

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS**

Entered December 31, 1991

**ORDER NO. 91-30**

Re: Provisional Implementation of  
Cost and Delay Reduction Plan

ORDER

Commencing January 1, 1992 and continuing until the Cost and Delay Reduction Plan (The Plan) is ratified by the Committee comprised of the Chief Judge of the Fifth Circuit Court of Appeals and all of the Chief Judges of the District Courts within the Fifth Circuit, and the Judicial Conference of the United States, or until The Plan is further modified by the Court, the following shall be effective in implementation of The Plan:

1. Superseded and amended Local Rule 8 " Initial Pretrial Conference Scheduling Order" recited on pages 3 and 4 of The Plan.
2. New Local Rule 22 "Alternative Dispute Resolution" recited on pages 6 through 9 of The Plan.
3. Each Judge in the Houston Division, consistent with the criminal and civil assignments currently in place, will assign five to ten percent of his/her new civil case filings to his/her assigned Magistrate Judge for handling of all pretrial responsibilities, and, on consent of the parties through disposition. Judges will attempt at all times to maintain approximately fifty civil cases under the supervision of each Magistrate Judge in this division. Judges in the Brownsville, Corpus Christi, Galveston, Laredo, and McAllen Divisions will not be affected but are encouraged to maximize utilization of Magistrate Judges in the civil area where feasible.
4. Beginning January 2, 1992, the first 160 cases (20 cases for each of the 8 Houston Judges), exclusive of prisoner civil rights actions, state and federal habeas corpus actions, student and veteran loan actions, social security appeals, bankruptcy appeals, and complaints to forfeit seized assets will be ordered to accelerated discovery. The Judges in all other Divisions will assign ten cases filed after January 1, 1992 to accelerated discovery.

5. The following attached Orders and forms, together with the procedural explanation of their usage are adopted:
  - (a) Order for Conference.
  - (b) Joint Discovery/Case Management Plan.
  - (c) Order for Accelerated Discovery.
  - (d) Referral to U.S. Magistrate Judge.
  
6. All other provisions of The Plan which are contingent upon additional resource authorization and funding shall be implemented at the time and to the extent of authorization and funding.

SIGNED this 31st day of December, 1991.

  /s/    
JAMES DEANDA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
\_\_\_\_\_ DIVISION

CIVIL ACTION NUMBER \_\_\_\_\_

ORDER FOR CONFERENCE

1. Counsel shall appear for an initial pretrial and scheduling conference before

on \_\_\_\_\_, 19\_\_ at \_\_\_\_\_ m.  
at \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Counsel shall prepare and file not less than 10 days before the conference, a joint discovery/case management plan for the conference containing the information called for on the attached form, as required by the Cost and Delay Reduction Plan under the Civil Justice Reform Act of 1990 adopted by the Court on October 24, 1991.
3. The court will enter a scheduling order and may rule on any pending motions at the conference.
4. Counsel who file or remove an action must serve a copy of this order with the summons and complaint or with the notice of removal.
5. Attendance by an attorney who has authority to bind the party is required at the conference.
6. Counsel shall discuss with their clients and each other whether alternative dispute resolution is appropriate and at the conference shall advise the Court of the results of their discussions.
7. All requests for extensions of deadlines for completion of discovery or for postponement of the trial must be signed by the attorney and the party making the request.
8. Failure to comply with this order may result in sanctions, including dismissal of the action and assessment of fees and costs.

By Order of the Court

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
\_\_\_\_\_ DIVISION

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V. \_\_\_\_\_ CA NO. \_\_\_\_\_  
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**JOINT DISCOVERY/CASE MANAGEMENT PLAN**

1. List the cases pending in this district or any other district, with their cause number and name of judicial district, which are related to this case.
2. What is Plaintiff's allegation of federal jurisdiction?
3. Does/do the Defendant(s) agree or disagree?
4. List any pending motions that could be ruled on at the scheduling conference.
5. Does either party anticipate the need to add additional parties?
6. List additional parties and when they can be added.
7. List any anticipated interventions.
8. Is there any issue in the case which may raise class allegations or class action issues?
9. Are there any other motions pending? List them.
10. What discovery has been undertaken to date?
11. If plaintiff(s) anticipate the use of interrogatories, when will they be ready to send?
12. Plaintiff(s) anticipate taking the following expert depositions at the following time(s):
13. The Defendant(s) and other parties anticipate taking the following expert depositions at the following time(s):
14. List oral depositions Plaintiff anticipates taking, and their anticipated completion date.
15. List oral depositions Defendant(s) or other parties anticipate taking, and their anticipated completion date.
16. State the time required for completion of discovery.

17. Has a jury demand been made? Is the demand timely?
18. Will parties consent to trial by Magistrate Judge?
19. Have the attorneys discussed the Alternative Dispute Resolution with their clients? If so, is there a reasonable possibility that Alternative Dispute Resolution would be suitable in this case?
20. Are there any other matters peculiar to this case, including discovery, which deserve the special attention of the Court at the initial pretrial conference?
21. How long will it take to try this case.
22. List the names, bar numbers, addresses, and telephone numbers of all counsel.

\_\_\_\_\_ DIVISION

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Plaintiff,

versus

\_\_\_\_\_  
Defendant.

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CIVIL ACTION \_\_\_\_\_

ORDER FOR ACCELERATED DISCOVERY

Discovery in this case will proceed under paragraph 6 of the Cost and Delay Reduction Plan under the Civil Justice Reform Act of 1990 adopted by the Court on October 24, 199 1. This order is an adoption of the current version of proposed Rule 26, Fed. R. Civ. P. (Aug. 1991) as modified by the underscored language in l.B:

By Order of  
THE COURT

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ACCELERATED DISCOVERY PROCEDURE

1. **Initial Disclosures.** Each party shall, without awaiting a discovery request, provide to every other party:
  - A. the name and, if known, the address and telephone number of each individual likely to have information that bears significantly on any claim or defense, identifying the subjects of the information;
  - B. a copy of, or a description by category and location of, all documents, data compilations, and tangible things in the possession, custody, or control of the party that are likely to bear significantly on any claim or defense, together with any claims of privilege;
  - C. a computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material on which such computation is based, including materials bearing on the nature and extent of injuries suffered; and
  - D. for inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

These disclosures shall be made by a plaintiff within 30 days after service of an answer to its complaint; by a defendant within 30 days after serving its answer to the complaint; and, in any event, by any party that has appeared in the case within 30 days after receiving from another party a written demand for accelerated disclosure accompanied by the demanding party's disclosures. A party is not excused from disclosure because it has not fully completed its investigation of the case, or because it challenges the sufficiency of another party's disclosures, or, because another party has not made its disclosures.

**2. Disclosure of Expert Testimony.**

A. In addition to the disclosures required in paragraph 1, each party shall disclose to every other party any evidence that the party may present at trial under Rules 702, 703, or 705 of the Federal Rules of Evidence. This disclosure shall be in the form of a written report prepared and signed by the witness which includes a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information relied upon in forming such opinions; any exhibits to be used as a summary of or support for such opinions; the qualifications of the witness; and a listing of any other cases in which the witness has testified as an expert at trial or in deposition within the preceding four years.

B. The disclosure shall be made at least 90 days before the date the case has been directed to be ready for trial, or, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under paragraph 2.A, within 30 days after the disclosure made by such other party. These disclosures are subject to the duty of supplementation.

C. By order in the case, the court may alter the type or form of disclosures to be made with respect to particular experts or categories of experts, such as treating physicians.

**3. Pretrial Disclosures.** In addition to the disclosures required in the preceding paragraphs, each party shall provide to every other party the following information regarding the evidence that the disclosing party may present at trial other than solely for impeachment purposes:

A. the name and, if not previously provided, the address and telephone number of each witness,

separately identifying those whom the party expects to present and those whom the party may call if the need arises;

- B. the designation of those witnesses whose testimony is expected to be presented by means of a deposition and, if not taken by stenographic means, a transcript of the pertinent portions of such deposition testimony; and
- C. an appropriate identification of each document or other exhibit, including summaries of other evidence, separately identifying those which the party expects to offer and those which the party may offer if the need arises.

Unless otherwise directed by the court, these disclosures shall be made at least 30 days before trial. Within 14 days thereafter, unless a different time is specified by the court, other parties shall serve and file any objections that deposition testimony designated cannot be used under Rule 32(a) and any objections to the admissibility of the materials identified. Objections not so made, other than under Rules 402-03 of the Federal Rules of Evidence, shall be deemed waived unless excused by the court for good cause shown.

- 4. **Form of Disclosure; Filing.** The disclosures required by the preceding paragraphs shall be made in writing and signed by the party or counsel. The disclosures shall be served as provided- by Rule 5. . . . [Local Rule 5.A prohibits filing of discovery material with the Court.]
- 5. **Methods to Discover Additional Matter.** After complying with paragraphs 1 and 2 above, parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property under Rule 34 or 45(a)(1)(C), for inspection and other purposes; physical and mental examinations; and requests for admission.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
\_\_\_\_\_ DIVISION

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CA. NO. \_\_\_\_\_

**ORDER**

Pursuant to 28 U.S.C. § 636(b) (1) and the Cost and Delay Reduction Plan under the Civil Justice Reform Act, this case is referred to United States Magistrate Judge \_\_\_\_\_.

SIGNED on this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE