

SCHEDULING CONFERENCE, LITIGATION PLAN, DISCOVERY PLAN AND ELECTRONICALLY STORED INFORMATION

**(a) Scheduling Conference.**

As a general rule, scheduling conferences will not be held in the following type of cases, unless otherwise ordered by the Court:

- (1) A petition for habeas corpus or other proceeding to challenge a criminal conviction or sentence.
- (2) An action to enforce or quash an administrative summons or subpoena.
- (3) An action by the United States to recover a benefit payment.
- (4) An action by the United States to collect on a student loan.
- (5) A proceeding ancillary to proceedings in other courts.
- (6) Petition to review a decision denying social security benefits.
- (7) Farm Service Agency Foreclosure Actions.
- (8) Civil cases in which a prisoner or self-represented litigant is a party.

In all other civil cases, unless otherwise ordered by the Court, a scheduling conference will be conducted. The Court, in its discretion, may use telephonic/video conferencing with the parties for this purpose. The Court will notify all parties of the date and time of the scheduling conference.

When the Clerk provides notice to the parties of the time and date of the scheduling conference, counsel will also be provided with a litigation plan form and a discovery plan form used by the trial judge who has been assigned the case. The litigation plan form also contains requests for discovery information that counsel will discuss at their Federal Rule of Civil Procedure 26(f) conference. The Court has created sample templates for the Litigation Plan and Discovery Plan, which are available on the Court's website. The Court encourages the parties to use the Court's templates unless the needs of an individual case require modification.

At least twenty-one (21) days before the time and date set for the scheduling conference, counsel must confer and discuss each of the following items contained on the litigation plan and discovery plan forms. These include, but are not necessarily limited, to the following:

- (1) Discuss the requirement to make initial disclosures within fourteen (14) days of the Federal Rule of Civil Procedure 26(f) conference.
- (2) Expert witness reports/testimony cutoff dates.
- (3) Number and length of depositions.
- (4) Electronically stored information (Dist. Idaho Loc. Civ. R. 16.1(b)).
- (5) Discovery cutoff dates.
- (6) Joinder of parties and amendment of pleadings cutoff date.
- (7) Dispositive motions filing cutoff date.
- (8) Alternative Dispute Resolution: (Dist. Idaho Loc. Civ. R. 16.4)
  - (A) Settlement Conferences
  - (B) Arbitration
  - (C) Mediation

- (9) Status conference date, if counsel believes one will be necessary.
- (10) Pretrial conference date (to be entered by the Court).
- (11) Estimated length of trial.
- (12) Trial date (to be entered by the Court).

After counsel have conferred on the litigation plan form, counsel must forward to the Court the litigation plan which they have jointly stipulated to or, in the event counsel are unable to agree, their respective proposed litigation plans, within the time period prescribed by the judge conducting the scheduling conference.

After the scheduling conference, the Court will prepare and enter a scheduling order which will provide time frames and dates for the items contained on the litigation plan form. The Court will issue the scheduling order as soon as practicable, but unless the Court finds good cause for delay, the Court will issue it within the earlier of ninety (90) days after any defendant has been served with the complaint or sixty (60) days after any defendant has appeared.

#### **(b) Electronically Stored Information.**

The parties shall discuss the parameters of their anticipated e-discovery at the Federal Rule of Civil Procedure 26(f) conference, as well as at the scheduling conference. More specifically, during the Federal Rule of Civil Procedure 26(f) conference, the parties shall exchange the following information and discuss the following e-discovery issues:

- (1) The names of the most likely custodians of relevant electronically stored information, as well as a brief description of each person's title and responsibilities;
- (2) A list of each relevant electronic device or system that has been in place at all relevant times and a general description of each device or system including, but not limited to, the nature, scope, character, organization, and formats employed in each device or system. The parties should also discuss whether their electronically stored information is reasonably accessible. Electronically stored information that is not reasonably accessible may include information created or used by electronic media no longer in use, maintained in redundant electronic storage media, or for which retrieval otherwise involves undue burden or substantial cost;
- (3) A brief description of the steps each party has taken to segregate and preserve all potentially relevant electronically stored information;
- (4) The potential for conducting discovery of electronically stored information in phases as a method for reducing costs and burden;
- (5) The methodology the parties shall employ to conduct an electronic search for relevant electronically stored information and any restrictions as to the scope and method of the search;
- (6) The format for production (e.g., text searchable image files such as pdf or tiff) of electronically stored information,
- (7) The potential for entering into an agreement under [Federal Rule of Evidence 502\(d\)](#) regarding the disclosure of a communication or information covered by the attorney-client privilege or work-product protection, as well as the potential for moving the Court to enter an order that incorporates any such agreement under Federal Rule of Evidence 502(d), and
- (8) Any problems reasonably anticipated to arise in connection with e-discovery (e.g., email duplication).

If the parties fail to reach agreement on any of the e-discovery issues addressed in subparts (4) through (8) above prior to the scheduling conference the parties shall bring this fact to the Court's attention at the scheduling conference and discuss whether the Court's intervention on those topics is necessary.

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#### **RELATED AUTHORITY**

Fed. R. Civ. P. 16, 16(f)  
[Dist. Idaho Loc. Civ. R. 16.4](#), 16.5

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