

**INSTRUCTIONS FOR PREPARATION OF
SCHEDULING ORDER AS AMENDED December 15, 2000**

The court has set a scheduling conference pursuant to Fed. R. Civ. P. 16 and D.C. COLO. LR 16.2 and 29.1 in the above case. No discovery shall be done by the parties until the parties meet, in accordance with rule 26(f), and attempt to agree on a Scheduling Order. The rule 26(f) meeting shall be held at least **twenty one (21) days** before the rule 16 scheduling conference. The disclosures required by Fed. R. Civ. P. 26(a)(1) shall be exchanged at or within ten days after the rule 26(f) meeting. **DO NOT FILE ANY DISCLOSURE STATEMENTS WITH THE COURT.**

Five days before the scheduling conference (see Fed. R. Civ. P. 6 for all computations of time), counsel are to tender a proposed SCHEDULING ORDER which shall include the signatures of counsel and *pro se* litigants and provide for approval by the court as specified on the attached form. Counsel should try in good faith to agree upon matters covered in the Scheduling Order. Any area of disagreement should be set forth with a brief statement concerning the basis for the disagreement. The parties should expect that the court will make modifications in the proposed Scheduling Order and will want to discuss all issues affecting management of the case. Please note that the form of the Scheduling Order set out below requires more than the minimum information listed in D.C.COLO.LR 29.1.

D.C.COLO. LR 72.6 authorizes United States Magistrates Judges to exercise jurisdiction of civil matters upon the consent of the parties. If all parties have consented to the Exercise of Jurisdiction by a United States Magistrate Judge pursuant to D.C. COLO.LR 72.6, the **“Notice of Availability of a United States Magistrate Judge to Exercise Jurisdiction and Consent to the Exercise of Jurisdiction by a United States Magistrate Judge” form and a proposed Order of Reference are to be filed with the Clerk of the Court AT LEAST FIVE DAYS BEFORE THE SCHEDULING CONFERENCE** and the consent indicated in Section 6 of the proposed Scheduling Order. If all parties have not been served or in the event additional parties are added after the scheduling conference, refer to D.C.COLO. LR72.6.

Listed on the following pages is the format for the proposed Scheduling Order. The bracketed information on the form explains what the court expects.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.

Plaintiff(s),

V.

Defendant(s).

SCHEDULING ORDER

**1. DATE OF CONFERENCE
AND APPEARANCES OF COUNSEL**

[Provide the date of the conference and the names, addresses, and telephone numbers of counsel for each party. Identify by name the party represented by each counsel.]

2. STATEMENT OF CLAIMS AND DEFENSES

a. *Plaintiff(s):*

b. *Defendant(s):*

c. *Other Parties:*

[Provide concise statements of all claims or defenses. Each party should, in light of formal or informal discovery undertaken thus far, take special care to eliminate frivolous claims or defenses. Fed. R. Civ. P. 16(c)(1), 11. Do not summarize the pleadings. Statements such as "defendant denies the material allegations of the complaint," are not acceptable.]

3. UNDISPUTED FACTS

The following facts are undisputed:

[When counsel have their rule 26(f) meeting, they should make a good faith attempt to determine which facts are not in dispute.]

4. COMPUTATION OF DAMAGES

[Include a computation of all categories of damages sought and the basis and theory for calculating damages. See Fed. R. Civ. P. 26(a)(1)(C). This should include the claims of all parties. It should also include a description of the economic damages, non-economic damages, and physical impairment claimed, if any.]

5. REPORT OF PRE-CONFERENCE DISCOVERY & MEETING UNDER FED. R. CIV. P. 26(F)

- a. Date of rule 26(f) meeting.
- b. Names of each participant and party he/she represented.
- c. Proposed changes, if any, in timing or requirement of disclosures under Fed. R. Civ. P. 26(a)(1).
- d. Statement as to when rule 26(a)(1) disclosures were made or will be made.

[If a party's disclosures were not made within the time provided in Fed. R. Civ. P. 26(a)(1), within fourteen (14) days of the Rule 26(f) conference, the party must here provide an explanation showing good cause for the omission.]

- e. A statement concerning any agreements to conduct informal discovery, including joint interviews with potential witnesses, exchanges of documents, and joint meetings with clients to discuss settlement. If there is agreement to conduct joint interviews with potential witnesses, list the names of such witnesses and a date and time for the interview which have been agreed to by the witness and all counsel.

6. CONSENT

[Pursuant to D.C.COLO.LR 72.6, all full time magistrate judges in the District of Colorado are specially designated under 28 U.S.C. §636(c)(1) to conduct any or all proceedings in any jury or nonjury civil matter and order the entry of judgment. Upon consent

of the parties and an order of reference from the district judge, the magistrate judge assigned the case under 28 §636(a) and (b) will hold the scheduling conference and retain settlement jurisdiction, whereas pretrial case management, jurisdiction of dispositive motions and trial will be assigned to the magistrate judge drawn at random under D.C.COLO.LR 72.6]

Indicate below the parties' consent choice.

a. () All parties have consented to the exercise of jurisdiction of a United States Magistrate Judge.

b. () All parties have not consented to the exercise of jurisdiction of a United States Magistrate Judge.

7. CASE PLAN AND SCHEDULE

a. Deadline for Joinder of Parties and Amendment of Pleadings:

[Set time period within which to join other parties and to amend all pleadings. This portion of the Scheduling Order relates to timing only. It does not eliminate the necessity to file an appropriate motion and to otherwise comply with Fed. R. Civ. P. 15. Unless otherwise ordered in a particular case, for good cause, these dates should be no later than forty-five days after the date of the scheduling conference, so as to minimize the possibility that late amendments and joinder of parties will precipitate requests for extensions of discovery cutoff, final pretrial conference, and dispositive motion dates. Counsel should plan discovery so that discovery designed to identify additional parties or claims is completed before these deadlines.]

b. Discovery Cut-off:

c. Dispositive Motion Deadline:

[Set time periods in which discovery is to be completed and dispositive motions filed.]

d. Expert Witness Disclosure

(1) State anticipated fields of expert testimony, if any.

(2) State any limitations proposed on the use or number of expert witnesses.

(3) The parties shall designate all experts and provide opposing counsel with all information specified in Fed. R. Civ. P. 26(a)(2) on or before _____, 2000.

(4) The parties shall designate all rebuttal experts and provide opposing counsel with all information specified in Fed. R. Civ. P. 26(a)(2) on or before _____, 2000.

(5) Notwithstanding the provisions of Fed. R. Civ. P. 26(a)(2)(B), no exception to the requirements of the rule will be allowed by stipulation of the parties unless the stipulation is approved by the court.

e. Deposition Schedule:

<i>Name of Deponent</i>	<i>Date of Deposition</i>	<i>Time of Deposition</i>	<i>Expected Length of Deposition</i>

[List the names of persons to be deposed and a schedule of any depositions to be taken, including (i) a good faith estimate of the time needed for the deposition and (ii) time(s) and date(s) for the deposition which have been agreed to by the deponent and persons signing the Scheduling Order.]

f. Interrogatory Schedule

[Set a schedule for the submission of and response to written interrogatories, if any are desired.]

g. Schedule for Request for Production of Documents

[Set a schedule for the submission of and response to requests for documents, if any are desired.]

h. Discovery Limitations:

- (1) Any limits which any party wishes to propose on the number of depositions.
- (2) Any limits which any party wishes to propose on the length of depositions.
- (3) Modifications which any party proposes on the presumptive numbers of depositions or interrogatories contained in the federal rules.

(4) Limitations which any party proposes on number of requests for production of documents and/or requests for admissions.

[At the rule 26(f) meeting, the parties should make a good faith attempt to agree to limit the number of depositions, interrogatories, requests for admissions, and requests for production. In the majority of cases, the parties should anticipate that discovery, will be limited as specified in Fed. R. Civ. P. 30(a)(2)(A), 33.]

Other Planning or Discovery Orders

Rule 26(a)(3) witness disclosures to be exchanged by _____.

[Set forth any other proposed orders concerning scheduling or discovery.]

8. SETTLEMENT

[The parties must certify here that, as required by Fed. R. Civ. P. 26(f), they have discussed the possibilities for a prompt settlement or resolution of the case by alternate dispute resolution. They must also report the result of any such meeting, and any similar future meeting, to the magistrate judge within ten days of the meeting.]

9. OTHER SCHEDULING ISSUES

a. A statement of those discovery or scheduling issues, if any, on which counsel, after a good faith effort, were unable to reach an agreement.

b. Anticipated length of trial and whether trial is to the court or jury.

10. DATES FOR FURTHER CONFERENCES

[The magistrate judge will complete this section at the scheduling conference if he or she has not already set deadlines by an order filed before the conference.]

a. A settlement conference will be held on _____ at _____ o'clock __M.

IT IS HEREBY ORDERED THAT ALL SETTLEMENT CONFERENCES THAT TAKE PLACE BEFORE THE MAGISTRATE JUDGE SHALL BE CONFIDENTIAL.

- () Attorneys only need be present.
- () Attorneys and client representatives with authority to settle must be present. (NOTE: this requirement is not fulfilled by the presence of counsel. If an insurance company is involved, an adjustor authorized to enter into settlement must also be present.
- () Each party shall submit a Confidential Settlement Statement to the magistrate judge on or before _____ outlining the facts and issues in the case and the party's settlement position.
- b. Status conferences will be held in this case at the following dates and times:

- c. A final pretrial conference will be held in this case on _____ at _____ o'clock __.M. A Final Pretrial Order shall be prepared by the parties and submitted to the court no later than five days before the final pretrial conference.

11. OUT-OF-STATE COUNSEL

() We hereby certify that all out of state counsel have complied with D.C.COLO.LR 83.5C.

12. OTHER MATTERS

IN ADDITION TO FILING AN APPROPRIATE NOTICE WITH THE CLERK'S OFFICE, COUNSEL MUST FILE A COPY OF ANY NOTICE OF WITHDRAWAL, NOTICE OF SUBSTITUTION OF COUNSEL, OR NOTICE OF CHANGE OF COUNSEL'S ADDRESS OR TELEPHONE NUMBER WITH THE CLERK OF THE UNITED STATES MAGISTRATE JUDGE ASSIGNED TO THIS CASE.

WITH RESPECT TO DISCOVERY DISPUTES, PARTIES MUST COMPLY WITH D.C.COLO.LR 7.1. PARTIES OPPOSING A DISCOVERY MOTION SHALL HAVE ELEVEN DAYS IN WHICH TO FILE A RESPONSIVE BRIEF. NO REPLY BRIEFS WILL BE ACCEPTED. DISCOVERY MOTIONS OR BRIEFS RELATING THERETO SHALL NOT EXCEED TEN PAGES IN LENGTH (NOT INCLUDING ATTACHMENTS OR APPENDICES).

THE PARTIES FILING MOTIONS FOR EXTENSION OF TIME OR CONTINUANCES MUST COMPLY WITH D.C.COLO.LR 7. 1(C) BY SUBMITTING PROOF THAT A COPY OF THE MOTION HAS BEEN SERVED UPON THE MOVING ATTORNEY'S CLIENT, ALL ATTORNEYS OF RECORD, AND ALL PRO SE LITIGANTS.

13. AMENDMENTS TO SCHEDULING ORDER

Include a statement that the Scheduling Order may be altered or amended only upon a showing of *good cause*.

Provide names, addresses, telephone numbers, and signatures of counsel and provision for approval of the court and signature line for the judge, using the following format:

DATED this _____ day of _____ 2000.

BY THE COURT:

United States Magistrate Judge

SCHEDULING ORDER TENDERED FOR REVIEW:

(Name)
(Address)
(Telephone Number)
Attorney for Plaintiff

(Name)
(Address)
(Telephone Number)
Attorney for Defendant

Please affix counsels' signatures before submission of the proposed Scheduling Order to the court.

