

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

CIVIL ACTION NO. *

VS.

JUDGE TUCKER L. MELANÇON

MAGISTRATE JUDGE *

ILLUSTRATIVE PRETRIAL ORDER

Trial Date: _____

Back-Up Trial Date: _____

Pretrial Conference Date: _____

Type of Trial: (BENCH) (JURY)

Trial Attorney Attending¹: _____ Party/Claim Represented: _____

1. Claims and Responses:

Each party asserting a claim will identify as to *each* claim: (a) the law and/or contractual provision supporting the claim; (b) the jurisdictional basis for the claim; (c) the relief for as to each defendant; and (d) the law and/or contractual provision supporting that remedy as to that defendant. **This requirement applies to all counterclaims, cross-claims, third-party claims, and interventions.**

Each party against whom a claim has been asserted will provide the following information for each claim asserted: (a) the alleged basis for each claim; (b) all affirmative defenses asserted and the legal bases therefor; (c) whether the dispute in question is one of law, and if so the law supporting the response or one of contractual interpretation.

The parties will state whether they have been able to stipulate to the amounts sought to be recovered by intervenor.

FAILURE TO SET OUT A CLAIM OR A DEFENSE IN THE PRE-TRIAL ORDER WILL CONSTITUTE AN ABANDONMENT OF THE CLAIM OR OF THE DEFENSE.

¹Actual trial counsel must attend the pretrial conference.

2. Procedural History and Posture

The parties will set out the procedural history of the case, including (a) disposition of motions filed; (b) a list of any pending motions; and (c) a list of any anticipated motions and the “good cause which exists to obtain Court authority for the late filing of same based on the deadlines previously established by the Scheduling Order

3. Estimated Length of Trial

4. Issues of Law

Identify any TRUE issues of LAW which remain unresolved so that they may be addressed and resolved by the Court at the pretrial conference.

5. Summary of Facts:

Each party will give a brief (i.e., no more than two to three paragraphs) summary of the **specific facts** which support its claim(s) or defense(s).

6. Stipulations:

List all matters to which the parties can stipulate. Counsel are encouraged to stipulate to as many factual and/or legal issues as possible

7. Witnesses:

Each party will set out a witness list which conforms with the requirements of Fed.R.Civ.P. 26(a)(3)(A) and (B).

8. Exhibits:

Each party shall set out an exhibit list which conforms with the requirements of Fed.R.Civ.P. 26(a)(3)(C).

9. Objections to Witness and Exhibit Lists

List all objections to the witness or exhibit lists of any other party, including those objections contained in FED.R.CIV.P. 26(a)(3). For all exhibits to which there are objections, the objecting party shall attach a copy of the disputed exhibit to the Pretrial Order. **ANY OBJECTION NOT SPECIFICALLY STATED IN THE PRETRIAL ORDER SHALL BE DEEMED WAIVED BY THE COURT.**

10. For Bench Trials

The parties shall submit **two** bench books to Judge Melançon’s Chambers ten (10) days prior to trial. Any objections to witnesses or exhibits that remain outstanding after the pretrial conference must accompany the bench books or they shall be deemed waived by the Court.

11. For Jury Trials

In jury trials, joint jury instructions and joint jury interrogatories shall be attached to the Pretrial Order. Where applicable, all jury instructions shall be those provided for in the latest edition of the Fifth Circuit Pattern Jury Instructions and may be identified by pattern instruction number

and citation to the volume of the edition used. If counsel are unable to agree as to a specific jury instruction, a separate proposal for each such instruction shall be submitted to the Court with supporting and contravening authority footnoted with pinpoint citations. Counsel are to be prepared to discuss all disputes as to the jury instructions and jury interrogatories at the pretrial conference. A floppy disk or CD-ROM containing jury interrogatories and all non-Fifth Circuit Pattern jury instruction shall accompany the Pretrial Order.

Proposed case specific voir dire questions shall accompany the pretrial order.

12. Editing Trial Depositions/Filing Objections

All depositions to be used at trial, including video depositions, shall be edited to remove non-essential, repetitious, and unnecessary material as well as objections and colloquy of counsel and shall be submitted to Judge Melançon's Chambers ten (10) days prior to trial.

All objections to the deposition(s) shall be briefed and filed with the Clerk of Court with a copy submitted to Judge Melançon's Chambers on or before the ten (10) day deadline, or shall be deemed waived by the Court.

13. Counsel Affirmations

The Pretrial Order shall contain an affirmation that all counsel are aware that all exhibits are to be published to the jury by way of CD-ROM or the Visual Presenter unless consent is otherwise obtained from the Court at the pretrial conference upon a showing of impracticality or undue prejudice.

Counsel shall also affirm that final good faith settlement negotiations will be engaged in WITHIN ONE WEEK prior to the pretrial conference.

Counsel shall advise the Court of the need, if any there be, for handicap provisions which may be provided by the Court.

ORIGINAL SIGNATURE OF EACH ACTUAL TRIAL
COUNSEL AND ANY UNREPRESENTED PARTY AND
DATE(S) OF SIGNATURES(Signatures are to be on a single
signatory page)

(revised 05-19-06)

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION**

* **CIVIL ACTION NO.**

VERSUS * **JUDGE TUCKER L. MELANÇON**

 * **MAGISTRATE JUDGE**

RULE 26(f) REPORT²

Trial Date: _____

Backup Trial Date: _____

Pretrial Conference Date: _____

Type of Trial (Bench or Jury) _____

Estimated length of trial is _____ **court days.**

1. Participants:

List all unrepresented parties and all counsel participating in the conference and the parties they represent.

2. Affirmation Regarding Initial Disclosures:

The parties shall affirm that they have complied with the initial disclosure requirements of Fed.R.Civ.P.26(a)(1) by the deadline contained in the Scheduling Order. (or explain why not they have not complied).

3. Jurisdictional Basis:

The parties shall state the jurisdictional basis for the suit and any objections to jurisdiction.

4. Brief Description of Claims:

Each party asserting a claim, counterclaim, cross-claim, third-party claim or intervention shall *briefly* state: (a) the specific facts which support the claim or claims; (b) the law and/or any contractual provision supporting the claim; and (c) the relief requested as to each defendant. (mere repetition of pleadings is to be avoided)

² **INSTRUCTION TO COUNSEL:** Mail, e-mail, or deliver the original Rule 26(f) Report directly to the Magistrate Judge assigned to the case. **DO NOT SEND THIS REPORT TO THE CLERK OF COURT.** If you wish to e-mail the report, you must e-mail the **ORDER** in **WORD PROCESSING** format, and the **Rule 26(f) REPORT** in **PDF** format to the appropriate e-mail address. For Magistrate Judge Methvin send to methvin_orders@lawd.uscourts.gov. For Magistrate Judge Hill send to hill_orders@lawd.uscourts.gov. You are still obligated to provide opposing counsel with a copy of the submission.

5. Brief Statement of Responses: Each party against whom a claim has been made shall provide the following information: (a) the alleged basis of each claim; (b) affirmative defenses asserted as to each claim and the bases therefor; and (c) as to each claim made, whether the dispute is one of law, fact, or contractual interpretation.

6. Anticipated Amendments to Pleadings

Each party shall identify any amendments to pleadings that the party anticipates filing.

7. Anticipated Motions

Each party shall identify any motion (dispositive or otherwise) that the party anticipates filing.

8. Anticipated Expert Witnesses

Each party shall identify by name (if known), area of expertise, and subject matter of anticipated expert testimony for all experts who may be called to testify at trial. The information requested except for the experts' name should be provided whether or not experts have actually been retained as of the date of the report.

9. Discovery Plan:

The parties have received a discovery plan in the Scheduling Order previously issued in this case. If the parties conclude that a more case specific Scheduling Order is required please indicate same so that a telephone conference with Judge Melançon can be set.

10. Stipulations:

List any matters to which the parties can stipulate. Counsel are encouraged to stipulate to as many factual and legal issues as possible to reduce client costs and trial delays.

11. Major Issues of Fact in Dispute:

Each party shall identify the major issues of fact in dispute.

12. Major Issues of Law in Dispute:

Each party shall identify the major issues of law in dispute.

13. Rule 16 Conference:

The parties are advised that a Rule 16 conference with the assigned magistrate judge may be beneficial. Such conferences can be held in chambers or by telephone, and often result in a substantial reduction in the time and expense spent in pretrial preparation. **Each party shall state whether the party believes a Rule 16 conference would be beneficial. If there is consensus, please provide four mutually convenient dates and times for a conference.** In certain cases, the magistrate judge may *sua sponte* schedule a Rule 16 conference.

14. Related Case Information:

Please state whether this case is related in any way to any other pending case, whether federal or state, civil or criminal. If so, please list 1) the name of the related case; 2) the court in which it is pending; 3) the docket number; 4) the assigned judge(s); and 5) a brief description of how the cases are related.

15. Alternative Dispute Resolution (ADR):

Counsel and any unrepresented party shall affirm that prior to the Rule 26(f) conference they discussed the possibility of resolving the dispute through ADR and that at the Rule 26(f) conference they discussed in good faith the feasibility of using ADR. Counsel and any unrepresented party shall also indicate whether ADR will be pursued, and if so, at what stage of the litigation. If the parties agree that a settlement conference before a judicial officer would be productive, they are to provide four (4) mutually convenient dates for such a conference.

16. Consent Trials:

Counsel and unrepresented parties are advised of their right to consent to trial by a United States Magistrate Judge pursuant to 28 U.S.C. §636(c) which *may* in appropriate cases result in an earlier trial date. All counsel and unrepresented parties must sign the attached consent form to establish jurisdiction. The duly executed consent form should be attached to the Rule 26(f) Report when submitted to the United States Magistrate Judge assigned to this case.

17. Track Assignment:

This case is assigned to the general civil track. In appropriate cases the parties may request a transfer to an accelerated or standby docket. Please indicate whether such request is being made so a telephone conference with Judge Melançon can be set.

18. Electronic Courtroom:

Counsel shall state here whether this case will be document-intensive, i.e., requiring the admission of more than twenty-five (25) documents at trial. If so, counsel shall set out their best estimate of the number of pages and/or documents that will be introduced into evidence at trial. Presentation of all documentary evidence in document-intensive cases shall be by CD-ROM unless consent of court is otherwise obtained. Judge Melançon's requirements for presentation of evidence in document-intensive cases will be discussed more fully at the status and pretrial conference

NOTE: In jury trials that are not document-intensive, the Court generally requires that documents and exhibits be shown to the jury via use of the "Visual Presenter" or CD-ROM.

19. Electronically Generated Exhibits or Aids:

Any party who anticipates using electronically-generated exhibits or demonstrative aids at trial shall describe the anticipated exhibit or aid. "Electronically generated exhibits or aids" refer to any exhibit or demonstrative aid which is CREATED in whole or in part with the aid of computer software, but excludes evidence which is merely to be EXHIBITED or presented by way of computer, CD-ROM or video presenter.

20. Handicap Provisions:

If the parties anticipate the need for handicap accommodations for any party, witness or trial participant, it is necessary to advise the court of the nature of the handicap so appropriate accommodations can be made.

21. Insured claims and claims involving contractual indemnity

If the named defendants anticipate that they will have cross-claims or third-party claims against parties who will provide insurance or indemnity for any of the asserted claims, the defendants are to identify such parties and produce copies of the applicable insurance policies or indemnity agreements to the other parties and the Court. If upon review of the documents by the Court it is determined that an assertion of the cross-claims and third-party claims will assist in the simplification of the subject litigation, the Court, upon its own motion or the motion of any party, will conduct a hearing to allow the parties to show cause why the absent persons should not be immediately joined and the anticipated claims asserted. If the Court determines that the anticipated cross-claims or third-party claims will simplify the litigation, the Court may assign such claims to an accelerated Scheduling Order.

- a. 21 days after Rule 26(f) conference: Joinder of Third-Party Defendants and deadline to assert cross-claims seeking insurance coverage or indemnification.
- b. 51 days after Rule 26(f) conference: Production of all applicable insurance agreements, indemnity agreements, arbitration agreements and applicable contracts.
- c. 81 days after Rule 26(f) conference: Discovery deadline for third-party and cross-claims.
- d. 111 days after Rule 26(f) conference: Dispositive motion deadline for third-party and cross-claims

BY MY SIGNATURE I HEREBY CERTIFY THAT THE FOREGOING IS ACCURATE AND COMPLETE.

ORIGINAL OR FAX ³ SIGNATURES OF ACTUAL TRIAL COUNSEL AND ALL UNREPRESENTED PARTIES AND DATE(S) OF SIGNATURES

³ Judge Melançon has authorized the use of facsimile signatures in lieu of original signatures for Rule 26(f) Reports.

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION**

VERSUS

* **CIVIL ACTION NO.**
* **JUDGE TUCKER L. MELANÇON**
* **MAGISTRATE JUDGE**

ORDER

Having reviewed the foregoing Rule 26(f) Report and determined it to be complete,
IT IS ORDERED that the Clerk of Court file the Rule 26(f) Report submitted by the parties
into the record of this proceeding.

Signed this _____ day of _____, 200 __, at Lafayette, Louisiana.

UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT

District of _____

NOTICE, CONSENT, AND ORDER OF REFERENCE —
EXERCISE OF JURISDICTION BY A UNITED STATES
MAGISTRATE JUDGE

Plaintiff
V.

Case Number:

Defendant

**NOTICE OF AVAILABILITY OF A UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION**

In accordance with the provisions of 28 U.S.C. §636(c), and Fed.R.Civ.P. 73, you are notified that a United States magistrate judge of this district court is available to conduct any or all proceedings in this case including a jury or nonjury trial, and to order the entry of a final judgment. Exercise of this jurisdiction by a magistrate judge is, however, permitted only if all parties voluntarily consent.

You may, without adverse substantive consequences, withhold your consent, but this will prevent the court’s jurisdiction from being exercised by a magistrate judge. If any party withholds consent, the identity of the parties consenting or withholding consent will not be communicated to any magistrate judge or to the district judge to whom the case has been assigned.

An appeal from a judgment entered by a magistrate judge shall be taken directly to the United States court of appeals for this judicial circuit in the same manner as an appeal from any other judgment of this district court.

CONSENT TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE

In accordance with provisions of 28 U.S.C. §636(c) and Fed.R.Civ.P. 73, the parties in this case consent to have a United States magistrate judge conduct any and all proceedings in this case, including the trial, order the entry of a final judgment, and conduct all post-judgment proceedings.

Party Represented

Signatures

Date

ORDER OF REFERENCE

IT IS ORDERED that this case be referred to _____
United States Magistrate Judge, to conduct all proceedings and order the entry of judgment in accordance with 28 U.S.C. §636(c) and Fed.R.Civ.P. 73.

Date

United States District Judge

NOTE: RETURN THIS FORM TO THE CLERK OF THE COURT ONLY IF ALL PARTIES HAVE CONSENTED
ON THIS FORM TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE.