

RULE CV-16. PRETRIAL CONFERENCES; SCHEDULING; MANAGEMENT

(a) A scheduling order must be entered in every case except those exempted in subdivision (b) of this rule. The form of the scheduling order should conform to the form prescribed by the judge and posted on the court website. If the judge has not posted a form scheduling order on the website, the scheduling order may conform to the form set out in Appendix B of these rules.

(b) The same types of cases that are exempt from mandatory disclosure requirements under Federal Rule of Civil Procedure 26 are exempt from the scheduling order requirement of Rule 16. In addition, the following categories of cases are also exempt from the scheduling order requirement: (1) bankruptcy appeals; (2) civil forfeiture cases; (3) land condemnation cases; (4) naturalization proceedings filed as civil cases; (5) interpleader cases; and (6) any other case where the judge finds that the ends of justice would not be served by using the scheduling order procedure of Rule 16.

(c) Not later than 60 days after any appearance of any defendant, the parties shall submit a proposed scheduling order to the court in the form described in subdivision (a). The parties first shall confer as required by Rule 26(f). The content of the proposed scheduling order shall include proposals for all deadlines set out in the described form. The parties shall endeavor to agree concerning the contents of the proposed order, but in the event they are unable to do so, each party's position and the reasons for the disagreement shall be included in the proposed schedule submitted to the court. In the event the plaintiff has not yet obtained service on all defendants, the plaintiff shall include an explanation of why all parties have not been served. The scheduling proposals of the parties shall be considered by the court, but the setting of all dates is within the discretion of the court.

(d) Filing a report that substantially conforms to Appendix N satisfies the provisions of Rule 26(f).

(e) Unopposed discovery may continue after the deadline for discovery contained in the scheduling order, provided that discovery does not delay other pretrial preparations or the trial setting. Absent exceptional circumstances, no motions relating to discovery, including motions under Rules 26(c), 29, and 37, shall be filed after the expiration of the discovery deadline, unless they are filed within 14 days after the discovery deadline and pertain to conduct occurring during the final 7 days of discovery. Written discovery is not timely unless the response to that discovery would be due before the discovery deadline. The responding party has no obligation to respond and object to written discovery if the response and objection would not be due until after the discovery deadline. Notices served before the discovery deadline that purport to schedule depositions after the discovery deadline will not be enforced.

(f) Unless otherwise ordered by the court, each party shall serve and file the following information at least 14 days before the scheduled date for trial, jury selection, docket call, or the final pretrial conference, whichever is first:

- (1) A list of questions the party desires the court to ask prospective jurors.
- (2) In cases to be tried to a jury, a statement of the party's claims or defenses to be used by the court in conducting voir dire. The statement shall be no longer than ½ page with type double-spaced.

- (3) A list of stipulated facts.
- (4) An appropriate identification of each exhibit as specified in this rule (except those to be used for impeachment only), separately identifying those that the party expects to offer and those that the party may offer if the need arises.
- (5) The name and, if not previously provided, the address and telephone number of each witness (except those to be used for impeachment only), separately identifying those whom the party expects to present and those whom the party may call if the need arises.
- (6) The name of those witnesses whose testimony is expected to be presented by means of a deposition and designation by reference to page and line of the testimony to be offered (except those to be used for impeachment only) and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony.
- (7) Proposed jury instructions and verdict forms.
- (8) In nonjury trials, Proposed Findings of Fact and Conclusions of Law.
- (9) Any motions in limine.
- (10) An estimate of the probable length of trial.

(g) At least 7 days prior to the scheduled date for trial, jury selection, docket call, or the final pretrial conference, whichever is first, each party shall serve and file the following:

- (1) A list disclosing any objections to the use under Rule 32 of deposition testimony designated by the other party.
- (2) A list disclosing any objection, together with the grounds therefore, that may be made to the admissibility of any exhibits. Objections not so disclosed, other than objections under Federal Rules of Evidence 402 and 403 shall be deemed waived unless excused by the court for good cause shown.
- (3) Responses to any motion in limine.

(h) All trial exhibits must be marked with an identifying sequence, followed by a dash, followed by a number; for example, Exhibit P-1 and Exhibit D-1. The identifying sequence (e.g., “P” and “D”) will identify the party who will offer the exhibit. Parties will assign numbers to their exhibits consecutively, beginning with the number 1. The letter “G” will be assigned to the government for identification purposes. In cases involving more complex pleading relationships (e.g., consolidated cases, intervenors, and third party actions), it is the responsibility of counsel for the plaintiff, in consultation with the judge’s courtroom deputy clerk, to coordinate the assignment of the unique identification sequences.