

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PEARSON EDUCATION, INC., ET AL.,

Plaintiffs,

-against-

SAURABH AGGARWAL, ET AL.,

Defendants.

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KIMBA M. WOOD, United States District Judge:

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>7/13/2022</u>

17-CV-203 (KMW)

ORDER

I. Initial Rule 16 Conference

In accordance with Rule 16 of the Federal Rules of Civil Procedure, an initial pretrial conference (the “Initial Conference”) will be held in this case on August 25, 2022 at 11 a.m. via Microsoft Teams. The parties must be prepared to discuss at the conference the subjects set forth in subdivisions (b) and (c) of Rule 16. All requests for adjournments of the Initial Conference must be made in writing to Chambers at least two (2) business days prior to the date of the conference.

II. Submissions Due Prior to the Initial Conference

By August 18, 2022, the parties shall jointly prepare, sign, and submit to the Court via ECF:

- (1) The enclosed Scheduling Order, with all blanks completed.¹
- (2) A proposed Discovery Plan based on the enclosed model and completed in conformity with Fed. R. Civ. P. 26(f). Except in very unusual cases, it is expected

¹ Fillable PDF versions of the Scheduling Order and Discovery Plan are available on the Court’s website at <https://nysd.uscourts.gov/hon-kimba-m-wood>.

that discovery will be completed in ninety (90) days.

- (3) A joint letter, not to exceed three (3) pages, that contains: (a) a statement indicating whether any party has not complied with Fed. R. Civ. P. 7.1; and (b) a concise statement of the facts of the case and the issues that the Court will need to decide.

All counsel are directed to bring to the Initial Conference an additional copy of (1) the completed Scheduling Order and (2) the completed Discovery Plan.

III. Settlement

Prior to the Initial Conference:

- (1) All counsel shall obtain full settlement authority and shall discuss settlement issues with their clients.
- (2) The parties shall engage in settlement and/or mediation negotiations.
- (3) The plaintiffs are directed to make a reasonable monetary settlement demand and defendants are directed to respond to such demand prior to the conference.
- (4) The defendants are encouraged to file a Fed. R. Civ. P. 68 offer.

At the Initial Conference, the parties shall submit a statement to the Court advising it that the parties have complied with this settlement procedure. Parties are not to send copies of settlement letters to the Court.

IV. Rule 12 Motions

A party that intends to move pursuant to Fed. R. Civ. P. 12 in lieu of answering the complaint shall advise all other parties of that intention and shall discuss with all other parties whether to proceed with discovery. The parties shall then submit a joint letter to the Court, at least two (2) business days before the Initial Conference is scheduled to occur. That joint letter

shall: (1) set forth the bases for the Rule 12 motion; (2) advise the Court of whether the parties agree to proceed with discovery, notwithstanding the filing of a Rule 12 motion; and (3) propose a briefing schedule that will have the motion fully submitted within forty-five (45) days of the scheduled date of the initial conference. If the parties do not agree on whether to proceed with discovery, the letter shall set forth the parties' positions on that issue. Upon receipt of any such letter, the Court will advise the parties whether the Initial Conference will proceed as scheduled.

V. Service and Case Termination

Within fifteen (15) days of this Order, the plaintiffs are directed to serve the defendants with a copy of this Order and the Court's Notice, Consent, and Reference of a Civil Action to a Magistrate Judge, available at <https://www.nysd.uscourts.gov/forms/consent-proceed-us-magistrate-judge>.

If this case has been settled or otherwise terminated, counsel are required to notify the Court—before the date of the conference—by calling Chambers at (212) 805-0258 and must email a stipulation of discontinuance, voluntary dismissal, or other proof of termination to the Orders and Judgments Clerk (judgments@nysd.uscourts.gov).

SO ORDERED.

Dated: New York, New York
July 13, 2022

/s/ Kimba M. Wood
KIMBA M. WOOD
United States District Judge