

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Plaintiff(s)

v.

Civil No. *Case #/Judge Initials*

Defendant(s)

DISCOVERY PLAN
Fed. R. Civ. P. 26(f)

DATE/PLACE OF CONFERENCE:

COUNSEL PRESENT/REPRESENTING:

CASE SUMMARY

THEORY OF LIABILITY:

THEORY OF DEFENSE:

DAMAGES:

DEMAND: *due date [need not be filed with the court]*

OFFER: *due date [need not be filed with the court]*

JURISDICTIONAL QUESTIONS:

QUESTIONS OF LAW:

TYPE OF TRIAL: *jury or bench*

DISCOVERY

TRACK ASSIGNMENT:

EXPEDITED--6 MONTHS

STANDARD--12 MONTHS

COMPLEX--24 MONTHS

DISCOVERY NEEDED:

Give brief description of subjects on which discovery will be needed.

MANDATORY DISCLOSURES (Fed. R. Civ. P. 26(a)(1)):

Advise the court whether the parties have stipulated to a different method of disclosure

than is required by Fed. R. Civ. P. 26(a)(1) or have agreed not to require any Rule 26(a)(1) disclosures.

ELECTRONIC INFORMATION DISCLOSURES (Fed. R. Civ. P. 26(f)):

The parties should provide (a) a brief description of their proposals regarding the disclosure or discovery of electronically stored information (“ESI”) (and/or attach a proposed order and/or (b) identify any disputes regarding the same. The potential issues the parties should consider include, but are not limited to: (1) Preservation. Counsel should attempt to agree on steps the parties will take to segregate and preserve ESI in order to avoid accusations of spoliation; (2) E-mail Information. Counsel should attempt to agree on the scope of e-mail discovery and e-mail search protocol; (3) Back-up and Archival Data. Counsel should attempt to agree on whether responsive back-up and archival data exists, the extent to which back-up and archival data is reasonably accessible, and who will bear the cost of obtaining such data; (4) Format and Media. Counsel should attempt to agree on the format and media to be used in the production of ESI, and whether production of some or all ESI in paper form is agreeable in lieu of production in electronic format; (5) Reasonably Accessible Information and Costs. Counsel should attempt to determine if any responsive ESI is not reasonably accessible, i.e., is accessible only by incurring undue burdens or costs; (6) Privileged or Trial Preparation Materials. Counsel also should attempt to reach agreement regarding what will happen in the event privileged or trial preparation materials are inadvertently disclosed. See Fed. R. Evid. 502.

STIPULATION REGARDING CLAIMS OF PRIVILEGE/PROTECTION OF TRIAL PREPARATION MATERIALS (Fed. R. Civ. P. 26(f)):

The parties should provide a brief description of the provisions of any proposed order governing claims of privilege or of protection as trial preparation material after production (and/or attach a proposed order).

COMPLETION OF DISCOVERY:

(1) Date all discovery complete [APPROXIMATELY 60 DAYS PRIOR TO TRIAL DATE ACCORDING TO TRACK]

(2) If there are issues for early discovery, date for completion of discovery on those issues

INTERROGATORIES:

A maximum of (number) [PRESUMPTIVE LIMIT 25] interrogatories by each party to any other party. Responses due 30 days after service unless otherwise agreed to pursuant to Fed. R. Civ. P. 29.

REQUESTS FOR ADMISSION:

A maximum of (number) requests for admission by each party to any other party. Responses due 30 days after service unless otherwise agreed to pursuant to Fed. R. Civ. P. 29.

DEPOSITIONS:

A maximum of (number) [PRESUMPTIVE LIMIT 10] depositions by plaintiff(s) and (number) [PRESUMPTIVE LIMIT 10] by defendant(s).

Each deposition (other than of /name\) limited to a maximum of (number) [PRESUMPTIVE LIMIT 7] hours unless extended by agreement of the parties.

DATES OF DISCLOSURE OF EXPERTS AND EXPERTS' WRITTEN REPORTS AND SUPPLEMENTATIONS:

Plaintiff: *due date* Defendant: *due date*
Supplementations under Rule 26(e) due *time(s) or interval(s)*.

Advise the court whether the parties have stipulated to a different form of expert report than that specified in Fed. R. Civ. P. 26(a)(2).

CHALLENGES TO EXPERT TESTIMONY:

due date: [no later than 45 days prior to trial]

OTHER ITEMS

DISCLOSURE OF CLAIMS AGAINST UNNAMED PARTIES: If defendant(s) claim that unnamed parties are at fault on a state law claim (see DeBenedetto v. CLD Consulting Engineers, Inc., 153 N.H. 793 (2006)), defendant(s) shall disclose the identity of every such party and the basis of the allegation of fault no later than [no later than 30 days before the Joinder of Additional Parties deadline and 45 days before the Plaintiff's Expert Disclosure deadline]. Plaintiff shall then have 30 days from the date of disclosure to amend the complaint.

JOINDER OF ADDITIONAL PARTIES:

Plaintiff: *due date* Defendant: *due date*

THIRD-PARTY ACTIONS: *due date*

AMENDMENT OF PLEADINGS:

Plaintiff: *due date* Defendant: *due date*

DISPOSITIVE MOTIONS:

To Dismiss: *due date* [NO LATER THAN 90 DAYS AFTER PRELIMINARY PRETRIAL]
For Summary Judgment: *due date* [NO LATER THAN 120 DAYS PRIOR TO TRIAL DATE ACCORDING TO TRACK. THE FACT THAT THE DISCOVERY DEADLINE MAY POSTDATE THE SUMMARY JUDGMENT DEADLINE IS NOT A SUFFICIENT BASIS TO REQUEST A CONTINUANCE OF THE SUMMARY JUDGMENT DEADLINE.]

SETTLEMENT POSSIBILITIES:

- (1) *is likely*
- (2) *is unlikely*
- (3) *cannot be evaluated prior to (date)*
- (4) *may be enhanced by ADR:*
 - (a) *Request to the court*
 - (b) *Outside source*

JOINT STATEMENT RE MEDIATION:

The parties shall indicate a date by which mediation, if any, will occur.

WITNESSES AND EXHIBITS:

[NO DATES NECESSARY; DUE DATES--10 DAYS BEFORE FINAL PRETRIAL CONFERENCE BUT NOT LESS THAN 30 DAYS BEFORE TRIAL FOR LISTS (INCLUDED IN FINAL PRETRIAL STATEMENTS) AND 14 DAYS AFTER SERVICE OF FINAL PRETRIAL STATEMENT FOR OBJECTIONS--SET BY CLERK'S NOTICE OF TRIAL ASSIGNMENT.]

TRIAL ESTIMATE: *number of days*

TRIAL DATE: *The parties shall set out an agreed trial date--adhering to time periods as mandated by the chosen track assignment--using a preset jury selection day as provided on the court's web site (www.nhd.uscourts.gov). If the parties cannot agree on a date, they shall set out their respective proposed dates.*

PRELIMINARY PRETRIAL CONFERENCE: The parties [request] [do not request] a preliminary pretrial conference with the court before entry of the scheduling order. [NOTE: THE PARTIES SHOULD PLAN TO ATTEND THE PRELIMINARY PRETRIAL CONFERENCE AS SCHEDULED UNLESS OTHERWISE NOTIFIED BY THE COURT.]

OTHER MATTERS: *The parties should list here their positions on any other matters which should be brought to the court's attention including other orders that should be entered under Fed. R. Civ. P. 26(c) or 16(b) and (c).*

(Added 1/1/97; amended 1/1/00, 1/1/01, 1/1/02, 1/1/03, 1/1/04, 1/1/07, 12/1/09, 12/1/11, 12/1/13)