give practitioners an opportunity to hear Judges' and colleagues' insights into various aspects of federal practice. Topics to include:

- Initial Conferences
- Discovery Disputes
- Dispositive Motions
- Settlement Conferences
- Trial
- And More

Date: Friday, February 24, 2017
Time: 12:30 pm to 2:00 pm
Location: Mitchell H. Cohen Building
& U.S. Courthouse
Jury Assembly Room
4th & Cooper Streets
Camden, NJ

The Brown Bag Lunch Series



Table of Contents

Initial Scheduling Order.....	1
Amendment to Local Civil Rule 16.1, dated September 30, 2016 – Regarding Pretrial Conferences and Case Management.....	2
Joint Discovery Plan	3
Federal R. Civ. P. 26(a)(1): Duty to Disclose; General Provisions Governing Discovery (Required Disclosures) (<i>Initial Disclosure</i>)	4
Amendment to Local Civil Rule 26.1, dated September 30, 2016 – Regarding Discovery	5
Federal R. Civ. P. 34(b): Producing Documents, Electronically Stored Information, and Tangible Things, or Entering onto Land, for Inspection and Other Purposes (Procedure)	6
Federal R. Civ. P. 37(e): Failure to Make Disclosures or to Cooperate in Discovery; Sanctions – (Failure to Preserve Electronically Stored Information)	7
Appendix S – Discovery Confidentiality Order.....	8
Amendment to Local Civil Rule 5.3, dated September 30, 2016 – Regarding Confidentiality Order and Sealing.....	9
Joint Final Pre-Trial Order (Camden Vicinage)	10
Motion Calendar for 2017.....	11
Amendment to Local Civil Rule 41.1, dated November 10, 2016 – Dismissal of Inactive Cases	12
United States District Court for the District of New Jersey - Judicial Preferences	13

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

	Plaintiff,	Civil No.
v.		
	Defendant.	

SCHEDULING ORDER

This Scheduling Order confirms the directives given to counsel at the initial scheduling conference held pursuant to Rule 16, Federal Rules of Civil Procedure on , **2017**; and the Court noting the following appearances: , Esquire, appearing on behalf of the plaintiff; and , Esquire, appearing on behalf of the defendant; and for good cause shown:

IT IS this day of , **2017**, hereby **ORDERED**:

1. Counsel shall make FED. R. CIV. P. 26(a) disclosures on or before , **2017**.

2. Plaintiff's counsel shall file a letter with the Court by , **2017** stating that the parties have conferred pursuant to L. CIV. R. 26.1(b)(2) and 26.1(d) concerning discovery of digital information and advise whether the parties have agreed on computer-based and other digital discovery matters.

3. Initial written discovery requests shall be served by , **2017**. Any responses, answers and objections to initial written discovery requests shall be served in accordance with Court Rules.

4. The time within which to seek amendments to the pleadings or to add new parties will expire on , **2017**.

5. Pretrial factual discovery will expire on , **2017**. All pretrial discovery shall be concluded by that date. All discovery motions and applications pursuant to L. CIV. R.

37.1(a)(1) shall be made returnable before the expiration of pretrial factual discovery.

6. **Discovery Applications.** All discovery applications pursuant to L. Civ. R. 37.1(a)(1) shall include an Affidavit or Certification that includes the information identified in L. Civ. R. 37.1(b)(1). Absent exigent circumstances, the Court expects parties to "meet and confer" in person or via telephone before making a discovery application, rather than just exchanging letters or e-mails.

7. **Depositions.** All depositions are to be conducted in accordance with the procedures set forth in the order of Judge Gawthrop, in Hall v. Clifton Precision, 150 F.R.D. 525 (E.D.Pa. 1993).

The Court shall not permit at trial any witness testimony by video unless the witness is unavailable as set forth in FED. R. Civ. P. 32(a)(4).

8. All expert reports and expert disclosures pursuant to FED. R. Civ. P. 26(a)(2) on behalf of plaintiff shall be served upon counsel for defendant not later than , **2017**. All expert reports and expert disclosures pursuant to FED. R. Civ. P. 26(a)(2) on behalf of defendant shall be served upon counsel for plaintiff not later than , **2017**. Each such report should be accompanied by the curriculum vitae of the proposed expert witness. No expert opinion testimony shall be admitted at trial with respect to any witness for whom this procedure has not been timely followed. Depositions of proposed expert witnesses shall be concluded by , **2017**.

For purposes of this Scheduling Order, treating physicians shall not be considered expert witnesses and shall be treated as fact witnesses who are, however, required to provide reports and records concerning their treatment. However, any doctor who is going to express an opinion as to the cause of a particular condition or as to the future prognosis of a particular condition, shall be considered an expert subject to the requirement of FED. R. Civ. P. 26(a)(2)(B).

The parties shall also exchange, in accordance with the foregoing schedule, written statements identifying all opinion testimony counsel and the parties anticipate will be presented at trial pursuant to F. R. EVID. 701 and Teen-Ed v. Kimball International, Inc., 620 F.2d 399 (3d Cir. 1980).

The Court shall not permit at trial any witness testimony by video unless the witness is unavailable as set forth in FED. R. Civ. P. 32(a)(4).

9. **Dispositive Motions.** Dispositive motions shall be filed with the Clerk of the Court no later than , 2017. Opposition to the motion should be served in a timely fashion. Counsel are to follow L. Civ. R. 7.1, 7.2, 56.1 and 78.1 (Motion Practice - Generally).

10. The Court will conduct a telephone status conference on , 2017 at m. Counsel for plaintiff shall initiate the telephone call.

11. Any application for an extension of time beyond the deadlines set herein shall be made in writing to the undersigned and served upon all counsel prior to expiration of the period sought to be extended, and shall disclose in the application all such extensions previously obtained, the precise reasons necessitating the application showing good cause under FED. R. CIV. P. 16(b), and whether adversary counsel agree with the application. The schedule set herein will not be extended unless good cause is shown.

**THE FAILURE OF A PARTY OR ATTORNEY TO OBEY THIS ORDER
MAY RESULT IN IMPOSITION OF SANCTIONS UNDER FED. R. CIV. P.
16(f) .**

s/ Karen M. Williams
KAREN M. WILLIAMS
United States Magistrate Judge

cc: Hon.

EXHIBIT 2

(5) Conferences shall not be conducted in those civil cases described in L.Civ.R. 72.1(a)(3)(C) unless the Magistrate Judge so directs.

(b) Scheduling and Case Management Orders

(1) At or after the initial conference, the Magistrate Judge shall, after consultation with counsel, enter a scheduling order which may include, but need not be limited to, the following:

(A) dates by which parties must move to amend pleadings or add new parties;

(B) dates for submission of experts' reports;

(C) dates for completion of fact and expert discovery;

(D) dates for filing of dispositive motions after due consideration whether such motions may be brought at an early stage of proceedings (i.e., before completion of fact discovery or submission of experts' reports);

(E) a pretrial conference date;

(F) any designation of the case for arbitration, mediation, appointment of a special master or other special procedure; and

(G) limitations on the scope of preservation, as well as on the scope, method or order of discovery as may be warranted by the circumstances of the particular case to avoid duplication, harassment, delay or needless expenditure of costs.

Absent objection of a party or a form of order submitted on consent, either of which must be set forth in a proposed discovery plan submitted pursuant to Federal Rule of Civil Procedure 26(f)(2), a scheduling order entered pursuant to this subsection on or after September 30, 2016 shall be deemed to incorporate an order pursuant to Federal Rule of Evidence 502(d) that:

(i) The production of materials, inadvertent or otherwise, shall not be deemed a waiver of attorney-client privilege or work product protection in this civil action or in any other federal or State proceeding.

(ii) Nothing in (i) above shall limit the right of a party or subpoenaed nonparty to conduct a reasonable review of materials for relevance or otherwise in response to a discovery request or requests.

(2) (deleted by order of 9/23/97)

(3) The Magistrate Judge shall advise each party of the provisions of L.Civ.R. 73.1(a).

(4) In a civil action arising under 18 U.S.C. §§1961-1968, the Judge or Magistrate Judge may require a RICO case statement to be filed and served in the form set forth in Appendix O.

(c) Initial Conferences -- L.Civ.R. 201.1 Arbitration Cases

At the initial conference in cases assigned to arbitration pursuant to L.Civ.R. 201.1(c) the Magistrate Judge shall enter a scheduling order as contemplated by L.Civ.R. 16.1(b) except that no pretrial date shall be set. Only an initial conference shall be conducted prior to a demand for trial de novo pursuant to L.Civ.R. 201.1(g), except that the Magistrate Judge may conduct one or more additional conferences if a new party or claim is added, or an unanticipated event occurs affecting the schedule set at the initial conference.

(d) (deleted by order of 9/23/97)

(e) Trial Briefs

Trial briefs shall be served upon counsel and delivered to the Court as directed in the pretrial order or otherwise.

(f) Conference to Resolve Case Management Disputes

(1) Counsel shall confer to resolve any case management dispute. Any such dispute not resolved shall be presented by telephone conference call or letter to the Magistrate Judge. This presentation shall precede any formal motion.

(2) Cases in which a party appears pro se shall not be subject to L.Civ.R. 16.1(f)(1) unless the Magistrate Judge so directs. In such cases case management disputes shall be presented by formal motion consistent with L.Civ.R. 16.1(g).

(g) Case Management -- Motions

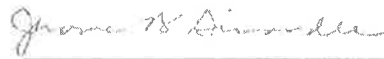
(1) Case management motions must be accompanied by an affidavit or other document complying with 28 U.S.C. § 1746 certifying that the moving party has conferred with the opposing party in a good faith effort to resolve by agreement the issues raised by the motion without the intervention of the Court and that the parties have been unable to reach agreement. The affidavit or other document complying with 28 U.S.C. § 1746 shall set forth the date and method of communication used in attempting to reach agreement.

(2) L.Civ.R. 7.1 shall apply to case management motions, except that no reply papers shall be allowed except with the permission of the Magistrate Judge. Unless oral argument is to be heard under L.Civ.R. 16.1(g)(3), the Magistrate Judge may decide the motion on the basis of the papers received when the deadline for submitting the opposition has expired.

(3) No oral argument shall be heard except as permitted expressly by the Magistrate Judge assigned to hear the motion. In the event oral argument is required, the parties shall be notified by the Court. Oral argument may be conducted in open court or by telephone conference, at the discretion of the Magistrate Judge. Any party who believes that a case management motion requires oral argument shall request it in the notice of motion or in response to the notice of motion, and so notify the Court in writing at the time the motion or opposition thereto is filed.

It is FURTHER ORDERED these amendments are effective this date.

FOR THE COURT:



JEROME B. SIMANDLE
Chief Judge

Civ. RULE 16.1 PRETRIAL CONFERENCES; SCHEDULING; CASE MANAGEMENT

(a) Scheduling Conferences – Generally

- (1) Conferences pursuant to Fed. R. Civ. P. 16 shall be conducted, in the first instance, by the Magistrate Judge, unless the Judge otherwise directs. The initial conference shall be scheduled within 60 days of filing of an initial answer, unless deferred by the Magistrate Judge due to the pendency of a dispositive or other motion.
- (2) The Magistrate Judge may conduct such other conferences as are consistent with the circumstances of the particular case and this Rule and may revise any prior scheduling order for good cause.
- (3) At each conference each party not appearing pro se shall be represented by an attorney who shall have full authority to bind that party in all pretrial matters.
- (4) The Magistrate Judge may, at any time he or she deems appropriate or at the request of a party, conduct a settlement conference. At each such conference attorneys shall ensure that parties are available, either in person or by telephone, and as the Magistrate Judge directs, except that a governmental party may be represented by a knowledgeable delegate.
- (5) Conferences shall not be conducted in those civil cases described in L.Civ.R. 72.1(a)(3)(C) unless the Magistrate Judge so directs.

(b) Scheduling and Case Management Orders

- (1) At or after the initial conference, the Magistrate Judge shall, after consultation with counsel, enter a scheduling order which may include, but need not be limited to, the following:
 - (A) dates by which parties must move to amend pleadings or add new parties;
 - (B) dates for submission of experts' reports;
 - (C) dates for completion of fact and expert discovery;
 - (D) dates for filing of dispositive motions after due consideration whether such motions may be brought at an early stage of proceedings (i.e., before completion of fact discovery or submission of experts' reports);
 - (E) a pretrial conference date;
 - (F) any designation of the case for arbitration, mediation, appointment of a special master or other special procedure; and
 - (G) limitations on the scope of preservation, as well as on the scope, method or order of discovery as may be warranted by the circumstances of the particular case to avoid duplication, harassment, delay or needless expenditure of costs.

Absent objection of a party or a form of order submitted on consent, wither of which must be set forth in a proposed discovery plan submitted pursuant to Federal Rule of Civil Procedure 26(0)(2), a scheduling order entered pursuant to this subsection on or after September 30, 2016 shall be deemed to incorporate an order pursuant to Federal Rule of Evidence 502(d) that:

(i) The production of materials, inadvertent or otherwise, shall not be deemed a waiver of attorney-client privilege or work product protection in this civil action or in any other federal or State proceeding.

(ii) Nothing in (i) above shall limit the right of a party or subpoenaed nonparty to conduct a reasonable review of materials for relevance or otherwise in response to a discovery request or requests

(2)(deleted by order of 9/23/97)

- (3) The Magistrate Judge shall advise each party of the provisions of L.Civ.R. 73.1(a).
- (4) In a civil action arising under 18 U.S.C. §§1961-1968, the Judge or Magistrate Judge may require a RICO case statement to be filed and served in the form set forth in Appendix 0.

(c) Initial Conferences -- L.Civ.R. 201.1 Arbitration Cases

At the initial conference in cases assigned to arbitration pursuant to L.Civ.R. 201.1(c) the Magistrate Judge shall enter a scheduling order as contemplated by L.Civ.R. 16.1(b) except that no pretrial date shall be set. Only an initial conference shall be conducted prior to a demand for trial *de novo* pursuant to L.Civ.R. 201.1(g), except that the Magistrate Judge may conduct one or more additional conferences if a new party or claim is added, or an unanticipated event occurs affecting the schedule set at the initial conference.

(a) (deleted by order of 9/23/97)

(e) Trial Briefs

Trial briefs shall be served upon counsel and delivered to the Court as directed in the pretrial order or otherwise.

(f) Conference to Resolve Case Management Disputes

(1) Counsel shall confer to resolve any case management dispute. Any such dispute not resolved shall be presented by telephone conference call or letter to the Magistrate Judge. This presentation shall precede any formal motion.

(2) Cases in which a party appears *pro se* shall not be subject to L.Civ.R. 16.1(0)(1) unless the Magistrate Judge so directs. In such cases case management disputes shall be presented by formal motion consistent with L.Civ.R. 16.1(g).

(g) Case Management -- Motions

(3) Case management motions must be accompanied by an affidavit or other document complying with 28 U.S.C. § 1746 certifying that the moving party has conferred with the opposing party in a good faith effort to resolve by agreement the issues raised by the motion without the intervention of the Court and that the parties have been unable to reach agreement. The affidavit or other document complying with 28 U.S.C. § 1746 shall set forth the date and method of communication used in attempting to reach agreement.

(4) L.Civ.R. 7.1 shall apply to case management motions, except that no reply papers shall be allowed except with the permission of the Magistrate Judge. Unless oral argument is to be heard under L.Civ.R.16.1(g)(3), the Magistrate Judge may decide the motion on the basis of the papers received when the deadline for submitting the opposition has expired.

(5) No oral argument shall be heard except as permitted expressly by the Magistrate Judge assigned to hear the motion. In the event oral argument is required, the parties shall be notified by the Court. Oral argument may be conducted in open court or by telephone conference, at the discretion of the Magistrate Judge. Any party who believes that a case management motion requires oral argument shall request it in the notice of motion or in response to the notice of motion, and so notify the Court in writing at the time the motion or opposition thereto is filed.

Amended: September 23, 1997, June 19, 2013, September 30, 2016

Source: L.Civ.R. 16.1(a) - G.R. 15.A.; L.Civ.R. 16.1(b) - G.R. 15.B.3-6; L.Civ.R. 16.1(c) - G.R. 15.C.; L.Civ.R. 16.1(d) - G.R. 15.D.; L.Civ.R. 16.1(e) - G.R. 27.C.; L.Civ.R. 16.1(f) - G.R. 15.E.2-3; L.Civ.R. 16.1(g) - G.R. 15.F.1, 3-4.

EXHIBIT 3

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Plaintiff(s)	:	Civil Action No.
v.	:	Hon.
Defendant(s)	:	JOINT PROPOSED DISCOVERY PLAN¹

1. Set forth the name of each attorney appearing, the firm name, address and telephone number and facsimile number of each, designating the party represented.
2. Set forth a brief description of the case, including the causes of action and defenses asserted.
3. Have settlement discussions taken place? Yes _____ No _____
 - (a) What was plaintiff's last demand?
 - (1) Monetary demand: \$ _____
 - (2) Non-monetary demand: _____
 - (b) What was defendant's last offer?
 - (1) Monetary offer: \$ _____
 - (2) Non-monetary offer: _____
4. The parties [have _____ have not _____] met pursuant to Fed. R. Civ. P. 26(f):

¹A copy of this form can be located at:
<http://www.njd.uscourts.gov/forms/R16DiscoveryPlanCamONLY.pdf>

5. The parties [have _____ have not _____] exchanged the information required by Fed. R. Civ. P. 26(a)(1). If not, state the reason therefor.
6. Explain any problems in connection with completing the disclosures required by Fed R. Civ. P. 26(a)(1)
7. The parties [have _____ have not _____] conducted discovery other than the above disclosures. If so, describe.
8. Proposed joint discovery plan:
 - (a) Discovery is needed on the following subjects:
 - (b) Discovery [should _____ should not _____] be conducted in phases or be limited to particular issues. Explain.
 - (c) Proposed schedule:
 - (1) Fed. R. Civ. P. 26 Disclosures _____.
 - (2) E-Discovery conference pursuant to L. Civ. R. 26.1(d) _____.
 - (3) Service of initial written discovery _____.
 - (4) Maximum of _____ Interrogatories by each party to each other party.
 - (5) Maximum of _____ depositions to be taken by each party.
 - (6) Motions to amend or to add parties to be filed by _____.
 - (7) Factual discovery to be completed by _____.
 - (8) Plaintiff's expert report due on _____.
 - (9) Defendant's expert report due on _____.
 - (10) Expert depositions to be completed by _____.
 - (11) Dispositive motions to be served within _____ days of completion of discovery.
 - (d) Set forth any special discovery mechanism or procedure requested.

(e) A pretrial conference may take place on _____.

(f) Trial date: _____ (_____ Jury Trial; _____ Non-Jury Trial).

9. Do you anticipate any special discovery needs (i.e., videotape/telephone depositions, problems with out-of-state witnesses or documents, etc)? Yes _____ No _____.
If so, please explain.

10. Do you anticipate any issues about disclosure or discovery of electronically stored information, including the form or forms in which it should be produced?
Yes _____ No _____.

If so, how will electronic discovery or data be disclosed or produced? Describe any agreements reached by the parties regarding same, including costs of discovery, production, related software, licensing agreements, etc.

11. Do you anticipate any discovery problem(s) not listed above?
Yes _____ No _____.

12. State whether this case is appropriate for voluntary arbitration (pursuant to Local Civil Rule 201.1 or otherwise) or mediation (pursuant to Local Civil Rule 301.1 or otherwise).
If not, explain why and state whether any such procedure may be appropriate at a later time (i.e., after exchange of pretrial disclosures, after completion of depositions, after disposition or dispositive motions, etc.).

13. Is this case appropriate for bifurcation? Yes _____ No _____.

14. An interim status/settlement conference (with clients in attendance), should be held in

_____.

15. We [do do not] consent to the trial being conducted by a Magistrate Judge.

16. Identify any other issues to address at the Rule 16 Scheduling Conference.

Attorney(s) for Plaintiff(s)

Attorney(s) for Defendant(s)

EXHIBIT 4



(<https://www.cornell.edu>)Cornell University Law School (<http://www.lawschool.cornell.edu/>)Search Cornell (<https://www.cornell.edu/search/>)

Federal Rules of Civil Procedure (</rules/frcp>) › TITLE V. DISCLOSURES AND DISCOVERY (/rules/frcp/title_V)

Rule 26. Duty to Disclose; General Provisions Governing Discovery

(a) REQUIRED DISCLOSURES.

(1) *Initial Disclosure.*

(A) *In General.* Except as exempted by Rule 26(a)(1)(B) or as otherwise stipulated or ordered by the court, a party must, without awaiting a discovery request, provide to the other parties:

(i) the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;

(ii) a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment;

(iii) a computation of each category of damages claimed by the disclosing party—who must also make available for inspection and copying as under Rule 34 (/rules/frcp/rule_34) the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered; and

(iv) for inspection and copying as under Rule 34 (/rules/frcp/rule_34), any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

(B) *Proceedings Exempt from Initial Disclosure.* The following proceedings are exempt from initial disclosure:

(i) an action for review on an administrative record;

(ii) a forfeiture action in rem arising from a federal statute;

(iii) a petition for habeas corpus or any other proceeding to challenge a criminal conviction or sentence;

(iv) an action brought without an attorney by a person in the custody of the United States, a state, or a state subdivision;

(v) an action to enforce or quash an administrative summons or subpoena;

(vi) an action by the United States to recover benefit payments;

(vii) an action by the United States to collect on a student loan guaranteed by the United States;

(viii) a proceeding ancillary to a proceeding in another court; and

(ix) an action to enforce an arbitration award.

(C) *Time for Initial Disclosures—In General.* A party must make the initial disclosures at or within 14 days after the parties' Rule 26(f) conference unless a different time is set by stipulation or court order, or unless a party objects during the conference that initial disclosures are not appropriate in this action and states the objection in the proposed discovery plan. In ruling on the objection, the court must determine what disclosures, if any, are to be made and must set the time for disclosure.

(D) *Time for Initial Disclosures—For Parties Served or Joined Later.* A party that is first served or otherwise joined after the Rule 26(f) conference must make the initial disclosures within 30 days after being served or joined, unless a different time is set by stipulation or court order.

(E) *Basis for Initial Disclosure; Unacceptable Excuses.* A party must make its initial disclosures based on the information then reasonably available to it. A party is not excused from making its disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures.

(2) *Disclosure of Expert Testimony.*

(A) *In General.* In addition to the disclosures required by Rule 26(a)(1), a party must disclose to the other parties the identity of any witness it may use at trial to present evidence under Federal Rule of Evidence 702 ([/jureeka/index.php?doc=FRE&rule=702](#)), 703 ([/jureeka/index.php?doc=FRE&rule=703](#)), or 705 ([/jureeka/index.php?doc=FRE&rule=705](#)).

(B) *Witnesses Who Must Provide a Written Report.* Unless otherwise stipulated or ordered by the court, this disclosure must be accompanied by a written report—prepared and signed by the witness—if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony. The report must contain:

- (i) a complete statement of all opinions the witness will express and the basis and reasons for them;
- (ii) the facts or data considered by the witness in forming them;
- (iii) any exhibits that will be used to summarize or support them;
- (iv) the witness's qualifications, including a list of all publications authored in the previous 10 years;
- (v) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition; and
- (vi) a statement of the compensation to be paid for the study and testimony in the case.

(C) *Witnesses Who Do Not Provide a Written Report.* Unless otherwise stipulated or ordered by the court, if the witness is not required to provide a written report, this disclosure must state:

- (i) the subject matter on which the witness is expected to present evidence under Federal Rule of Evidence 702 ([/jureeka/index.php?doc=FRE&rule=702](#)), 703 ([/jureeka/index.php?doc=FRE&rule=703](#)), or 705 ([/jureeka/index.php?doc=FRE&rule=705](#)); and
- (ii) a summary of the facts and opinions to which the witness is expected to testify.

(D) *Time to Disclose Expert Testimony.* A party must make these disclosures at the times and in the sequence that the court orders. Absent a stipulation or a court order, the disclosures must be made:

- (i) at least 90 days before the date set for trial or for the case to be ready for trial; or
- (ii) if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under Rule 26(a)(2)(B) or (C), within 30 days after the other party's disclosure.

(E) *Supplementing the Disclosure.* The parties must supplement these disclosures when required under Rule 26(e).

(3) *Pretrial Disclosures.*

(A) *In General.* In addition to the disclosures required by Rule 26(a)(1) and (2), a party must provide to the other parties and promptly file the following information about the evidence that it may present at trial other than solely for impeachment:

(i) the name and, if not previously provided, the address and telephone number of each witness—separately identifying those the party expects to present and those it may call if the need arises;

(ii) the designation of those witnesses whose testimony the party expects to present by deposition and, if not taken stenographically, a transcript of the pertinent parts of the deposition; and

(iii) an identification of each document or other exhibit, including summaries of other evidence—separately identifying those items the party expects to offer and those it may offer if the need arises.

(B) *Time for Pretrial Disclosures; Objections.* Unless the court orders otherwise, these disclosures must be made at least 30 days before trial. Within 14 days after they are made, unless the court sets a different time, a party may serve and promptly file a list of the following objections: any objections to the use under Rule 32 (a) (/rules/frcp/rule_32#rule_32_a) of a deposition designated by another party under Rule 26(a)(3)(A)(ii); and any objection, together with the grounds for it, that may be made to the admissibility of materials identified under Rule 26(a)(3)(A)(iii). An objection not so made—except for one under Federal Rule of Evidence 402 (</jureeka/index.php?doc=FRE&rule=402>) or 403 (</jureeka/index.php?doc=FRE&rule=403>)—is waived unless excused by the court for good cause.

(4) *Form of Disclosures.* Unless the court orders otherwise, all disclosures under Rule 26(a) must be in writing, signed, and served.

(b) DISCOVERY SCOPE AND LIMITS.

(1) *Scope in General.* Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable..

(2) *Limitations on Frequency and Extent.*

(A) *When Permitted.* By order, the court may alter the limits in these rules on the number of depositions and interrogatories or on the length of depositions under Rule 30 (/rules/frcp/rule_30). By order or local rule, the court may also limit the number of requests under Rule 36 (/rules/frcp/rule_36).

(B) *Specific Limitations on Electronically Stored Information.* A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the party from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(C) *When Required.* On motion or on its own, the court must limit the frequency or extent of discovery otherwise allowed by these rules or by local rule if it determines that:

(i) the discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive;

(ii) the party seeking discovery has had ample opportunity to obtain the information by discovery in the action; or

(iii) the proposed discovery is outside the scope permitted by Rule 26(b)(1).

(3) *Trial Preparation: Materials.*

(A) *Documents and Tangible Things.* Ordinarily, a party may not discover documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent). But, subject to Rule 26(b)(4), those materials may be discovered if:

(i) they are otherwise discoverable under Rule 26(b)(1); and

(ii) the party shows that it has substantial need for the materials to prepare its case and cannot, without undue hardship, obtain their substantial equivalent by other means.

(B) *Protection Against Disclosure.* If the court orders discovery of those materials, it must protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of a party's attorney or other representative concerning the litigation.

(C) *Previous Statement.* Any party or other person may, on request and without the required showing, obtain the person's own previous statement about the action or its subject matter. If the request is refused, the person may move for a court order, and Rule 37(a)(5) applies to the award of expenses. A previous statement is either:

(i) a written statement that the person has signed or otherwise adopted or approved; or

(ii) a contemporaneous stenographic, mechanical, electrical, or other recording—or a transcription of it—that recites substantially verbatim the person's oral statement.

(4) *Trial Preparation: Experts.*

(A) *Deposition of an Expert Who May Testify.* A party may depose any person who has been identified as an expert whose opinions may be presented at trial. If Rule 26(a)(2)(B) requires a report from the expert, the deposition may be conducted only after the report is provided.

(B) *Trial-Preparation Protection for Draft Reports or Disclosures.* Rules 26(b)(3)(A) and (B) protect drafts of any report or disclosure required under Rule 26(a)(2), regardless of the form in which the draft is recorded.

(C) *Trial-Preparation Protection for Communications Between a Party's Attorney and Expert Witnesses.* Rules 26(b)(3)(A) and (B) protect communications between the party's attorney and any witness required to provide a report under Rule 26(a)(2)(B), regardless of the form of the communications, except to the extent that the communications:

(i) relate to compensation for the expert's study or testimony;

(ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or

(iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

(D) *Expert Employed Only for Trial Preparation.* Ordinarily, a party may not, by interrogatories or deposition, discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or to prepare for trial and who is not expected to be called as a witness at trial. But a party may do so only:

(i) as provided in Rule 35(b) (/rules/frcp/rule_35#rule_35_b); or

(ii) on showing exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.

(E) *Payment.* Unless manifest injustice would result, the court must require that the party seeking

discovery:

(i) pay the expert a reasonable fee for time spent in responding to discovery under Rule 26(b)(4)(A) or (D); and

(ii) for discovery under (D), also pay the other party a fair portion of the fees and expenses it reasonably incurred in obtaining the expert's facts and opinions.

(5) *Claiming Privilege or Protecting Trial-Preparation Materials.*

(A) *Information Withheld.* When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must:

(i) expressly make the claim; and

(ii) describe the nature of the documents, communications, or tangible things not produced or disclosed—and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

(B) *Information Produced.* If information produced in discovery is subject to a claim of privilege or of protection as trial-preparation material, the party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The producing party must preserve the information until the claim is resolved.

(c) PROTECTIVE ORDERS.

(1) *In General.* A party or any person from whom discovery is sought may move for a protective order in the court where the action is pending—or as an alternative on matters relating to a deposition, in the court for the district where the deposition will be taken. The motion must include a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action. The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(A) forbidding the disclosure or discovery;

(B) specifying terms, including time and place or the allocation of expenses, for the disclosure or discovery;

(C) prescribing a discovery method other than the one selected by the party seeking discovery;

(D) forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters;

(E) designating the persons who may be present while the discovery is conducted;

(F) requiring that a deposition be sealed and opened only on court order;

(G) requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way; and

(H) requiring that the parties simultaneously file specified documents or information in sealed envelopes, to be opened as the court directs.

(2) *Ordering Discovery.* If a motion for a protective order is wholly or partly denied, the court may, on just terms, order that any party or person provide or permit discovery.

(3) *Awarding Expenses.* Rule 37(a)(5) (/rules/frcp/rule_37#rule_37_a_5) applies to the award of expenses.

(d) TIMING AND SEQUENCE OF DISCOVERY.

(1) *Timing.* A party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B), or when authorized by these rules, by stipulation, or by court order.

(2) Early Rule 34 Requests.

Time to Deliver. More than 21 days after the summons and complaint are served on a party, a request under Rule 34 may be delivered:

(i) to that party by any other party, and

(ii) by that party to any plaintiff or to any other party that has been served.

(B) *When Considered Served.* The request is considered to have been served at the first Rule 26(f) conference.

(3) *Sequence.* Unless the parties stipulate or the court orders otherwise for the parties' and witnesses' convenience and in the interests of justice:

(A) methods of discovery may be used in any sequence; and

(B) discovery by one party does not require any other party to delay its discovery.

(e) SUPPLEMENTING DISCLOSURES AND RESPONSES.

(1) *In General.* A party who has made a disclosure under Rule 26(a)—or who has responded to an interrogatory, request for production, or request for admission—must supplement or correct its disclosure or response:

(A) in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing; or

(B) as ordered by the court.

(2) *Expert Witness.* For an expert whose report must be disclosed under Rule 26(a)(2)(B), the party's duty to supplement extends both to information included in the report and to information given during the expert's deposition. Any additions or changes to this information must be disclosed by the time the party's pretrial disclosures under Rule 26(a)(3) are due.

(f) CONFERENCE OF THE PARTIES; PLANNING FOR DISCOVERY.

(1) *Conference Timing.* Except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B) or when the court orders otherwise, the parties must confer as soon as practicable—and in any event at least 21 days before a scheduling conference is to be held or a scheduling order is due under Rule 16(b)

(/rules/frcp/rule_16#rule_16_b).

(2) *Conference Content; Parties' Responsibilities.* In conferring, the parties must consider the nature and basis of their claims and defenses and the possibilities for promptly settling or resolving the case; make or arrange for the disclosures required by Rule 26(a)(1); discuss any issues about preserving discoverable information; and develop a proposed discovery plan. The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for arranging the conference, for attempting in good faith to agree on the proposed discovery plan, and for submitting to the court within 14 days after the conference a written report outlining the plan. The court may order the parties or attorneys to attend the conference in person.

(3) *Discovery Plan.* A discovery plan must state the parties' views and proposals on:

(A) what changes should be made in the timing, form, or requirement for disclosures under Rule 26(a), including a statement of when initial disclosures were made or will be made;

(B) the subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused on particular issues;

(C) any issues about disclosure, discovery, or preservation of electronically stored information, including the form or forms in which it should be produced;

(D) any issues about claims of privilege or of protection as trial-preparation materials, including—if the parties agree on a procedure to assert these claims after production—whether to ask the court to include their agreement in an order under Federal Rule of Evidence 502 (/rules/fre/rule_502);

(E) what changes should be made in the limitations on discovery imposed under these rules or by local rule, and what other limitations should be imposed; and

(F) any other orders that the court should issue under Rule 26(c) or under Rule 16(b) (/rules/frcp/rule_16#rule_16_b) and (c) (/rules/frcp/rule_16#rule_16_c).

(4) *Expedited Schedule*. If necessary to comply with its expedited schedule for Rule 16(b) (/rules/frcp/rule_16#rule_16_b) conferences, a court may by local rule:

(A) require the parties' conference to occur less than 21 days before the scheduling conference is held or a scheduling order is due under Rule 16(b) (/rules/frcp/rule_16#rule_16_b); and

(B) require the written report outlining the discovery plan to be filed less than 14 days after the parties' conference, or excuse the parties from submitting a written report and permit them to report orally on their discovery plan at the Rule 16(b) (/rules/frcp/rule_16#rule_16_b) conference.

(g) SIGNING DISCLOSURES AND DISCOVERY REQUESTS, RESPONSES, AND OBJECTIONS.

(1) *Signature Required; Effect of Signature*. Every disclosure under Rule 26(a)(1) or (a)(3) and every discovery request, response, or objection must be signed by at least one attorney of record in the attorney's own name—or by the party personally, if unrepresented—and must state the signer's address, e-mail address, and telephone number. By signing, an attorney or party certifies that to the best of the person's knowledge, information, and belief formed after a reasonable inquiry:

(A) with respect to a disclosure, it is complete and correct as of the time it is made; and

(B) with respect to a discovery request, response, or objection, it is:

(i) consistent with these rules and warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law, or for establishing new law;

(ii) not interposed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and

(iii) neither unreasonable nor unduly burdensome or expensive, considering the needs of the case, prior discovery in the case, the amount in controversy, and the importance of the issues at stake in the action.

(2) *Failure to Sign*. Other parties have no duty to act on an unsigned disclosure, request, response, or objection until it is signed, and the court must strike it unless a signature is promptly supplied after the omission is called to the attorney's or party's attention.

(3) *Sanction for Improper Certification*. If a certification violates this rule without substantial justification, the court, on motion or on its own, must impose an appropriate sanction on the signer, the party on whose behalf the signer was acting, or both. The sanction may include an order to pay the reasonable expenses, including attorney's fees, caused by the violation.

NOTES

EXHIBIT 5

- (a) Any changes in timing, form, or requirements of mandatory disclosures under Fed. R. Civ. P. 26(a);
- (b) The date on which mandatory disclosures were or will be made;
- (c) The anticipated scope of discovery, considering the proportionality factors set forth in Federal Rule of Civil Procedure 26(b)(1);
- (d) Whether any party will likely request or produce computer-based or other digital information, and if so, the parties' discussions of the issues listed under the Duty to Meet and Confer in L. Civ. R. 26.1(d)(3) below;
- (e) The date by which discovery should be completed;
- (f) Any needed changes in limitations imposed by the Federal Rules of Civil Procedure, local rule, or standing order;
- (g) Any orders, such as data preservation orders, protective orders, or orders reflecting agreements under Federal Rule of Evidence 502, which should be entered;
- (h) Proposed deadline for joining other parties and amending the pleadings;
- (i) Proposed dates for filing motions and for trial;
- (j) Whether the case is one which might be resolved in whole or in part by voluntary arbitration (pursuant to L. Civ. R. 201.1 or otherwise), mediation (pursuant to L. Civ. R. 301.1 or otherwise), appointment of a special master or other special procedure.

The parties shall make their initial disclosures under Fed. R. Civ. P. 26(a)(1) within 14 days after the initial meeting of the parties, unless otherwise stipulated or directed by the Court. Such discovery plans and disclosures shall not be filed with the Clerk.

(c) Discovery Materials

- (1) Initial and expert disclosure materials under Fed.R.Civ.P.26(a)(1) and 26(a)(2), transcripts of depositions, interrogatories and answers thereto, requests for production of documents or to permit entry onto land and responses thereto, and requests for admissions and answers thereto shall not be filed until used in a proceeding or upon order of the Court. However, all such papers must be served on other counsel or parties entitled thereto under Fed.R.Civ.P.5 and 26(a)(4).
- (2) Pretrial disclosure materials under Fed.R.Civ.P.26(a)(3) shall be incorporated by reference into the order entered after any final pretrial conference under Fed.R.Civ.P.16(d).
- (3) In those instances when such discovery materials are properly filed, the Clerk shall place them in the open case file unless otherwise ordered.

(4) The party obtaining any material through discovery is responsible for its preservation and delivery to the Court if needed or ordered. It shall be the duty of the party taking a deposition to make certain that the officer before whom it was taken has delivered it to that party for preservation and to the Court as required by Fed. R. Civ. P. 30(f)(1) if needed or so ordered.

(d) Discovery of Digital Information Including Computer Based Information

(1) Duty to Investigate and Disclose. Prior to a Fed. R. Civ. P. 26(f) conference, counsel shall review with the client the client's information management systems including computer based and other digital systems, in order to understand how information is stored and how it can be retrieved. To determine what must be disclosed pursuant to Fed. R. Civ. P. 26(a) (1), counsel shall further review with the client the client's information files, including currently maintained computer files as well as historical, archival, back up, and legacy computer files, whether in current or historic media or formats, such as digital evidence which may be used to support claims or defenses. Counsel shall also identify a person or persons with knowledge about the client's information management systems, including computer based and other digital systems, with the ability to facilitate, through counsel, reasonably anticipated discovery.

(2) Duty to Notify. A party seeking discovery of computer based or other digital information shall notify the opposing party as soon as possible, but no later than the Fed. R. Civ. P. 26(f) conference, and identify as clearly as possible the categories of information which may be sought. A party may supplement its request for computer based and other digital information as soon as possible upon receipt of new information relating to digital evidence.

(3) Duty to Meet and Confer. During the Fed. R. Civ. P. 26(f) conference, the parties shall confer and attempt to agree on computer based and other digital discovery matters, including the following:

(a) Preservation and production of digital information; procedures to deal with inadvertent production of privileged information; whether restoration of deleted digital information may be necessary; whether back up or historic legacy data is within the scope of discovery; and the media, format, and procedures for producing digital information;

(b) Who will bear the costs of preservation, production, and restoration (if necessary) of any digital discovery.

Amended: March 14, 2001, October 6, 2003, February 24, 2005, March 1, 2010

It is FURTHER ORDERED these amendments are effective this date.

FOR THE COURT:



JEROME B. SIMANDLE
Chief Judge

Civ. RULE 26.1 DISCOVERY

(a) Discovery - Generally

All parties shall conduct discovery expeditiously and diligently. In addition, all discovery conducted shall be proportional to the needs of the case, considering the factors set forth in Federal Rule of Civil Procedure 26(b)(1).

(b) Meeting of Parties, Discovery Plans, and Initial Disclosures

(1) The requirements currently codified in Fed. R. Civ. P. 26(a) and (f) pertaining to required disclosures, meetings of parties, and submission of discovery plans, shall apply to all civil cases, except those described in L.Civ.R. 72.1(a)(3)(C) in which scheduling conferences are not normally held, unless the judicial officer otherwise directs. The judicial officer may modify or suspend these requirements in a case for good cause.

(2) The initial meeting of parties as required in Fed. R. Civ. P. 26(f) shall be convened at least 21 days before the initial scheduling conference, and the proposed discovery plan under Fed. R. Civ. P. 26(f)(3) shall be generated at that meeting and delivered to the Magistrate Judge within 14 days after the meeting of parties. The parties shall submit their Fed. R. Civ. P. 26(f) discovery plan containing the parties' views and proposals regarding the following:

(a) Any changes in timing, form, or requirements of mandatory disclosures under Fed. R. Civ. P. 26(a);

(b) The date on which mandatory disclosures were or will be made;

(c) The anticipated scope of discovery, considering the proportionality factors set forth in Federal Rule of Civil Procedure 26(b)(1);

(d) Whether any party will likely request or produce computer-based or other digital information, and if so, the parties' discussions of the issues listed under the Duty to Meet and Confer in L. Civ. R. 26.1(d)(3) below;

(e) The date by which discovery should be completed;

(f) Any needed changes in limitations imposed by the Federal Rules of Civil Procedure, local rule, or standing order;

(g) Any orders, such as data preservation orders, protective orders, or orders reflecting agreements under Federal Rule of Evidence 502, which should be entered;

(h) Proposed deadline for joining other parties and amending the pleadings;

(i) Proposed dates for filing motions and for trial;

(j) Whether the case is one which might be resolved in whole or in part by voluntary arbitration (pursuant to L. Civ. R. 201.1 or otherwise), mediation (pursuant to L. Civ. R. 301.1 or otherwise), appointment of a special master or other special procedure.

The parties shall make their initial disclosures under Fed. R. Civ. P. 26(a)(1) within 14 days after the initial meeting of the parties, unless otherwise stipulated or directed by the Court. Such discovery plans and disclosures shall not be filed with the Clerk.

(c) Discovery Materials

(1) Initial and expert disclosure materials under Fed.R.Civ.P.26(a)(1) and 26(a)(2), transcripts of depositions, interrogatories and answers thereto, requests for production of documents or to permit entry onto land and responses thereto, and requests for admissions and answers thereto shall not be filed until used in a proceeding or upon order of the Court. However, all such papers must be served on other counsel or parties entitled thereto under Fed.R.Civ.P.5 and 26(a)(4).

(2) Pretrial disclosure materials under Fed.R.Civ.P.26(a)(3) shall be incorporated by reference into the order entered after any final pretrial conference under Fed.R.Civ.P.16(d).

(3) In those instances when such discovery materials are properly filed, the Clerk shall place them in the open case file unless otherwise ordered.

(4) The party obtaining any material through discovery is responsible for its preservation and delivery to the Court if needed or ordered. It shall be the duty of the party taking a deposition to make certain that the officer before whom it was taken has delivered it to that party for preservation and to the Court as required by Fed. R. Civ. P. 30(f)(1) if needed or so ordered.

(d) Discovery of Digital Information Including Computer-Based Information

(5) Duty to Investigate and Disclose. Prior to a Fed. R. Civ. P. 26(f) conference, counsel shall review with the client the client's information management systems including computer-based and other digital systems, in order to understand how information is stored and how it can be retrieved. To determine what must be disclosed pursuant to Fed. R. Civ. P. 26(a) (1), counsel shall further review with the client the client's information files, including currently maintained computer files as well as historical, archival, back-up, and legacy computer files, whether in current or historic media or formats, such as digital evidence which may be used to support claims or defenses. Counsel shall also identify a person or persons with knowledge about the client's information management systems, including computer-based and other digital systems, with the ability to facilitate, through counsel, reasonably anticipated discovery.

(6) Duty to Notify. A party seeking discovery of computer-based or other digital information shall notify the opposing party as soon as possible, but no later than the Fed. R. Civ. P. 26(f) conference, and identify as clearly as possible the categories of information which may be sought. A party may supplement its request for computer-based and other digital information as soon as possible upon receipt of new information relating to digital evidence.

(7) Duty to Meet and Confer. During the Fed. R. Civ. P. 26(f) conference, the parties shall confer and attempt to agree on computer-based and other digital discovery matters, including the following:

(a) Preservation and production of digital information; procedures to deal with inadvertent production of privileged information; whether restoration of deleted digital information may be necessary; whether back up or historic legacy data is within the scope of discovery; and the media, format, and procedures for producing digital information;

(b) Who will bear the costs of preservation, production, and restoration (if necessary) of any digital discovery.

Amended: March 14, 2001, October 6, 2003, September 30, 2016

Source: L.Civ.R. 26.1(a) - G.R. 15.E.1; L.Civ.R. 26.1(b) - G.R. 15.B.1-2; L.Civ.R. 26.1(c) - G.R. 15.G.

EXHIBIT 6



(<https://www.cornell.edu>)Cornell University Law School (<http://www.lawschool.cornell.edu/>)Search Cornell (<https://www.cornell.edu/search/>)

Federal Rules of Civil Procedure (</rules/frcp>) › TITLE V. DISCLOSURES AND DISCOVERY (/rules/frcp/title_V)

Rule 34. Producing Documents, Electronically Stored Information, and Tangible Things, or Entering onto Land, for Inspection and Other Purposes

(a) IN GENERAL. A party may serve on any other party a request within the scope of Rule 26(b) (/rules/frcp/rule_26#rule_26_b):

(1) to produce and permit the requesting party or its representative to inspect, copy, test, or sample the following items in the responding party's possession, custody, or control:

(A) any designated documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form; or

(B) any designated tangible things; or

(2) to permit entry onto designated land or other property possessed or controlled by the responding party, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

(b) PROCEDURE.

(1) *Contents of the Request.* The request:

(A) must describe with reasonable particularity each item or category of items to be inspected;

(B) must specify a reasonable time, place, and manner for the inspection and for performing the related acts; and

(C) may specify the form or forms in which electronically stored information is to be produced.

(2) *Responses and Objections.*

(A) *Time to Respond.* The party to whom the request is directed must respond in writing within 30 days after being served or — if the request was delivered under Rule 26(d)(2) — within 30 days after the parties' first Rule 26(f) conference. A shorter or longer time may be stipulated to under Rule 29 (/rules/frcp/rule_29) or be ordered by the court.

(B) *Responding to Each Item.* For each item or category, the response must either state that inspection and related activities will be permitted as requested or state with specificity the grounds for objecting to the request, including the reasons. The responding party may state that it will produce copies of documents or of

electronically stored information instead of permitting inspection. The production must then be completed no later than the time for inspection specified in the request or another reasonable time specified in the response.

(C) *Objections.* An objection must state whether any responsive materials are being withheld on the basis of that objection. An objection to part of a request must specify the part and permit inspection of the rest.

(D) *Responding to a Request for Production of Electronically Stored Information.* The response may state an objection to a requested form for producing electronically stored information. If the responding party objects to a requested form—or if no form was specified in the request—the party must state the form or forms it intends to use.

(E) *Producing the Documents or Electronically Stored Information.* Unless otherwise stipulated or ordered by the court, these procedures apply to producing documents or electronically stored information:

(i) A party must produce documents as they are kept in the usual course of business or must organize and label them to correspond to the categories in the request;

(ii) If a request does not specify a form for producing electronically stored information, a party must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms; and

(iii) A party need not produce the same electronically stored information in more than one form.

(c) NONPARTIES. As provided in Rule 45 (/rules/frcp/rule_45), a nonparty may be compelled to produce documents and tangible things or to permit an inspection.

EXHIBIT 7



(<https://www.cornell.edu>)Cornell University Law School (<http://www.lawschool.cornell.edu/>)Search Cornell (<https://www.cornell.edu/search/>)

Federal Rules of Civil Procedure (</rules/frcp>) › TITLE V. DISCLOSURES AND DISCOVERY
(/rules/frcp/title_V)

Rule 37. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions

(a) MOTION FOR AN ORDER COMPELLING DISCLOSURE OR DISCOVERY.

(1) *In General.* On notice to other parties and all affected persons, a party may move for an order compelling disclosure or discovery. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.

(2) *Appropriate Court.* A motion for an order to a party must be made in the court where the action is pending. A motion for an order to a nonparty must be made in the court where the discovery is or will be taken.

(3) *Specific Motions.*

(A) *To Compel Disclosure.* If a party fails to make a disclosure required by Rule 26(a) (/rules/frcp/rule_26#rule_26_a), any other party may move to compel disclosure and for appropriate sanctions.

(B) *To Compel a Discovery Response.* A party seeking discovery may move for an order compelling an answer, designation, production, or inspection. This motion may be made if:

(i) a deponent fails to answer a question asked under Rule 30 (/rules/frcp/rule_30) or 31 (/rules/frcp/rule_31);

(ii) a corporation or other entity fails to make a designation under Rule 30(b)(6) (/rules/frcp/rule_30#rule_30_b_6) or 31(a)(4) (/rules/frcp/rule_31#rule_31_a_4);

(iii) a party fails to answer an interrogatory submitted under Rule 33 (/rules/frcp/rule_33); or

(iv) a party fails to produce documents or fails to respond that inspection will be permitted—or fails to permit inspection—as requested under Rule 34 (/rules/frcp/rule_34).

(C) *Related to a Deposition.* When taking an oral deposition, the party asking a question may complete or adjourn the examination before moving for an order.

(4) *Evasive or Incomplete Disclosure, Answer, or Response.* For purposes of this subdivision (a), an evasive or incomplete disclosure, answer, or response must be treated as a failure to disclose, answer, or respond.

(5) *Payment of Expenses; Protective Orders.*

(A) *If the Motion Is Granted (or Disclosure or Discovery Is Provided After Filing).* If the motion is granted—or if the disclosure or requested discovery is provided after the motion was filed—the court must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees. But the court must not order this payment if:

(i) the movant filed the motion before attempting in good faith to obtain the disclosure or discovery

without court action;

(ii) the opposing party's nondisclosure, response, or objection was substantially justified; or

(iii) other circumstances make an award of expenses unjust.

(B) *If the Motion Is Denied.* If the motion is denied, the court may issue any protective order authorized under Rule 26(c) (/rules/frcp/rule_26#rule_26_c) and must, after giving an opportunity to be heard, require the movant, the attorney filing the motion, or both to pay the party or deponent who opposed the motion its reasonable expenses incurred in opposing the motion, including attorney's fees. But the court must not order this payment if the motion was substantially justified or other circumstances make an award of expenses unjust.

(C) *If the Motion Is Granted in Part and Denied in Part.* If the motion is granted in part and denied in part, the court may issue any protective order authorized under Rule 26(c) (/rules/frcp/rule_26#rule_26_c) and may, after giving an opportunity to be heard, apportion the reasonable expenses for the motion.

(b) FAILURE TO COMPLY WITH A COURT ORDER.

(1) *Sanctions Sought in the District Where the Deposition Is Taken.* If the court where the discovery is taken orders a deponent to be sworn or to answer a question and the deponent fails to obey, the failure may be treated as contempt of court. If a deposition-related motion is transferred to the court where the action is pending, and that court orders a deponent to be sworn or to answer a question and the deponent fails to obey, the failure may be treated as contempt of either the court where the discovery is taken or the court where the action is pending.

(2) *Sanctions Sought in the District Where the Action Is Pending.*

(A) *For Not Obeying a Discovery Order.* If a party or a party's officer, director, or managing agent—or a witness designated under Rule 30(b)(6) (/rules/frcp/rule_30#rule_30_b_6) or 31(a)(4)— (/rules/frcp/rule_31#rule_31_a_4) fails to obey an order to provide or permit discovery, including an order under Rule 26(f) (/rules/frcp/rule_26#rule_26_f), 35 (/rules/frcp/rule_35), or 37(a) (/rules/frcp/rule_37#rule_37_a), the court where the action is pending may issue further just orders. They may include the following:

(i) directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims;

(ii) prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;

(iii) striking pleadings in whole or in part;

(iv) staying further proceedings until the order is obeyed;

(v) dismissing the action or proceeding in whole or in part;

(vi) rendering a default judgment against the disobedient party; or

(vii) treating as contempt of court the failure to obey any order except an order to submit to a physical or mental examination.

(B) *For Not Producing a Person for Examination.* If a party fails to comply with an order under Rule 35(a) (/rules/frcp/rule_35#rule_35_a) requiring it to produce another person for examination, the court may issue any of the orders listed in Rule 37(b)(2)(A)(i) (/rules/frcp/rule_37#rule_37_b_2_A_i)—(vi), unless the disobedient party shows that it cannot produce the other person.

(C) *Payment of Expenses.* Instead of or in addition to the orders above, the court must order the disobedient party, the attorney advising that party, or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.

(c) FAILURE TO DISCLOSE, TO SUPPLEMENT AN EARLIER RESPONSE, OR TO ADMIT.

(1) *Failure to Disclose or Supplement.* If a party fails to provide information or identify a witness as required by Rule 26(a) (/rules/frcp/rule_26#rule_26_a) or (e), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless. In addition to or instead of this sanction, the court, on motion and after giving an opportunity to be heard:

(A) may order payment of the reasonable expenses, including attorney's fees, caused by the failure;

(B) may inform the jury of the party's failure; and

(C) may impose other appropriate sanctions, including any of the orders listed in Rule 37(b)(2)(A)(i) (/rules/frcp/rule_37#rule_37_b_2_A_i)—(vi).

(2) *Failure to Admit.* If a party fails to admit what is requested under Rule 36 (/rules/frcp/rule_36) and if the requesting party later proves a document to be genuine or the matter true, the requesting party may move that the party who failed to admit pay the reasonable expenses, including attorney's fees, incurred in making that proof. The court must so order unless:

(A) the request was held objectionable under Rule 36(a) (/rules/frcp/rule_36#rule_36_a);

(B) the admission sought was of no substantial importance;

(C) the party failing to admit had a reasonable ground to believe that it might prevail on the matter; or

(D) there was other good reason for the failure to admit.

(d) PARTY'S FAILURE TO ATTEND ITS OWN DEPOSITION, SERVE ANSWERS TO INTERROGATORIES, OR RESPOND TO A REQUEST FOR INSPECTION.

(1) *In General.*

(A) *Motion; Grounds for Sanctions.* The court where the action is pending may, on motion, order sanctions if:

(i) a party or a party's officer, director, or managing agent—or a person designated under Rule 30(b)(6) (/rules/frcp/rule_30#rule_30_b_6) or 31(a)(4)— (/rules/frcp/rule_31#rule_31_a_4) fails, after being served with proper notice, to appear for that person's deposition; or

(ii) a party, after being properly served with interrogatories under Rule 33 (/rules/frcp/rule_33) or a request for inspection under Rule 34 (/rules/frcp/rule_34), fails to serve its answers, objections, or written response.

(B) *Certification.* A motion for sanctions for failing to answer or respond must include a certification that the movant has in good faith conferred or attempted to confer with the party failing to act in an effort to obtain the answer or response without court action.

(2) *Unacceptable Excuse for Failing to Act.* A failure described in Rule 37(d)(1)(A) (/rules/frcp/rule_37#rule_37_d_1_A) is not excused on the ground that the discovery sought was objectionable, unless the party failing to act has a pending motion for a protective order under Rule 26(c) (/rules/frcp/rule_26#rule_26_c).

(3) *Types of Sanctions.* Sanctions may include any of the orders listed in Rule 37(b)(2)(A)(i) (/rules/frcp/rule_37#rule_37_b_2_A_i)—(vi). Instead of or in addition to these sanctions, the court must require the party failing to act, the attorney advising that party, or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.

(e) FAILURE TO PRESERVE ELECTRONICALLY STORED INFORMATION. If electronically stored information that should have been preserved in the anticipation or conduct of litigation is lost because a party failed to take reasonable steps to preserve it, and it cannot be restored or replaced through additional discovery, the court:

(1) upon finding prejudice to another party from loss of the information, may order measures no greater than necessary to cure the prejudice; or

(2) only upon finding that the party acted with the intent to deprive another party of the information's use in the litigation may:

(A) presume that the lost information was unfavorable to the party;

(B) instruct the jury that it may or must presume the information was unfavorable to the party; or

(C) dismiss the action or enter a default judgment.

(f) FAILURE TO PARTICIPATE IN FRAMING A DISCOVERY PLAN. If a party or its attorney fails to participate in good faith in developing and submitting a proposed discovery plan as required by Rule 26(f) (/rules/frcp/rule_26#rule_26_f), the court may, after giving an opportunity to be heard, require that party or attorney to pay to any other party the reasonable expenses, including attorney's fees, caused by the failure.

EXHIBIT 8

APPENDIX S. DISCOVERY CONFIDENTIALITY ORDER

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

Plaintiff,

vs.

Defendant.

Civil Action No.: ___ Civ. ____ (XXX)

**DISCOVERY CONFIDENTIALITY
ORDER**

It appearing that discovery in the above-captioned action is likely to involve the disclosure of confidential information, it is ORDERED as follows:

1. Any party to this litigation and any third-party shall have the right to designate as “Confidential” and subject to this Order any information, document, or thing, or portion of any document or thing: (a) that contains trade secrets, competitively sensitive technical, marketing, financial, sales or other confidential business information, or (b) that contains private or confidential personal information, or (c) that contains information received in confidence from third parties, or (d) which the producing party otherwise believes in good faith to be entitled to protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure and Local Civil Rule 5.3. Any party to this litigation or any third party covered by this Order, who produces or discloses any Confidential material, including without limitation any information, document, thing, interrogatory answer, admission, pleading, or testimony, shall mark the same with the foregoing or similar legend: “CONFIDENTIAL” or “CONFIDENTIAL – SUBJECT TO DISCOVERY CONFIDENTIALITY ORDER” (hereinafter “Confidential”).

2. Any party to this litigation and any third-party shall have the right to designate as “Attorneys’ Eyes Only” and subject to this Order any information, document, or thing, or portion of any document or thing that contains highly sensitive business or personal information, the disclosure of which is highly likely to cause significant harm to an individual or to the business or competitive position of the designating party. Any party to this litigation or any third party who is covered by this Order, who produces or discloses any Attorneys’ Eyes Only material, including without limitation any information, document, thing, interrogatory answer, admission, pleading, or testimony, shall mark the same with the foregoing or similar legend: “ATTORNEYS’ EYES ONLY” or “ATTORNEYS’ EYES ONLY – SUBJECT TO DISCOVERY CONFIDENTIALITY ORDER” (hereinafter “Attorneys’ Eyes Only”).

3. All Confidential material shall be used by the receiving party solely for purposes of the prosecution or defense of this action, shall not be used by the receiving party for any business, commercial, competitive, personal or other purpose, and shall not be disclosed by the receiving party to anyone other than those set forth in Paragraph 4, unless and until the restrictions herein are removed either by written agreement of counsel for the parties, or by Order of the Court. It is, however, understood that counsel for a party may give advice and opinions to

his or her client solely relating to the above-captioned action based on his or her evaluation of Confidential material, provided that such advice and opinions shall not reveal the content of such Confidential material except by prior written agreement of counsel for the parties, or by Order of the Court.

4. Confidential material and the contents of Confidential material may be disclosed only to the following individuals under the following conditions:

- a. Outside counsel (herein defined as any attorney at the parties' outside law firms) and relevant in-house counsel for the parties;
- b. Outside experts or consultants retained by outside counsel for purposes of this action, provided they have signed a non-disclosure agreement in the form attached hereto as Exhibit A;
- c. Secretarial, paralegal, clerical, duplicating and data processing personnel of the foregoing;
- d. The Court and court personnel;
- e. Any deponent may be shown or examined on any information, document or thing designated Confidential if it appears that the witness authored or received a copy of it, was involved in the subject matter described therein or is employed by the party who produced the information, document or thing, or if the producing party consents to such disclosure;
- f. Vendors retained by or for the parties to assist in preparing for pretrial discovery, trial and/or hearings including, but not limited to, court reporters, litigation support personnel, jury consultants, individuals to prepare demonstrative and audiovisual aids for use in the courtroom or in depositions or mock jury sessions, as well as their staff, stenographic, and clerical employees whose duties and responsibilities require access to such materials; and
- g. The parties. In the case of parties that are corporations or other business entities, "party" shall mean executives who are required to participate in decisions with reference to this lawsuit.

5. Confidential material shall be used only by individuals permitted access to it under Paragraph 4. Confidential material, copies thereof, and the information contained therein, shall not be disclosed in any manner to any other individual, until and unless (a) outside counsel for the party asserting confidentiality waives the claim of confidentiality, or (b) the Court orders such disclosure.

6. With respect to any depositions that involve a disclosure of Confidential material of a party to this action, such party shall have until thirty (30) days after receipt of the deposition transcript within which to inform all other parties that portions of the transcript are to be designated Confidential, which period may be extended by agreement of the parties. No such deposition transcript shall be disclosed to any individual other than the individuals described in Paragraph 4(a), (b), (c), (d) and (f) above and the deponent during these thirty (30) days, and no individual attending such a deposition shall disclose the contents of the deposition to any individual other than those described in Paragraph 4(a), (b), (c), (d) and (f) above during said thirty (30) days. Upon being informed that certain portions of a deposition are to be designated as Confidential, all parties shall immediately cause each copy of the transcript in its custody or control to be appropriately marked and limit disclosure of that transcript in accordance with Paragraphs 3 and 4.

7. Material produced and marked as Attorneys' Eyes Only may be disclosed only to outside counsel for the receiving party and to such other persons as counsel for the producing party agrees in advance or as Ordered by the Court.

8. If counsel for a party receiving documents or information designated as Confidential or Attorneys' Eyes Only hereunder objects to such designation of any or all of such items, the following procedure shall apply:

(a) Counsel for the objecting party shall serve on the designating party or third party a written objection to such designation, which shall describe with particularity the documents or information in question and shall state the grounds for objection. Counsel for the designating party or third party shall respond in writing to such objection within 14 days, and shall state with particularity the grounds for asserting that the document or information is Confidential or Attorneys' Eyes Only. If no timely written response is made to the objection, the challenged designation will be deemed to be void. If the designating party or nonparty makes a timely response to such objection asserting the propriety of the designation, counsel shall then confer in good faith in an effort to resolve the dispute.

(b) If a dispute as to a Confidential or Attorneys' Eyes Only designation of a document or item of information cannot be resolved by agreement, the proponent of the designation being challenged shall present the dispute to the Court initially by telephone or letter, in accordance with Local Civil Rule 37.1(a)(1), before filing a formal motion for an order regarding the challenged designation. The document or information that is the subject of the filing shall be treated as originally designated pending resolution of the dispute.

9. All requests to seal documents filed with the Court shall comply with Local Civil Rule 5.3.

10. If the need arises during trial or at any Hearing before the Court for any party to disclose Confidential or Attorneys' Eyes Only information, it may do so only after giving notice to the producing party and as directed by the Court.

11. To the extent consistent with applicable law, the inadvertent or unintentional disclosure of Confidential material that should have been designated as such, regardless of whether the information, document or thing was so designated at the time of disclosure, shall not be deemed a waiver in whole or in part of a party's claim of confidentiality, either as to the specific information, document or thing disclosed or as to any other material or information concerning the same or related subject matter. Such inadvertent or unintentional disclosure may be rectified by notifying in writing counsel for all parties to whom the material was disclosed that the material should have been designated Confidential within a reasonable time after disclosure. Such notice shall constitute a designation of the information, document or thing as Confidential under this Discovery Confidentiality Order.

12. When the inadvertent or mistaken disclosure of any information, document or thing protected by privilege or work-product immunity is discovered by the producing party and brought to the attention of the receiving party, the receiving party's treatment of such material shall be in accordance with Federal Rule of Civil Procedure 26(b)(5)(B). Such inadvertent or mistaken disclosure of such information, document or thing shall not by itself constitute a waiver by the producing party of any claims of privilege or work-product immunity. However, nothing herein restricts the right of the receiving party to challenge the producing party's claim of

privilege if appropriate within a reasonable time after receiving notice of the inadvertent or mistaken disclosure.

13. No information that is in the public domain or which is already known by the receiving party through proper means or which is or becomes available to a party from a source other than the party asserting confidentiality, rightfully in possession of such information on a non-confidential basis, shall be deemed or considered to be Confidential material under this Discovery Confidentiality Order.

14. This Discovery Confidentiality Order shall not deprive any party of its right to object to discovery by any other party or on any otherwise permitted ground. This Discovery Confidentiality Order is being entered without prejudice to the right of any party to move the Court for modification or for relief from any of its terms.

15. This Discovery Confidentiality Order shall survive the termination of this action and shall remain in full force and effect unless modified by an Order of this Court or by the written stipulation of the parties filed with the Court.

16. Upon final conclusion of this litigation, each party or other individual subject to the terms hereof shall be under an obligation to assemble and to return to the originating source all originals and unmarked copies of documents and things containing Confidential material and to destroy, should such source so request, all copies of Confidential material that contain and/or constitute attorney work product as well as excerpts, summaries and digests revealing Confidential material; provided, however, that counsel may retain complete copies of all transcripts and pleadings including any exhibits attached thereto for archival purposes, subject to the provisions of this Discovery Confidentiality Order. To the extent a party requests the return of Confidential material from the Court after the final conclusion of the litigation, including the exhaustion of all appeals therefrom and all related proceedings, the party shall file a motion seeking such relief.

IT IS SO ORDERED.

Dated: _____, _____, U.S.M.J.

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

Plaintiff,

vs.

Defendant.

Civil Action No.: __ Civ. ____ (XX)

**AGREEMENT TO BE BOUND BY
DISCOVERY CONFIDENTIALITY ORDER**

I, _____, being duly sworn, state that:

1. My address is _____.
2. My present employer is _____ and the address of my present employment is _____.
3. My present occupation or job description is _____.
4. I have carefully read and understood the provisions of the Discovery Confidentiality Order in this case signed by the Court, and I will comply with all provisions of the Discovery Confidentiality Order.
5. I will hold in confidence and not disclose to anyone not qualified under the Discovery Confidentiality Order any Confidential Material or any words, summaries, abstracts, or indices of Confidential Information disclosed to me.
6. I will limit use of Confidential Material disclosed to me solely for purpose of this action.
7. No later than the final conclusion of the case, I will return all Confidential Material and summaries, abstracts, and indices thereof which come into my possession, and documents or things which I have prepared relating thereto, to counsel for the party for whom I was employed or retained.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____

[Name]

EXHIBIT 9

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE: Amendment of Local Civil Rules :
Rules : ORDER

The Court being vested with authority pursuant to 28 U.S.C. § 2071 & Rule 83 of the Federal Rules of Civil Procedure to make and amend local rules; proposed amendments to Local Civil Rules having been submitted to the Lawyers Advisory Committee and the public for comment; no comments having been received, and the proposed amendments having been approved by the Board of Judges;

It is on this 30th day of September, 2016, ORDERED that the Local Civil Rules are amended to read:

**Civ. RULE 5.3 CONFIDENTIALITY ORDERS AND RESTRICTING PUBLIC ACCESS
UNDER CM/ECF**

(a) Scope of Rule

- (1) This rule shall govern any request by a party or parties to seal, or otherwise restrict public access to, any materials filed with the Court or utilized in connection with judicial decision-making. This rule shall also govern any request by a party or parties to seal, or otherwise restrict public access to, any judicial proceedings.
- (2) As used in this rule, "materials" includes all documents of any nature and in any medium. "Judicial proceedings" includes hearings and trials but does not include conferences in chambers.
- (3) This rule shall not apply to any materials or judicial proceedings which must be sealed or redacted pursuant to statute or other law.

(b) Confidentiality Order

- (1) Parties may enter into written agreements to keep materials produced in discovery confidential and to return or destroy such materials as agreed by parties and as allowed by law.
- (2) Parties may submit to a district judge or magistrate judge an agreed-on form of order

which embodies a written agreement as described above.

- (3) No form of order submitted by parties shall supersede the provisions of this rule with regard to the filing of materials or judicial proceedings. The form of order may, however, provide for the return or destruction of discovery materials as agreed by parties. The form of order shall be subject to modification by a district judge or magistrate judge at any time.
- (4) Any order under this section shall be filed electronically under the designation "confidentiality order."
- (5) Any dispute regarding the entry of an order, or the confidentiality of discovery materials under any order, under this section shall be brought before a magistrate judge pursuant to L. Civ. R. 37.1 (a)(1).
- (6) Absent extraordinary circumstances, a party shall not file a motion or other materials with redacted information, absent a confidentiality order which expressly grants leave to file under seal or other appropriate leave of Court.

(c) Motion to Seal or Otherwise Restrict Public Access

- (1) **Form of Motion.** Any request by a party, parties or nonparty to file materials under seal, or otherwise restrict public access to, any materials or judicial proceedings shall ordinarily be made on notice, by a single, consolidated motion on behalf of all parties, unless otherwise ordered by the Court on a case-by-case basis, including any non-party which has produced materials as to which it seeks to restrict public access. No brief is necessary in support or in opposition to the motion unless a party believes it will assist the Court. The single, consolidated motion shall include all information required by (c)(3) below. Any motion and supporting papers to seal or otherwise restrict public access shall be available for review by the public.
- (2) **Timing**
 - (i) Not later than 21 days after the first filing of redacted materials, the parties shall confer in an effort to narrow or eliminate the materials or information that may be the subject of a motion to seal.
 - (ii) Any motion to seal or otherwise restrict access made under this rule shall be filed by the party seeking to seal materials, unless the parties otherwise agree. Any such motion shall be (a) filed within 14 days following the completed briefing of the materials sought to be sealed or as may be ordered by the Court; and (b) filed electronically under the designation "motion to seal materials" or "motion to seal judicial proceedings," and shall be returnable on the next available motion date.
 - (iii) In any action in which materials have been filed temporarily under seal pursuant to (c)(4) of this rule, and the motion or other filing which includes such materials is resolved or otherwise terminated before all briefing is completed, the party filing such materials shall have a continuing obligation to file a motion to seal. Such motion shall be filed within 14 days following the date on which the last of such materials was filed under temporary seal, or as

may otherwise be ordered by the Court.

- (3) Contents of Motion. Any motion papers shall include as part of an affidavit, declaration, certification or other documents of the type referenced in 28 U.S.C. §1746, which shall be based on personal knowledge as required by Local Civil Rule 7.2(a), an index, substantially in form suggested by Appendix U, describing with particularity:
 - (a) the nature of the materials or proceedings at issue;
 - (b) the legitimate private or public interest which warrant the relief sought;
 - (c) the clearly defined and serious injury that would result if the relief sought is not granted;
 - (d) why a less restrictive alternative to the relief sought is not available;
 - (e) any prior order sealing the same materials in the pending action; and
 - (f) the identity of any party or nonparty known to be objecting to the sealing request.

Such index shall also include, as to each objection to seal any material:

- (g) the materials to which there is an objection;
- (h) the basis for the objection; and
- (i) if the material or information was previously sealed by the Court in the pending action, why the materials should not be maintained under seal.

Proposed Findings of Fact and Conclusions of Law shall be submitted with the motion papers in the proposed order required by (c)(6) below. Any party opposing the sealing request shall submit an alternative proposed order including the party's Proposed Findings of Fact and Conclusions of Law.

- (4) Temporary Sealing Pending Decisions on the Motion to Seal; Redacted Public Filings. Any materials deemed confidential by a party or parties and submitted under temporary sealing subject to a motion to seal or otherwise restrict public access shall be filed electronically under the designation "confidential materials" and shall remain sealed until such time as the motion is decided, subject to Local Civil Rule 72.1(c)(1)(C). When a document filed under seal contains both confidential and non-confidential information, an unredacted version shall be filed under seal, and a version with only the confidential portions redacted shall be filed publicly within one day of the filing of the unredacted version.
- (5) Intervention. Any interested person may move to intervene pursuant to Fed. R. Civ. P. 24(b) before the return date of any motion to seal or otherwise restrict public access or to obtain public access to materials or judicial proceedings filed under seal.
- (6) Sealing Order. Any order or opinion on any motion to seal or otherwise restrict public access shall include findings on the factors set forth in (c)(3) above as well as other findings required by law and shall be filed electronically under the designation "order" or "opinion to seal." Such orders and opinions may be redacted. Unredacted orders and opinions may be filed under seal, either electronically or in other medium.
- (7) Required Filing to Conform to Order. To the extent that any order or opinion grants less than the full relief sought for any document filed in redacted form, within 14 days

after the order or opinion, or as otherwise directed by the Court, the filing party of the redacted materials shall file an amended redacted document or documents, reflecting the rulings of the Court.

- (8) Denial of Motion to Seal. To the extent any order or opinion denies a motion to seal material that has been filed under temporary seal, such material shall be unsealed by the Clerk of Court following the 14-day period set forth in Local Civil Rule 72.1(c)(1)(C), unless a notice of appeal is timely filed.
- (9) Emergent Application. Notwithstanding the above, on emergent application of a party, parties, nonparties or sua sponte, a district judge or magistrate judge may seal or otherwise restrict public access to materials or judicial proceedings on a temporary basis. The district judge or magistrate judge shall do so by written order which sets forth the basis for the temporary relief and which shall be filed electronically under the designation "temporary order to seal." The sealing party shall have 14 days from entry of the order to file a motion to seal, in accordance with this rule. Any interested person may move pursuant to L. Civ. R. 7.1 and Fed. R. Civ. P. 24 (b) to intervene, which motion shall be made returnable on the next available return date.
- (10) Failure to Timely File. When a motion to seal or otherwise restrict public access is not timely filed in accordance with this rule, the Court may direct that the filings be publicly available without notice.

(d) Settlement Agreements

- (1) No party or parties shall submit a proposed settlement agreement for approval by a district judge or magistrate judge unless required to do so by statute or other law or for the purpose of retaining jurisdiction.
- (2) Any settlement agreement filed with the Court or incorporated into an order shall, absent an appropriate showing under federal law, be deemed a public record and available for public review.

(e) Dockets

No docket shall be sealed. However, entries on a docket may be sealed pursuant to the provisions of this rule.

(f) Web Site

The Clerk shall maintain for public review on the official Court PACER site a consolidated report which reflects all motions, orders, and opinions described by this rule.

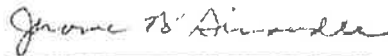
(g) Transcripts/Digital Recordings

- (1) This subsection applies to transcript/digital recording redactions which are separate and

apart from the redaction of personal identifiers mandated by Federal Rule of Civil Procedure 5.2 and the Court's Electronic Case Filing Policies and Procedures.

- (2) A motion to redact and seal any part or all of a transcript/digital recording shall satisfy the standards for sealing set forth in L.Civ.R. 5.3(c). All motions to redact and seal any transcript shall be deemed to apply to the original record as defined in 28 U.S.C. § 753. Any transcript that is the subject of a motion to redact and seal shall be temporarily sealed by the Clerk's Office, pending the Court's determination of the motion. Because transcripts are not available on PACER for ninety (90) days, the party filing the motion to redact and seal shall not electronically file its proposed redacted version of the transcript as part of its motion papers, but shall instead submit same directly to Chambers for the appropriate judge's review. If the motion to redact and seal is granted, the party filing the motion shall submit to the court reporter/transcription agency a Statement of Redaction and Sealing pursuant to L.Civ.R.5.3, available at <http://www.njd.uscourts.gov/forms.html> at form DNJ-CMECF-009. After receiving same, unless the entire transcript has been ordered sealed, the court reporter/transcription agency shall submit the redacted version of the transcript to the Clerk of the Court for filing on ECF. All other motion papers shall be available for public review in accordance with L.Civ.R.5.3(c)(1).
- (3) To prevent public access to any transcript/digital recording that is the subject of a motion to redact and seal, the party filing the motion to seal shall serve a copy of the Notice of Motion to Seal on the appropriate court reporter/transcription agency with a cover letter indicating that the transcript/digital recording is the subject of a pending motion to seal and should not be made available to the public until the pending motion is decided by the Court.
- (4) Any party who in good faith believes that the confidential information entitled to be sealed pursuant to L.Civ.R.5.3(c) was discussed during a recorded judicial proceeding may make an application pursuant to L.Civ.R. 5.3(c)(9) to temporarily seal the contents of the transcript/digital recording of that proceeding pending the party's review of the transcript/digital recording and filing of a formal motion to redact and seal. Absent such an application being made and granted, any purchased transcript shall be available for viewing in its unredacted state at the court public terminal until a formal motion to redact and seal is filed.
- (h) Effective Date
This rule shall be effective as of September 30, 2016 and shall apply to all motions under this rule.

FOR THE COURT:



JEROME B. SIMANDLE
Chief Judge

Civ. RULE 5.3 PROTECTIVE ORDERS AND PUBLIC ACCESS UNDER CM/ECF

(a) Scope of Rule

- (1) This rule shall govern any request by a party or parties to seal, or otherwise restrict public access to, any materials filed with the Court or utilized in connection with judicial decision-making. This rule shall also govern any request by a party or parties to seal, or otherwise restrict public access to, any judicial proceedings.
- (2) As used in this rule, "materials" includes all documents of any nature and in any medium. "Judicial proceedings" includes hearings and trials but does not include conferences in chambers.
- (3) This rule shall not apply to any materials or judicial proceedings which must be sealed or redacted pursuant to statute or other law.

(b) Confidentiality Order

- (1) Parties may enter into written agreements to keep materials produced in discovery confidential and to return or destroy such materials as agreed by parties and as allowed by law.
- (2) Parties may submit to a district judge or magistrate judge an agreed-on form of order which embodies a written agreement as described above.
- (3) No form of order submitted by parties shall supersede the provisions of this rule with regard to the filing of materials or judicial proceedings. The form of order may, however, provide for the return or destruction of discovery materials as agreed by parties. The form of order shall be subject to modification by a district judge or magistrate judge at any time.
- (4) Any order under this section shall be filed electronically under the designation "confidentiality order."
- (5) Any dispute regarding the entry of an order, or the confidentiality of discovery materials under any order, under this section shall be brought before a magistrate judge pursuant to L. Civ. R. 37.1 (a)(1).
- (6) Absent extraordinary circumstances, a party shall not file a motion or other materials with redacted information, absent a confidentiality order which expressly grants leave to file under seal or other appropriate leave of Court.

(c) Motion to Seal or Otherwise Restrict Public Access

- (1) Form of Motion. Any request by a party, parties or nonparty to file materials under seal, or otherwise restrict public access to, any materials or judicial proceedings shall ordinarily be made

on notice, by a single, consolidated motion on behalf of all parties, unless otherwise ordered by the Court on a case-by-case basis, including any non-party which has produced materials as to which it seeks to restrict public access. No brief is necessary in support or in opposition to the motion unless a party believes it will assist the Court. The single, consolidated motion shall include all information required by (c)(3) below. Any motion and supporting papers to seal or otherwise restrict public access shall be available for review by the public.

(2) Timing

- (i) Not later than 21 days after the first filing of redacted materials, the parties shall confer in an effort to narrow or eliminate the materials or information that may be the subject of a motion to seal.
- (ii) Any motion to seal or otherwise restrict access made under this rule shall be filed by the party seeking to seal materials, unless the parties otherwise agree. Any such motion shall be (a) filed within 14 days following the completed briefing of the materials sought to be sealed or as may be ordered by the Court; and (b) filed electronically under the designation "motion to seal materials" or "motion to seal judicial proceedings," and shall be returnable on the next available motion date.
- (iii) In any action in which materials have been filed temporarily under seal pursuant to (c)(4) of this rule, and the motion or other filing which includes such materials is resolved or otherwise terminated before all briefing is completed, the party filing such materials shall have a continuing obligation to file a motion to seal. Such motion shall be filed within 14 days following the date on which the last of such materials was filed under temporary seal, or as may otherwise be ordered by the Court.

- (3) Contents of Motion. Any motion papers shall include as part of an affidavit, declaration, certification or other documents of the type referenced in 28 U.S.C. §1746, which shall be based on personal knowledge as required by Local Civil Rule 7.2(a), an index, substantially in form suggested by Appendix U, describing with particularity:
- (a) the nature of the materials or proceedings at issue;
 - (b) the legitimate private or public interest which warrant the relief sought;
 - (c) the clearly defined and serious injury that would result if the relief sought is not granted;
 - (d) why a less restrictive alternative to the relief sought is not available;
 - (e) any prior order sealing the same materials in the pending action; and
 - (f) the identity of any party or nonparty known to be objecting to the sealing request.

Such index shall also include, as to each objection to seal any material:

- (g) the materials to which there is an objection;
- (h) the basis for the objection; and
- (i) if the material or information was previously sealed by the Court in the pending action, why the materials should not be maintained under seal.

Proposed Findings of Fact and Conclusions of Law shall be submitted with the motion papers in the proposed order required by (c)(6) below. Any party opposing the sealing request shall submit an alternative proposed order including the party's Proposed Findings of Fact and Conclusions of Law.

(4) Temporary Sealing Pending Decisions on the Motion to Seal; Redacted Public Filings. Any materials deemed confidential by a party or parties and submitted under temporary sealing subject to a motion to seal or otherwise restrict public access shall be filed electronically under the designation "confidential materials" and shall remain sealed until such time as the motion is decided, subject to Local Civil Rule 72.1(c)(1)(C). When a document filed under seal contains both confidential and non-confidential information, an unredacted version shall be filed under seal, and a version with only the confidential portions redacted shall be filed publicly within one day of the filing of the unredacted version.

(5) Intervention. Any interested person may move to intervene pursuant to Fed. R. Civ. P. 24(b) before the return date of any motion to seal or otherwise restrict public access or to obtain public access to materials or judicial proceedings filed under seal.

(6) Sealing Order. Any order or opinion on any motion to seal or otherwise restrict public access shall include findings on the factors set forth in (c)(3) above as well as other findings required by law and shall be filed electronically under the designation "order" or "opinion to seal." Such orders and opinions may be redacted. Unredacted orders and opinions may be filed under seal, either electronically or in other medium.

(7) Required Filing to Conform to Order. To the extent that any order or opinion grants less than the full relief sought for any document filed in redacted form, within 14 days after the order or opinion, or as otherwise directed by the Court, the filing party of the redacted materials shall file an amended redacted document or documents, reflecting the rulings of the Court.

(8) Denial of Motion to Seal. To the extent any order or opinion denies a motion to seal material that has been filed under temporary seal, such material shall be unsealed by the Clerk of Court following the 14-day period set forth in Local Civil Rule 72.1(c)(1)(C), unless a notice of appeal is timely filed.

(9) Emergent Application. Notwithstanding the above, on emergent application of a party, parties, nonparties or sua sponte, a district judge or magistrate judge may seal or otherwise restrict public access to materials or judicial proceedings on a temporary basis. The district judge or magistrate judge shall do so by written order which sets forth the basis for the temporary relief and which shall be filed electronically under the designation "temporary order to seal." The sealing party shall have 14 days from entry of the order to file a motion to seal, in accordance with this rule. Any interested person may move pursuant to L. Civ. R. 7.1 and Fed. R. Civ. P. 24 (b) to intervene, which motion shall be made returnable on the next available return date.

(10) Failure to Timely File. When a motion to seal or otherwise restrict public access is not timely filed in accordance with this rule, the Court may direct that the filings be publicly available without notice.

(d) Settlement Agreements

(1) No party or parties shall submit a proposed settlement agreement for approval by a district judge or magistrate judge unless required to do so by statute or other law or for the purpose of retaining jurisdiction.

(2) Any settlement agreement filed with the Court or incorporated into an order shall, absent an appropriate showing under federal law, be deemed a public record and available for public review.

(e) Dockets

No docket shall be sealed. However, entries on a docket may be sealed pursuant to the provisions of this rule.

(f) Web Site

The Clerk shall maintain for public review on the official Court PACER site a consolidated report which reflects all motions, orders, and opinions described by this rule.

(g) Transcripts/Digital Recordings

(1) This subsection applies to transcript/digital recording redactions which are separate and apart from the redaction of personal identifiers mandated by Federal Rule of Civil Procedure 5.2 and the Court's Electronic Case Filing Policies and Procedures.

(2) A motion to redact and seal any part or all of a transcript/digital recording shall satisfy the standards for sealing set forth in L.Civ.R. 5.3(c). All motions to redact and seal any transcript shall be deemed to apply to the original record as defined in 28 U.S.C. § 753. Any transcript that is the subject of a motion to redact and seal shall be temporarily sealed by the Clerk's Office, pending the Court's determination of the motion. Because transcripts are not available on PACER for ninety (90) days, the party filing the motion to redact and seal shall not electronically file its proposed redacted version of the transcript as part of its motion papers, but shall instead submit same directly to Chambers for the appropriate judge's review. If the motion to redact and seal is granted, the party filing the motion shall submit to the court reporter/transcription agency a Statement of Redaction and Sealing pursuant to L.Civ.R.5.3, available at <http://www.njd.uscourts.gov/forms.html> at form DNJ-CMECF-009. After receiving same, unless the entire transcript has been ordered sealed, the court reporter/transcription agency shall submit the redacted version of the transcript to the Clerk of the Court for filing on ECF. All other motion papers shall be available for public review in accordance with L.Civ.R.5.3(c)(1).

(3) To prevent public access to any transcript/digital recording that is the subject of a motion to redact and seal, the party filing the motion to seal shall serve a copy of the Notice of Motion to Seal on the appropriate court reporter/transcription agency with a cover letter indicating that the transcript/digital recording is the subject of a pending motion to seal and should not be made available to the public until the pending motion is decided by the Court.

(4) Any party who in good faith believes that the confidential information entitled to be sealed pursuant to L.Civ.R.5.3(c) was discussed during a recorded judicial proceeding may make an application pursuant to L.Civ.R. 5.3(c)(9) to temporarily seal the contents of the transcript/digital recording of that proceeding pending the party's review of the transcript/digital recording and filing of a formal motion to redact and seal. Absent such an application being made and granted, any purchased transcript shall be available for viewing in its unredacted state at the court public terminal until a formal motion to redact and seal is filed.

(h) *Effective Date*

This rule shall be effective as of September 30, 2016 and shall apply to all motions under this rule.

EXHIBIT 10

May 2009

**INSTRUCTIONS AND DIRECTIVES FOR THE ASSISTANCE OF COUNSEL
IN PREPARING THE JOINT FINAL PRETRIAL ORDER
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY, CAMDEN VICINAGE**

1. ADDITIONAL DISCOVERY

When a discovery deadline is set forth in a Scheduling Order or Discovery Order, it is the clear order of the court that all discovery is to be completed within the given time period. Interrogatories and requests to produce should not be served so as to require the answering party to complete them outside the discovery period. Any applications for an extension of the discovery period shall be made **prior to the expiration of the discovery deadline** and shall initially be made to the court via letter request, in accordance with Local Civil Rule 37.1.

2. EXPERT WITNESSES

In any case where a party intends to present expert testimony, the Scheduling Order will set forth dates by which each party must submit the information required by Rule 26(a)(2), Federal Rules of Civil Procedure. Any applications for an extension of the expert report deadlines shall be made **prior to the expiration of the deadline** and shall initially be made to the court via letter request, in accordance with Local Civil Rule 37.1.

Any expert for whom such information is not provided in accordance with the Scheduling Order shall not be permitted to testify at the time of trial.

The Scheduling Order will set forth deadlines by which expert depositions may be conducted, in accordance with Rule 26(b)(4), if the parties choose to take such depositions.

3. JOINT FINAL PRETRIAL ORDER

The Joint Final Pretrial Order must be signed by all counsel and submitted to the United States Magistrate Judge in accordance with the directives in the Scheduling Order. Attorneys who submit a proposed Joint Final Pretrial Order to the court that indicates they have not followed the form and instructions that are provided herewith greatly impede the processing of litigation in this court and create burdens for the court and its staff which are unnecessary. A persistent pattern of conduct in this regard by any attorney will result in the imposition of sanctions.

The Joint Final Pretrial Order is the most important order that is submitted to the court prior to trial. A form of the Joint Final Pretrial Order, with more specific instructions, is attached hereto. It shall be signed by all counsel and shall reflect the effort of all counsel. It is the document that members of the court use for immediate reference to determine the nature of your case.

The form given to counsel should be appropriately enlarged in cases where there are multiple parties. In such cases, for purposes of clarity, wherever the form calls for facts, arguments, witnesses, or other evidence as to “plaintiff” or “defendant,” counsel should delineate the required information for each party or third-party, being certain to give the name of the party for whom the information is provided. **The form is a guide. It is to be retyped and not used as a “fill in the blanks” form.**

Counsel shall make every effort to meet to complete the Joint Final Pretrial Order. In any event, plaintiff’s counsel should complete plaintiff’s portion of the Order sufficiently in advance of the due date for the entire Order so as to give each defense attorney at least four full working days to complete the defense portion of the Order.

When the Joint Final Pretrial Order is completed, it should be returned to plaintiff’s counsel, who shall be charged with delivering the original and two copies of the Order to the court, with sufficient copies for all counsel.

The Joint Final Pretrial Order shall designate the assigned District Judge in the caption and shall be submitted on 8 ½ by 11 paper. Upon completion, it shall be mailed or hand delivered to:

[Hon.]
United States Magistrate Judge
Mitchell H. Cohen U.S. Courthouse
One John F. Gerry Plaza
Fourth and Cooper Streets
Camden, NJ 08101

In the event the Joint Final Pretrial Order is to be delivered to the court at the Final Pretrial Conference, the Order will be reviewed by the Magistrate Judge at the conference and entered upon the record. Another purpose of the Final Pretrial Order is to attempt to settle the action. **For that reason, at that conference, each party must be represented by an attorney who is vested with full settlement authority.** Clients are to be either present or on call so that any settlement proposals made at the conference can be immediately conveyed.

Sanctions may be imposed for the unexcused failure of counsel to cooperate in submitting the Joint Final Pretrial Order when due, or for failing to obey a Scheduling Order or Discovery Order. See Rules 16(f) and 37(b)(2) and (g), Federal Rules of Civil Procedure.

Once the Joint Final Pretrial Order is entered upon the record, it shall only be modified in exceptional circumstances “to prevent manifest injustice.” Fed. R. Civ. P. 16(e). All requests to amend the Joint Final Pretrial Order shall be made by formal motion.

4. **FINAL PRETRIAL CONFERENCE**

The date of the Final Pretrial Conference will be set forth in the Scheduling Order and shall be held in accordance with Fed. R. Civ. P. 16(d). If a summary judgment or other dispositive motion is pending before the District Judge at the time of the Final Pretrial Conference, the conference may be postponed until such time as the motion is resolved. Counsel shall inform the Magistrate Judge of such pending motion in advance of the scheduled Final Pretrial Conference date and may request an adjournment.

5. **SETTLEMENT CONFERENCES**

Settlement conferences will be held prior to the submission of the Joint Final Pretrial Order upon the request of any counsel or upon Order of the court.

6. **TRIAL DATE and PRETRIAL SUBMISSIONS TO THE COURT**

The trial date set forth by the court is firm. Any application concerning the trial date should be directed to the District Judge assigned to the action.

Counsel are advised that the failure to comply with an order setting forth dates for submission of trial briefs, voir dire questions, and requests to charge or proposed findings of fact and conclusions of law when required may result in the imposition of sanctions.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

(Plaintiffs)

v.

(Defendants)

Civil No. _____

(Indicate Jury or Non-Jury)

JOINT FINAL PRETRIAL ORDER

The following shall constitute the Final Pretrial Order pursuant to Rule 16, Federal Rules of Civil Procedure. This Final Pretrial Order shall govern the conduct of the trial of this case. Amendments to this Order will be allowed only in exceptional circumstances to prevent manifest injustice. See Fed. R. Civ. P. 16(e). Counsel are urged to move to amend in a timely fashion any portion of the Order that must be changed or modified between the filing of the Order and the trial date.

APPEARANCES:

PART I. JURISDICTION and BRIEF SUMMARY OF THE CASE:

Counsel shall specifically set forth the jurisdictional basis of this action, as well as a brief summary of the claims and defenses.

PART II. STIPULATED FACTS:

Stipulated facts shall be set forth in numbered paragraphs.

PART III. EACH PLAINTIFF'S CONTESTED FACTS:

1. Plaintiff intends to prove the following contested facts with regard to liability:
2. Plaintiff intends to prove the following contested facts with regard to damages:

PART IV. EACH DEFENDANT'S CONTESTED FACTS:

liability:

1. Defendant intends to prove the following contested facts with regard to

damages:

2. Defendant intends to prove the following contested facts with regard to

PART V. WITNESSES and SUMMARY OF TESTIMONY:

Only the witnesses whose names and addresses are listed herein will be permitted to testify at the time of trial. For each witness listed, there must be a description of their testimony. Any objection to a witness must be noted by opposing counsel and for each such witness objected to, the name of the witness and the reason for the objection shall be given.

A. Plaintiff's Witnesses and Summary of Their Testimony

1. Plaintiff intends to call the following witnesses with regard to liability and anticipates they will testify as follows:
2. Plaintiff intends to call the following witnesses with regard to damages and anticipates they will testify as follows:

B. Defendant's Objections to Plaintiff's Witnesses: If there are no objections to any of the witnesses, defendant shall so state that in this portion of the Order. If there are objections to any of plaintiff's witnesses, they shall be listed here.

C. Defendant's Witnesses and Summary of Their Testimony

1. Defendant intends to call the following witnesses with regard to liability and anticipates they will testify as follows:
2. Defendant intends to call the following witnesses with regard to damages and anticipates they will testify as follows:

- D. Plaintiff's Objections to Defendant's Witnesses: If there are no objections to any of the witnesses, plaintiff shall so state that in this portion of the Order. If there are objections to any of defendant's witnesses, they shall be listed here.

PART VI. EXPERT WITNESSES:

Any prior Scheduling Order of the court concerning experts is applicable to this action and the directives of the Scheduling Order shall govern expert testimony in this case. Any expert not listed in this portion of the Final Pretrial Order shall not be permitted to testify at the time of trial. Additionally, the curriculum vitae of every expert expected to testify at the time of trial shall be attached to this Final Pretrial Order. The curriculum vitae or summary of the expert's qualifications may be read into the record at the time the expert takes the stand, and no opposing counsel shall be permitted to question the qualifications of the expert unless the basis of the objection is set forth in this Final Pretrial Order. No expert will be permitted to testify at trial unless all opposing counsel have received the curriculum vitae of the expert and the information required by Fed.R.Civ.P. 26(a)(2) as directed in the Scheduling Order.

If any hypothetical questions are to be put to an expert witness on direct examination, they shall be written in advance and submitted to the court and counsel prior to commencement of trial.

1. Plaintiff's expert witnesses are:
2. Defendant's objection to the qualifications of plaintiff's expert witnesses are:
(The objections shall be referenced to the name of each listed expert.)
3. Defendant's expert witnesses are:
4. Plaintiff's objections to the qualifications of plaintiff's expert witnesses are:
(The objections shall be referenced to the name of each listed expert.)

PART VII. EXHIBITS

In this section of the Final Pretrial Order, counsel should number each proposed exhibit and upon receipt of the exhibit list of an adversary, opposing counsel should prepare a response to this exhibit list indicating as to each exhibit whether there will be an objection and if there is, the nature of the objection. Absent an extraordinary showing of good cause, **ONLY THE EXHIBITS LISTED BELOW SHALL BE INTRODUCED AT THE TIME OF TRIAL**. You are not required to list exhibits that will be used, if at all, only for impeachment purposes.

Counsel are reminded that each such exhibit shall be physically pre-marked

corresponding to the designation below. Copies of exhibit lists shall be provided to the District Judge and the assigned court reporter at the time of trial.

A. Plaintiff's Exhibits

1. Plaintiff intends to introduce the following exhibits into evidence (list by numbers with a description of each exhibit);
2. Defendant objects to the introduction of plaintiff's exhibit (set forth number of exhibit and grounds for objection).

B. Defendant's Exhibits

1. Defendant intends to introduce the following exhibits into evidence (list by number with a description of each exhibit);
2. Plaintiff objects to the introduction of defendant's exhibit (set forth number of exhibit and grounds for objection).

PART VIII. LAW

A. Plaintiff

1. Plaintiff's statement of the legal issues in this case:

B. Defendant

1. Defendant's statement of the legal issues in this case.

PART IX. MISCELLANEOUS

Set forth any additional stipulations of counsel and/or motions on other matters which require action of the court.

Set forth any notice required to be given under Rules 40(b), 609(b), 803(24) and 804(b)(5), Federal Rules of Evidence.

PART X. NON-JURY TRIALS (If applicable)

No later than seven days prior to the scheduled trial date, counsel for each party shall submit to the District Judge, with a copy to opposing counsel, proposed findings of fact and

conclusions of law. There is reserved to counsel the right to submit additional requests during the course of the trial on those matters that cannot reasonably be anticipated.

PART XI. JURY TRIALS (If Applicable)

No later than seven days prior to the scheduled trial date or at such time as the court may direct:

1. Each party shall submit to the District Judge and to opposing counsel a trial brief or memorandum with citations and authorities and arguments in support of the party's position on all issues of law. The trial brief shall be electronically filed.
2. Each party shall submit to the District Judge and to opposing counsel written requests for charges to the jury. Supplemental requests to charge that could not have been anticipated may be submitted any time prior to the arguments to the jury. All requests for charge shall be on a separate page or pages, plainly marked with the name and number of the case; shall contain citations of supporting authorities; shall designate the party submitting same; and shall be numbered in sequence.

IF you have the capability, the Proposed Requests for Charge should be submitted on computer disk, Work Perfect format. All proposed requests for charges shall be electronically filed, and a paper copy must also be provided.

3. Each party shall submit to the judge and to opposing counsel proposed voir dire questions.

EACH OF THESE ITEMS IS TO BE FILED PRIOR TO THE FIRST TRIAL DATE EVEN IF THE CASE IS CONTINUED.

COUNSEL ARE ON NOTICE THAT FAILURE TO PROVIDE TIMELY COMPLIANCE WITH THE REQUESTS OF PART X AND XI MAY RESULT IN THE POSTPONEMENT OF TRIAL AND THE ASSESSMENT OF JUROR AND OTHER COSTS AND/OR THE IMPOSITION OF SANCTION.

CONCLUDING CERTIFICATION

We hereby certify by the affixing of our signatures to this Final Pretrial Order that it reflects the efforts of all counsel and that we have carefully and completely reviewed all parts of this Order prior to its submission to the Court. Further, it is acknowledged that amendments to this Joint Final Pretrial Order will not be permitted except where the Court determines that manifest injustice would result if the amendment is not allowed.

Attorney(s) for Plaintiff(s):

Attorney(s) for Defendant(s):

Entry of the foregoing Joint Final Pretrial Order is hereby APPROVED this _____ day of _____, 20__.

[]
UNITED STATES MAGISTRATE JUDGE
United States District Court
For the District of New Jersey

EXHIBIT 11

Pursuant to L. Civ. R. 78.1(a), the Clerk publishes the following list of all regular motion days for 2017:

Motion Day	Initial Filing Deadline (24 days prior to motion day)	Deadline for Opposition Papers (14 days prior to motion day)	Deadline for Reply Papers (7 days to motion day)
January 3, 2017*	December 9, 2016**	December 20, 2016	December 27, 2016
January 17, 2017*	December 23, 2016**	January 3, 2017	January 10, 2017
February 6, 2017	January 13, 2017	January 23, 2017	January 30, 2017
February 21, 2017*	January 27, 2017**	February 7, 2017	February 14, 2017
March 6, 2017	February 10, 2017	February 21, 2017**	February 27, 2017
March 20, 2017	February 24, 2017	March 6, 2017	March 13, 2017
April 3, 2017	March 10, 2017	March 20, 2017	March 27, 2017
April 17, 2017	March 24, 2017	April 3, 2017	April 10, 2017
May 1, 2017	April 7, 2017	April 17, 2017	April 24, 2017
May 15, 2017	April 21, 2017	May 1, 2017	May 8, 2017
June 5, 2017	May 12, 2017	May 22, 2017	May 30, 2017**
June 19, 2017	May 26, 2017	June 5, 2017	June 12, 2017
July 3, 2017	June 9, 2017	June 19, 2017	June 26, 2017
July 17, 2017	June 23, 2017	July 3, 2017	July 10, 2017
August 7, 2017	July 14, 2017	July 24, 2017	July 31, 2017
August 21, 2017	July 28, 2017	August 7, 2017	August 14, 2017
September 5, 2017*	August 11, 2017	August 22, 2017	August 29, 2017
September 18, 2017	August 25, 2017	September 5, 2017	September 11, 2017
October 2, 2017	September 8, 2017	September 18, 2017	September 25, 2017
October 16, 2017	September 22, 2017	October 2, 2017	October 10, 2017**
November 6, 2017	October 13, 2017	October 23, 2017	October 30, 2017
November 20, 2017	October 27, 2017	November 6, 2017	November 13, 2017
December 4, 2017	November 9, 2017**	November 20, 2017	November 27, 2017
December 18, 2017	November 22, 2017	December 4, 2017	December 11, 2017

*Motion day falls on first or third Tuesday of the month, rather than Monday, due to holiday.

**Deviation from usual time frame shown in column heading, due to holiday or court recess.

2017 Holidays and Recesses

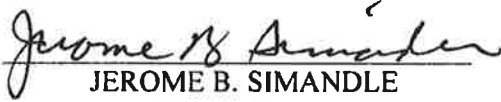
January 2, 2017	New Year's Day (Observed)	September 4, 2017	Labor Day
January 16, 2017	Martin Luther King, Jr. Day (Observed)	October 9, 2017	Columbus Day
February 13, 2017	Lincoln's Birthday (Observed)	November 10, 2017	Veteran's Day (Observed)
February 20, 2017	Washington's Birthday (Observed)	November 23, 2017	Thanksgiving Day
April 14, 2017	Court Recess	November 24, 2017	Court Recess
May 29, 2017	Memorial Day	December 25, 2017	Christmas Day
July 4, 2017	Independence Day		

EXHIBIT 12

costs. Such an order of dismissal may, but need not, include any other terms the Court considers proper.

It is FURTHER ORDERED these amendments are effective this date.

FOR THE COURT:


JEROME B. SIMANDLE
Chief Judge

Civ. RULE 41.1 DISMISSAL OF INACTIVE CASES

(a) Civil cases, other than bankruptcy matters, which have been pending in the Court for more than 120 days without any proceedings having been taken therein must be dismissed for lack of prosecution by the Court (1) on its own motion, or (2) on notice from the Clerk to all parties who have appeared, unless good cause is shown with the filing of an affidavit or other document complying with 28 U.S.C. § 1746 from counsel of record or the unrepresented party. Notice shall be provided by the Clerk of either action contemplated above under sub-paragraphs (1) and (2) to counsel, their client(s) and/or unrepresented persons who have appeared.

(b) When a case has been settled, counsel shall promptly notify the Court. Upon such notification, the Court shall enter a 60-day order administratively terminating the case and any pending motions. Such an administrative termination shall not operate as a dismissal order. Within 60 days after entry of the administrative termination order, counsel shall file all papers necessary to dismiss the case pursuant to Fed. R. Civ. 41(a)(1)(A)(ii). This 60-day period may be extended by the Court for good cause. Upon failure of counsel to file a proper stipulation of dismissal within the 60-day period, or within any extended period approved by the Court, the Court shall, pursuant to Fed. R. Civ. P. 41(a)(2), dismiss the action with prejudice and without costs. Such an order of dismissal may, but need not, include any other terms the Court considers proper.

Amended June 19, 2013, **November 10, 2016**

EXHIBIT 13

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

JUDICIAL PREFERENCES

District Judges	Preferences
Bumb, Hon. Renée Marie	<p>One Courtesy Copy: Motion papers, briefs, letter memoranda, and proposed orders marked "Courtesy Copy" sent by regular mail to chambers.</p> <p>Jury Charges: On disk in Word format.</p> <p>Individual Judicial Preferences: Refer to the Hon. Renée Marie Bumb's individual page under the Judicial Preferences tab on the District Court internet for the link to her Individual Judicial Preferences & Procedures document.</p>
Arleo, Hon. Madeline Cox	<p>Courtesy Copy: One courtesy copy of motion papers, as required in the Court's Policy and Procedures and marked "Courtesy Copy," shall be mailed to Chambers the same day the papers are filed on ECF.</p> <p>All correspondence and proposed orders must be submitted via ECF.</p> <p>Jury Charges: Counsel shall provide a copy of proposed jury charges to Chambers in Microsoft Word format via email or thumb drive one week before trial.</p> <p>Faxes: Parties must contact Chambers for approval before faxing any documents. There is a three (3) page limit for all faxes unless otherwise approved by Chambers.</p>
Cecchi, Hon. Claire C.	<p>One Courtesy Copy: Motion papers required, mailed directly to chambers.</p> <p>Pro Hac Vice: If consented, may be faxed to chambers; if not consented, follow regular motion procedures (electronically with courtesy copy mailed to chambers).</p> <p>Consent Orders: Faxed to chambers.</p> <p>Extension of Time: If consented may be faxed to chambers; if not consented, follow the regular motion procedure (electronically with courtesy copy mailed o chambers).</p> <p>Judge Assignment: Magistrate Judge Clark is teamed with Judges Cecchi, Arleo, and Vazquez.</p>
Chesler, Hon. Stanley R.	<p>Courtesy Copies: Motion papers as required in the Court's Policy & Procedures mailed to chambers marked "Courtesy Copy".</p>
Cooper, Hon. Mary Little	<p>One Courtesy Copy: Motion papers as required in the Court's Policy & Procedures mailed to chambers marked "Courtesy Copy". Exhibits to documents must be tabbed.</p> <p>Consent Orders, Stipulations, Proposed Orders (other than proposed orders accompanying motion papers): Sent by regular mail to chambers.</p>
Hayden, Hon. Katharine S.	<p>Two Courtesy Copies: All motion papers, briefs and letter memoranda by regular mail directly to chambers.</p> <p>Proposed Orders: By email to njdnef_hayden@njd.uscourts.gov in Word Perfect or Word format.</p>
Hillman, Hon. Noel L.	<p>One Courtesy Copy: Motion papers, briefs, letter memoranda, and proposed orders marked "Courtesy Copy" sent by regular mail to chambers.</p> <p>All Pretrial Submissions such as voir dire, jury instructions and verdict sheet on disk in Word format.</p> <p>Correspondence: Under no circumstances should correspondence, proposed Orders or any other filings of any kind be submitted by email without express consent of Chambers.</p>
Martinotti, Hon. Brian R.	<p>All Submissions: Including pleadings and correspondence, but with the exception of confidential settlement position letters, must be electronically filed via CM/ECF. Filings and submissions will <u>not</u> be accepted via fax or e-mail without the express consent of chambers.</p> <p>CM/ECF Filings: Pleadings must be filed in searchable PDF format. All other documents, such as exhibits, may be filed in non-searchable PDF format.</p>

	<p>Proposed Orders: If any relief is being sought, the CM/ECF filing must be accompanied by a proposed order in searchable PDF format.</p> <p>Confidential Information: Any letter to be filed under seal or containing confidential or sensitive information may be e-mailed to chambers at njdnef_martinotti@njd.uscourts.gov as a PDF attachment.</p> <p>Courtesy Copies: One paper copy of all proposed orders, motion papers, briefs, and accompanying exhibits must be sent to chambers and clearly marked “Courtesy Copy.” Courtesy copies may be sent by regular mail or courier to: 402 East State Street, Room 341, Trenton, New Jersey 08608. Paper submissions should be single-sided and should not be bound by plastic or velo-binding. Instead, paper submissions may be stapled, held together with a binder clip, or three-hole punched and placed in binders. Please do not send courtesy copies of letter correspondence addressed to chambers; all letter correspondence must be electronically filed via CM/ECF.</p> <p>Communications With Chambers: Calls to chambers are permitted only in urgent situations that require immediate attention. All other communication with chambers shall be electronically filed via CM/ECF. Except as otherwise provided herein, e-mails to chambers at njdnef_martinotti@njd.uscourts.gov will be accepted in lieu of phone calls. E-mails may not contain substantive content regarding a case. Any substantive content received via e-mail without consent of chambers will be ignored.</p> <p>Extensions of Time and Adjournments: If consented, may be done by consent order. If not consented, follow the regular motion procedure.</p>
Kugler, Hon. Robert B.	Courtesy Copies: Motion papers as required in the Court’s Policy & Procedures mailed to chambers marked “Courtesy Copy”.
Linares, Hon. Jose L.	One Courtesy Copy: Motion papers, briefs, letter memoranda, and proposed orders sent by regular mail to chambers marked “Courtesy Copy”. Proposed Orders: Motions and routine proposed orders should also be submitted to chambers by email to njdnef_linares@njd.uscourts.gov in Word format. Further, the case name and docket number should be included in the subject line.
Martini, Hon. William J.	All Submissions: Including correspondence, must be electronically filed via CM/ECF. All Requests: Should be accompanied by a proposed order. All Briefs and Proposed Orders: Must be filed in searchable PDF format. All other documents, such as exhibits, may be filed in non-searchable PDF format. One Courtesy Copy: Proposed orders, motion papers, briefs, and accompanying exhibits must be sent by regular mail to chambers. Courtesy copies should be marked “Courtesy Copy.” Please do not send courtesy copies of letter correspondence. No Submissions will be accepted via fax or email without the express consent of chambers.
McNulty, Hon. Kevin	All submissions: Including correspondence, must be electronically filed via CM/ECF. One Courtesy Paper Copy: All motion papers, marked “Courtesy Copy” should be sent to chambers by regular mail or by hand. Proposed Orders and Jury Charges: An additional copy, in Microsoft Word or WordPerfect format, should be emailed to: njdnef_mcnulty@njd.uscourts.gov. Email subject line and file name in this format: 12-3456 Smith v Jones Proposed (order/jury charge).
Rodriguez,	One Courtesy Copy: Of all papers sent by regular mail to chambers.

Hon. Joseph H.	Jury Charges: On disk in Word format. Chambers does not accept faxes or e-mail.
Salas, Hon. Esther	Proposed Orders: All correspondences and proposed orders must be submitted per ECF. One Courtesy Copy: Of motion papers. Extensions of Time: If consented to may be done via consent order and must be submitted per ECF.
Sheridan, Hon. Peter G.	Courtesy Copies: Courtesy Copies of all motion papers in excess of 50 pages in total mailed to chambers marked "Courtesy Copy". Jury Charges: On disk in Word Perfect format one week before trial.
Shipp, Hon. Michael A.	One Courtesy Copy: Of motion papers, briefs, letters and proposed orders marked "Courtesy Copy" sent by regular mail to chambers. Consent Orders, Stipulations, Proposed Orders (other than proposed orders accompanying motion papers): Should be electronically filed as an attachment to a cover letter. Pleadings/Correspondence: All pleadings and correspondence to the Court (with the exception of confidential settlement position letters) must be electronically filed.
Simandle, Hon. Jerome B.	Courtesy Copies: Of motion papers as required in the Court's Policy & Procedures mailed to chambers marked "Courtesy Copy".
Thompson, Hon. Anne E.	One Courtesy Copy: Of motion papers, briefs, letter memoranda, and proposed orders sent by regular mail or by fax (609-989-2007) to chambers.
Walls, Hon. William H.	Courtesy Copies: Of motion papers as required in the Court's Policy & Procedures mailed to chambers marked "Courtesy Copy".
Wigenton, Hon. Susan D.	Courtesy Copy: One courtesy copy of motion papers, as required in the Court's Policy and Procedures and marked "Courtesy Copy," shall be mailed to Chambers the same day the papers are filed on ECF. All correspondence and proposed orders must be submitted via ECF. Jury Charges: Counsel shall provide a copy of proposed jury charges to Chambers in Microsoft Word format via email or thumb drive one week before trial. Faxes: Parties must contact Chambers for approval before faxing any documents. There is a three (3) page limit for all faxes unless otherwise approved by Chambers.
Wolfson, Hon. Freda L.	Courtesy Copies: Of motion papers as required in the Court's Policy & Procedures mailed to chambers marked "Courtesy Copy". Proposed Orders and Jury Charges: Should be sent as an email attachment to njdnef_wolfson@njd.uscourts.gov in Word Perfect format. The subject line of the email should state "Proposed Order" or "Jury Charge" and include the docket number. Extention of Time: If consented may be faxed to chambers (fax#609-989-0496) or emailed to njdnef_wolfson@njd.uscourts.gov
Magistrate Judges	Preferences
Arpert, Hon. Douglas E.	Proposed Orders should be sent by email to dea_orders@njd.uscourts.gov, preferably in Word format. Proposed Orders filed with formal motions need not be sent. Standing Orders for Settlement Conferences: Unless specifically instructed otherwise by the Court, clients with full settlement authority are required to appear in person at the conference. Counsel alone, even if he or she possesses full settlement authority, is insufficient. The client must also appear in person unless the Court has specifically instructed otherwise. If a settlement memorandum is to be submitted, it must be emailed to chambers (dea_orders@njd.uscourts.gov) at least 3 business days before the scheduled settlement conference and should not exceed 4 pages in length. Courtesy Copies: By request of the Court only. Consent Orders may be emailed or faxed directly to chambers.

	<p>Pro Hac Vice admission, if consented, may be done by consent order accompanied by supporting documents consistent with the requirements of Local Civil Rule 101.1(c). If not consented, follow regular motion procedure.</p> <p>Extensions of Time: Requests for extension of time must be in writing and must indicate whether all parties consent to the extension.</p> <p>Discovery Confidentiality Orders: Proposed Orders submitted on consent must be accompanied by an affidavit consistent with the requirements of Local Civil Rule 5.3(b)(2).</p> <p>Adjournment Requests shall only be considered if made at least 2 business days prior to a scheduled conference. The party seeking an adjournment should attempt to gain the consent of his or her adversary before submitting said request. The adjournment request should be made in writing and emailed to chambers (dea_orders@njd.uscourts.gov). The email should set forth the date of the conference, the basis for the adjournment request, whether the request is being made with consent and the length of adjournment being sought. Absent exigent circumstances, adjournment requests made the day of or before a conference shall not be granted.</p> <p>Telephone Conferences: Judge Arpert does not accept dial-in numbers for conference calls.</p> <p>Communications with the Court: Judge Arpert permits counsel to email any correspondence that would normally be mailed to chambers to: dea_orders@njd.uscourts.gov. Alternatively, correspondence (not exceeding 20 pages including attachments) may be faxed to chambers at (609) 989-0451. Correspondence should only be submitted to chambers via <u>one method</u>: e.g., correspondence emailed to chambers should not also be mailed or faxed, and correspondence faxed to chambers should not also be mailed or emailed.</p>
<p>Bongiovanni, Hon. Tonianne J.</p>	<p>Proposed Orders: Sent by e-mail to tjb_orders@njd.uscourts.gov in Word format. Orders on formally filed motions need not be sent.</p> <p>Standing Orders for Settlement Conferences: Unless specifically instructed otherwise by the Court, clients with full settlement authority are required to appear in person at the conference.</p> <p>Counsel alone, even if he possesses full settlement authority, is insufficient. The client must also appear in person unless the Court has specifically instructed otherwise. If submission of a settlement memorandum is required or, even if not required, a settlement memorandum will be submitted, it must be emailed to chambers (tjb_orders@njd.uscourts.gov) at least 3 business days before the scheduled settlement conference and should not exceed 5 pages in length.</p> <p>Courtesy Copy: By request of the court.</p> <p>Consent Orders: Emailed or faxed directly to chambers.</p> <p>Pro Hac Vice: If consented, may be done by consent order e-mailed or faxed to chambers. If not consented, follow regular motion procedure.</p> <p>Extensions of Time: If consented may be done by consent order. If not consented, follow regular motion procedure.</p> <p>Adjournment Requests shall only be considered if made at least 2 business days prior to a scheduled conference. The party seeking an adjournment should attempt to gain the consent of his adversary before submitting said request. The adjournment request should be made in writing and emailed to chambers (tjb_orders@njd.uscourts.gov). The email should set forth the date of the conference, the basis for the adjournment request, whether the request is being made with consent and the length of adjournment being sought. Absent exigent circumstances, adjournment requests made the day of or before a conference shall not be granted.</p> <p>Telephone Conferences: Judge Bongiovanni does not accept dial-in numbers prior to conference calls. If a dial- in number is necessary, then once all of the attorneys have</p>

	<p>dialled into a scheduled call, the party initiating the call shall contact chambers and provide the dial-in number at that time.</p> <p>In addition, to the extent a party intends to submit a status letter or discovery dispute in advance of a scheduled telephone conference, the letter must be submitted at least 3 business days prior to the conference. The letter may be emailed to chambers (tjb_orders@njd.uscourts.gov). Letters submitted after that date likely will not be reviewed or considered prior to or during the conference.</p> <p>Communications with the Court: Judge Bongiovanni permits counsel to email any correspondence that would normally be mailed to chambers to: tjb_orders@njd.uscourts.gov. Short submissions (not more than 20 pages including attachments) may be faxed to chambers at (609) 989-0435. Correspondence should only be submitted to chambers via one method: correspondence mailed to chambers should not also be faxed or emailed; similarly, correspondence emailed to chambers should not also be mailed or faxed; and correspondence faxed to chambers should not also be mailed or emailed. Judge Bongiovanni permits communications with her law clerks only as to questions regarding chambers' procedures and not as to any substantive matters.</p>
<p>Clark, III, Hon. James B.</p>	<p>Judge Assignment: Magistrate Judge Clark is teamed with Judges Cecchi and Arleo.</p> <p>Procedure to Admit Counsel Pro Hac Vice: When no party objects, Magistrate Judge Clark requires only a form of order with supporting documents consistent with the requirements of L. Civ. R. 101.1(c), including a certification of admission and good standing and a certification of local counsel stating that it shall comply with L. Civ. R. 101.1(c). Application may be made informally by letter, however, all submissions shall be electronically filed.</p> <p>Motion Practice: Discovery Disputes: No discovery motion shall be filed without leave of the Court. Magistrate Judge Clark requires the parties first meet their obligations under L. Civ. R. 37.1 to meet and confer to attempt to resolve discovery disputes without the court's intervention. Should counsel fail in this effort, the party raising the dispute should submit a brief letter (no more than 5 pages) advising the Court of the dispute and what actions have been taken to resolve the issues. The non-moving party should submit a response within two days (not to exceed 5 pages). Thereafter, Magistrate Judge Clark will either conduct an informal oral argument, enter an appropriate briefing schedule, or order the parties to meet and confer to prepare joint submissions.</p> <p>Motions to Amend: Must be accompanied by a red-lined proposed amended complaint as an exhibit outlining the proposed amendments.</p> <p>Communications with the Court: Magistrate Judge Clark will accept submissions of less than 20 pages by fax (973-645-3020). Direct communication with law clerks is permitted as to procedural matters only.</p> <p>Courtesy Copies: No courtesy copies necessary.</p> <p>Copies of Papers: Confidential settlement memoranda, joint discovery plans, discovery disputes with information subject to discovery confidentiality orders, and informal adjournment requests shall sent via fax or email at jbc_orders@njd.uscourts.gov. All other papers, all other discovery disputes, and proposed orders (submitted with cover letters), shall be electronically filed.</p> <p>Probation Report: Magistrate Judge Clark does not permit the defendant or counsel to review the Probation Department's recommendations as to a sentence.</p>
<p>Dickson, Hon. Joseph A.</p>	<p>Proposed Orders: E-filed or faxed directly to chambers (973-645-4549).</p> <p>One Courtesy Copy: Of all motion papers referred to this court, mailed directly to chambers.</p> <p>Consent Orders: Faxed directly to chambers.</p> <p>Pro Hac Vice: If consented, may be done by consent order e-filed or faxed directly to chambers. If not consented, follow regular motion procedure (electronically with a courtesy copy mailed to chambers).</p>

	<p>Extensions of Time: If consented, may be done by consent order. If not consented, follow regular motion procedure (electronically with a courtesy copy mailed to chambers).</p> <p>Joint Discovery Plan: Electronically filed.</p>
Donio, Hon. Ann Marie	<p>One Courtesy Copy: Of motion papers, briefs, letter memoranda, and proposed orders sent by regular mail to chambers or by fax (856-757-5296).</p> <p>Extensions of Time: If consented to, may be done by consent order.</p>
Falk, Hon. Mark	<p>One Courtesy Copy: Of motion papers, briefs, letter memoranda, and proposed orders sent by regular mail to chambers or by fax (973-645-3097).</p>
Goodman, Hon. Lois H.	<p>Proposed Orders: Sent by email to lhg_orders@njd.uscourts.gov preferably in Word Perfect format.</p> <p>One Courtesy Copy: Of all motion papers referred to this Court, mailed directly chambers.</p> <p>Consent Orders: Emailed or faxed directly to chambers.</p> <p>Pro Hac Vice: If consented, may be done by consent order emailed or faxed to chambers; if not consented, follow regular motion procedure (electronically with courtesy copy mailed to chambers).</p> <p>Extensions of Time: If consented may be done by consent order. If not consented, follow the regular motion procedure (electronically with courtesy copy mailed to chambers).</p>
Hammer, Hon. Michael A.	<p>One Courtesy Copy: One courtesy copy of motion papers and briefs sent by regular mail to chambers.</p> <p>Pro Hac Vice: Where no other party objects, counsel may file a form of order, a certification of admission and good standing, and a certification of local counsel stating that it shall comply with L.Civ.R. 101.1(c). If not consented, follow regular motion procedure.</p> <p>Proposed Orders: Electronically filed.</p> <p>Letters: Electronically filed.</p> <p>Joint Discovery Plan: Electronically filed.</p> <p>Confidential Memorandums: Faxed directly to chambers (973-776-7861)</p> <p>Please Note: Parties must contact chambers for approval before faxing any documents.</p>
Mannion, Hon. Steven C.	<p>One Courtesy Copy: Of all non-dispositive motions mailed directly to chambers.</p> <p>Proposed Orders: Filed with ECF.</p> <p>Extensions of Time: If consented, may be submitted via fax to 973-645-4412. If not consented, follow regular motion procedure.</p> <p>Pro Hac Vice: If consented, may be submitted via ECF. If not consented, follow regular motion procedure.</p> <p>Fax: Parties must contact chambers for approval before faxing any documents. There is a page limit of five (5) pages for all faxes unless otherwise approved by chambers.</p>
Schneider, Hon. Joel	<p>One Courtesy Copy: Of motion papers, briefs, letter memoranda and correspondence with an indication the original document was efiled. Faxes: Are accepted (856-757-5355).</p> <p>Extensions of Time: Unless a motion is required, extension of time requests must be presented in a letter with an indication whether all counsel consent.</p> <p>Pro Hac Vice: Please follow regular motion procedure and state if all counsel consent.</p> <p>Extensions of Time: Unless a motion is required, all requests must be in writing with an indication whether all parties consent.</p>
Waldor,	<u>Civil Case Management Order</u>

Hon. Cathy L.	<p><u>Template Scheduling Order - PDF</u> <u>Template Scheduling Order - MS Word</u></p>
Wettre, Hon. Leda Dunn	<p>Correspondence and written submissions not containing confidential information: Shall be electronically filed via CM/ECF. Documents shall not be submitted by facsimile unless otherwise directed.</p> <p>Confidential settlement letters and discovery dispute letters containing information subject to a Discovery Confidentiality Order: May be submitted by email to LDW_orders@njd.uscourts.gov.</p> <p>Formal motions, other than motions filed in lieu of an Answer under Federal Rule of Civil Procedure 12: Shall not be filed without prior leave from this Court. Full compliance with Local Civil Rules 16.1 and 37.1 will be expected.</p> <p>Courtesy copies: Two copies of motion papers on motions referred to this Court; one copy of any other submission exceeding 50 pages. Courtesy copies should be sent by regular mail to chambers.</p> <p>Applications to amend or supplement pleadings: Counsel shall circulate any desired amendment and shall seek written consent of all parties, as per Federal Rule of Civil Procedure 15(a)(2), before pursuing amendment by motion. Any request for leave of the Court to file a motion to amend must contain a redlined version of the proposed amended pleading as an exhibit. If a party seeks to file a motion to amend after the deadline set by a Scheduling Order, that party must show good cause why the amendment could not have been sought earlier.</p> <p>Pro hac vice: If consented, e-file a letter indicating consent and enclosing a proposed form of Order and supporting Certifications complying with Local Civil Rule 101.1(c).</p>
Williams, Hon. Karen M.	<p>One Courtesy Copy: of motion papers, briefs, letter memoranda, certifications, affidavits, any documents submitted in support for any request for relief, and proposed orders sent by regular mail to chambers.</p> <p>Pro Hac Vice: Follow regular motion procedure.</p> <p>Communications with the Court: Counsel may send short submissions (10 pages or less) by email or fax only with advance permission. Counsel may email or fax joint discovery plans and confidential letters without advance permission.</p> <p>Joint Discovery Plans: Faxed to chambers.</p>