

**Procedures For Cases Assigned To  
Chief Judge Lee H. Rosenthal**

**These Procedures Must Be Served With The  
Summons And Complaint Or Removal Papers**


These Procedures apply to cases assigned to Chief Judge Rosenthal.

The plaintiff must serve these Procedures and the Order Scheduling Rule 16 Conference on all defendants and other parties, along with the summons and complaint.

A party removing a case to this court has the same obligation as a plaintiff filing an original complaint. Proof of service of these materials must be filed. A form of a certificate for use in removed cases is included at the end of these materials as Attachment 5.

These Procedures are to be used with the Federal Rules of Civil Procedure and the Local Rules, not as a substitute for them.

Nathan Ochsner, Clerk of Court

By   
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## **COURT PROCEDURES**

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## **1. The Court's Requirements for Initial Pretrial Work**

The court will issue an order setting the date for the Initial Pretrial Conference with the court under Rule 16 of the Federal Rules of Civil Procedure; setting the deadline for the parties to meet and confer under Rule 26(f); and setting the deadline for the parties to file their Joint Discovery/Case-Management Plan and proposed Scheduling and Docket Control Order. The forms to be used for the Plan and Order are Attachments 1 and 2 to this document.

Counsel with knowledge of the case and with authority to address substantive as well as scheduling matters must attend and participate in both the Rule 26(f) meeting of the parties and the Rule 16 Conference with the court. Unrepresented parties are also expected to attend and participate.

If counsel wants to attend the Rule 16 Conference by telephone, Zoom, or other virtual link, they must notify Chief Judge Rosenthal's case manager by email at [Lisa\\_Eddins@txs.uscourts.gov](mailto:Lisa_Eddins@txs.uscourts.gov) at least two business days before the Conference date to arrange. An in-person Rule 16 Conference may be required if substantive issues will be addressed.

At the Rule 16 Conference, counsel and any unrepresented parties will be expected to discuss with the court in detail the matters covered by Rule 26(f) and Rule 16, as well as the matters set out in the Joint Discovery/Case-Management Plan that counsel and any unrepresented parties prepare and file after they meet as required by Rule 26(f).

## **2. The Parties' Rule 26(f) Meeting**

Before the date for filing the Joint Discovery/Case-Management Plan with the court, which is 14 days before the Rule 16 Initial Pretrial Conference is set, counsel and any unrepresented parties must meet to discuss the case and prepare the Joint Discovery/Case-Management Plan and Proposed Scheduling and Docket Control Order. The judge will discuss the results of the parties' meeting, the Plan, and the Order with counsel and the parties in the Rule 16 Conference.

Counsel must be prepared to address pending motions.

The parties must discuss at the Rule 26(f) meeting, and include in the Plan filed with the court, the matters listed in Rule 26(f) that apply to the case. In general, the court expects the parties to discuss, address in their Plan, and be prepared to review with the court, the topics that are set out below.

- a.** The nature and basis of the parties' claims and defenses, and any threshold issues that need to be resolved, such as jurisdiction or limitations.
- b.** The parties' plan for the discovery needed to obtain the information that is relevant, not privileged, and proportional to the needs of the case. The parties are expected to engage in early, ongoing, and meaningful planning for proportional discovery.

- c.** Whether discovery can initially be focused or targeted to obtain the information relevant to the most important issues and available from the most easily accessible sources. The parties must discuss at the Rule 26(f) Conference what subjects and sources of discovery are both highly relevant and accessible without undue burden or expense. The parties must discuss any claims, defenses, motions, issues, or subject areas that should be the initial focus of discovery, and the sources that are most likely to yield the most important information on those areas with the least burden or expense. The parties and the court can use the results of this initial discovery to guide decisions about further discovery and other pretrial work.
- d.** Whether any party has served Rule 34 requests for production at the Rule 26(f) Conference and, if so, whether there are disputes about them.
- e.** Whether there are issues or problems in the preservation, retrieval, review, disclosure, or production of discoverable information.
- f.** Whether there are issues or problems associated with the burdens or costs of proposed discovery, or with the benefits the proposed discovery is expected to provide.
- g.** Whether there are steps that could reduce or avoid discovery costs. Examples include:
- focusing initial discovery on the information important to assessing and evaluating the claims and defenses, available from readily accessible sources;
  - using pattern or routine discovery requests that have been developed for certain cases, including employment cases alleging adverse actions and FLSA violations, cases involving post-disaster first-party property insurance disputes, and cases involving business-interruption insurance claims.
  - stipulating to any undisputed material facts and critical points of controlling law;
  - reducing the complexity or burdens of reviewing for attorney-client privilege or work-product protection and of creating privilege logs;
  - exchanging basic information about the case without the need for formal discovery requests and responses; and,
  - in cases involving extensive electronic discovery, using technology to assist in reviewing the information.
- h.** Whether there are issues specifically relating to the disclosure or discovery of electronically stored information, including:
- i. the form or forms in which it should be produced;
  - ii. the topics and the period for which discovery will be sought;

- iii. the sources of information or systems likely to contain information, within a party's control, that should be searched;
- iv. issues relating to preserving, retrieving, reviewing, disclosing, or producing electronically stored information;
- v. issues relating to claims of privilege or protection including—if the parties agree on a procedure to assert such claims after production—whether to ask the court to include their agreement in an order under Federal Rule of Evidence 502(d) or, if no agreement is reached, whether the court should nonetheless enter the order; and
- vi. other topics listed below or in Rules 16 and 26(f).

**3. The Joint Discovery/Case-Management Plan and the Proposed Scheduling and Docket Control Order**

The Rule 26(f) meeting is expected to result in the parties completing the Joint Discovery/Case-Management Plan and the proposed Joint Docket Control and Scheduling Order, using the forms that are Attachments 1 and 2 to these Procedures. The forms may be modified or adapted to the needs of the particular case.

The parties are to file with the court only one Plan and proposed Order. Both must be signed by counsel for all parties and by any unrepresented parties. Counsel for the plaintiff is responsible for filing the Joint Discovery/Case-Management Plan and the proposed Order with the court. If the plaintiff is unrepresented, counsel for the represented parties has the responsibility for filing the Plan and proposed Order.

If the parties cannot agree on matters that must or should be addressed in the Plan or proposed Order, the disagreements must be set out clearly in the joint filing. The court will discuss the disputes with counsel and attempt to resolve them at the Rule 16 Conference.

**a. Timing**

No later than 14 days before the Rule 16 Conference is scheduled, the parties must file the Joint Discovery/Case-Management Plan and the proposed Docket Control and Scheduling Order.

**b. Contents**

The parties must discuss in their Rule 26(f) meeting, and the Plan and proposed Order must include, the pertinent matters listed on the attached forms, including the following:

- i. dates for joining additional parties or amending pleadings;
- ii. any agreements on disclosures or discovery of electronically stored information;

- iii.** any agreements for asserting claims of attorney-client privilege or of trial-preparation protection after production;
- iv.** whether discovery can be initially focused on information relevant to the most important issues, available from readily accessible sources;
- v.** whether discovery should be conducted in phases, or initially limited to certain issues;
- vi.** the date or dates when the parties will disclose information and exchange documents under Rule 26(a)(1);
- vii.** whether expert witnesses are needed on issues other than attorney's fees and, if so, the dates by which each party can disclose its expert witnesses' identities and reports, dates by which each party's experts can be deposed, and whether serial or simultaneous disclosure is appropriate;
- viii.** whether the parties agree to submit attorney's fees issues to the court by affidavit after liability and damages are resolved;
- ix.** whether the Rule 30(a)(2)(A) presumptive limit of 10 depositions per side and the Rule 33(a) limit of 25 interrogatories per party should apply and, if not, the reasons why;
- x.** the depositions that need to be taken, and in what sequence;
- xi.** the dates by which initial focused or targeted discovery will be completed, and by which fact discovery and expert discovery will be completed;
- xii.** whether the case is likely to generate a motion to dismiss, a motion for summary judgment, or other dispositive motion; the best dates for filing and responding to those motions; and how those motions should affect the pretrial schedule and discovery plan;
- xiii.** the most promising approach and timing for settlement efforts;
- xiv.** any other matters pertinent to completing discovery;
- xv.** when the case will be ready for trial;
- xvi.** how long the trial is likely to take; and
- xvii.** any other matters appropriately addressed in the Joint Discovery/Case-Management Plan and proposed Scheduling and Docket Control Order.

#### **4. Pre-Motion Conferences Required for Discovery and Other Pretrial Disputes**

The parties must identify any disputes about the Joint Discovery/Case-Management Plan or the proposed Scheduling and Docket Control Order and bring them to the court for resolution at the Rule 16 Conference. This approach of seeking prompt court assistance in resolving pretrial disputes applies to discovery disputes that arise at any point in the case, as well as to other pretrial disputes such as requests to extend or modify deadlines and other issues affecting pretrial work.

Any party wishing to raise disputed discovery or other pretrial matters must arrange for a conference with the court **before** filing any motion, briefs, or accompanying materials. The party must email or fax the case manager, Lisa Eddins, and opposing counsel to arrange for a pre-motion conference. The email address is [Lisa.Eddins@txs.uscourts.gov](mailto:Lisa.Eddins@txs.uscourts.gov); the fax number is (713) 250-5213; and the telephone number is (713) 250-5517.

The court will promptly schedule the pre-motion conference, generally within a few days after the request is made. The court may order counsel, and counsel may ask, to participate by Zoom or by other virtual link or telephone.

The party seeking the conference must submit a one-to-two page letter to the court with copies to all counsel and unrepresented parties, identifying the disputes and setting out the issues to be addressed. This is not a brief and may not set out case law or argument. Instead, the letter is an agenda for the pre-motion conference. Opposing parties must respond in similar fashion before the Conference, with the same limits. The letters must include a written statement that counsel have conferred in a good-faith effort to resolve the issues but are unable to reach an agreement, or state the reason that the parties could not confer.

To the extent possible, the disputed issues will be resolved at the pre-motion conference, without the need for a formal motion or response. If the court cannot resolve all or part of the issues raised without a written submission and response, the issues to be addressed and a filing schedule will be set in the conference.

Motions for extension of a discovery deadline must be filed far enough in advance of the deadline to enable opposing counsel to respond before the deadline.

#### **5. Discovery Requests and Objections**

All parties are expected to frame their interrogatories, document requests, deposition notices, and requests for admission to meet the relevance and proportionality requirements of Rule 26(b)(1). Parties may not ask for more than what is needed for the case, or object and refuse to produce what is needed for the case, for strategic or tactical reasons.

Boilerplate objections in response to discovery requests are prohibited. Parties may not simply raise or list rote or general objections. Parties may not include a “Preamble” or a “General Objections” section stating that the party objects to the discovery request “to the extent that” it is vague, ambiguous, overly broad, or unduly burdensome. Instead, as the 2015 Civil Rule amendments make clear, objections to discovery requests must be specific



and tied to particular discovery requests. The objections must clearly state the objections that actually apply to that request.

A party who objects to a discovery request and also responds “subject to the objections” must also indicate whether the response is complete, that is, whether additional information or documents would have been provided but for the objections. A party may not object and state, “Subject to these objections and without waiving them, the response is as follows . . . .” Instead, the response must also specifically identify whether any information is withheld based on the objections and, if so, provide enough information about what is not produced to enable further inquiry if appropriate.

Similarly, a party may not merely state that some of the information is produced and more will be provided later. Instead, the party must state whether more information will be produced later, and when—either by the requested date or by another specified reasonable date. This requirement is included in Rule 34(b)(2)(C).

This ban on boilerplate or general objections is so useful for proportional discovery, it applies to all forms of discovery requests, not only Rule 34 requests for production.

## **6. Other Motions**

For other disputes, including most dispositive motions, and when formal motions and briefs are needed, the court generally follows the written motion practice described in the Local Rules. The court will consider the motion and response after the submission date. A party requesting oral argument or a hearing on a motion must do so in writing and explain why it would be helpful. The case manager will notify counsel if the court sets a date for oral argument or other hearing.

## **7. Agreements to Extend Submission Dates for Motions**

Parties may agree to extend a motion-submission date without the court’s leave except when the extension violates a deadline imposed by a court order in the case (as opposed to the submission-date deadline set by applying the Local Rules). Counsel should immediately notify the case manager, in writing, of an agreement.

If a motion is pending and requires decision on an expedited basis or by a certain date, please advise the court in writing, setting out the reasons the motion requires prompt attention, such as an approaching docket call.

## **8. Courtesy Copies**

A courtesy copy of a filing longer than 50 pages should be sent to chambers.

## **9. Briefs**

### **A. Length and Contents**

Any brief or memorandum is limited to 25 pages unless counsel obtains leave of court for longer submissions. All briefs and memoranda must contain items (3), (4),

(6), and (7) from the list below. Any brief or memorandum that has more than 10 pages of argument must contain all of the following:

1. a table of contents setting forth the page number of each section, including all headings designated in the body of the brief or memorandum;
2. a table of citations of cases, statutes, rules, textbooks, and other authorities, alphabetically arranged;
3. a short statement of the nature and stage of the proceeding;
4. a statement of the issues to be ruled on by the court and a short statement, supported by authority, of the standard of review for each issue;
5. a short summary of the argument;
6. informative headings identifying separate sections of the argument; and
7. a short conclusion stating the precise relief sought.

**B. Copies**

Copies of any affidavits, deposition testimony, or other discovery referred to must be contained in the appendix. Counsel is encouraged to include a hyperlink to cases cited in briefs filed by CM/ECF procedure.

**10. The Joint Pretrial Order**

The plaintiff is responsible for ensuring that the complete Joint Pretrial Order is filed on time. A form Joint Pretrial Order is attached. The form Order will be modified when appropriate for a particular case. Joint Pretrial Orders must be signed by all counsel and unrepresented parties.

**A. Other Required Documents**

With the filing of the pretrial order, each party must also file the following:

**1. For All Trials and Evidentiary Hearings:**

- a. exhibit list;
- b. objections to exhibits; and
- c. witness list.

**2. For Jury Trials**

- a. The parties must file a **single** proposed jury charge, including all instructions, definitions, and questions, with disputed items indicated and authority provided.

Each requested instruction, definition, and question, with authority, must be numbered and presented on a separate page.

Even if the parties, in good faith, cannot agree on all instructions, definitions, or questions, the parties will nonetheless submit a single proposed charge. Each disputed instruction, definition, or question is to be set out in bold type, or italics, or underlined, and identified as disputed. Each disputed item is to be labeled to show which party is requesting the disputed language and authority relating to the disputed language should be provided.

The charge must also be submitted on a CD compatible with Word.

- b.** Memorandum of law.

### **3. For Nonjury Trials**

- a.** Proposed findings of fact and conclusions of law.

## **11. Trial Settings**

- A.** The court generally holds docket call the last Friday of each month. Unless counsel are notified otherwise, the court will use docket call as a final pretrial conference. All pending motions may be ruled on before or at docket call. The court maintains a two-week trailing docket during which a case is subject to call to trial on 48-hours notice.
- B.** Unless an attorney has actually begun trial in another court, prior trial settings will not cause a case to be continued or passed after the court has set it for trial.
- C.** If a case is not reached for trial when set, it will be reset as soon as practicable.

## **12. Exhibits**

- A.** All exhibits must be marked and exchanged among counsel before trial. The offering party will mark his own exhibits with the party's name, case number, and exhibit number on each exhibit to be offered.
- B.** Any counsel requiring authentication of an exhibit must notify offering counsel in writing within 7 days after the exhibit is identified as a trial exhibit and made available for examination. Failure to do so may be deemed an admission of authenticity.
- C.** The court will admit all exhibits listed in the Joint Pretrial Order into evidence unless opposing counsel files written objections supported by authority at least 7 days before trial.
- D.** Counsel will not pass exhibits to the jury during trial without obtaining permission in advance from the court. All admitted exhibits will go to the jury during its deliberations.

- E. Counsel for each party is required to provide the court with a copy of that party's exhibits in a notebook.

**13. Contact with Court Personnel**

- A. Case-related telephone or e-mail inquiries should be made to the case manager, Lisa Eddins. The telephone number is 713-250-5517; the e-mail address is [lisa\\_eddins@txs.uscourts.gov](mailto:lisa_eddins@txs.uscourts.gov). Inquiries should not be made to Chief Judge Rosenthal's secretary or law clerks.
- B. Inquiries about motions and the case status should be in writing unless time does not permit.
- C. Information about filed documents, orders, or docket entries should be obtained online through PACER or from the United States District Clerk's Office at telephone number (713) 250-5500.
- D. Case-management correspondence or inquiries should be addressed to:

Lisa Eddins  
Case Manager to Chief Judge Lee H. Rosenthal  
United States District Clerk  
Post Office Box 61010  
Houston, Texas 77208  
E-mail: [lisa\\_eddins@txs.uscourts.gov](mailto:lisa_eddins@txs.uscourts.gov)

- E. Do not argue substantive issues in letters sent to the court. However, letters may be docketed and included in the record.
- F. Copies of urgent motions or matters that require prompt court attention may be sent to chambers, as well as filed with CM/ECF, with a transmittal letter stating why the court's prompt attention is required.
- G. Electronic filing is required in most cases. Counsel must register to use the court CM/ECF system.

**14. Emergencies**

- A. Applications for restraining orders or for other immediate relief are to be filed and a copy emailed to the case manager. Counsel must inform the case manager if the opposing party has been contacted and whether and when all parties can be available for a conference before the court. The court will not consider *ex parte* applications for restraining orders unless the requirements of Rule 65(b) of the Federal Rules of Civil Procedures have been satisfied.
- B. Motions to extend deadlines are generally not emergencies.

## **15. Continuances**

- A.** Joint motions for continuances are not binding and will be granted at the court's discretion.
- B.** Vacation requests will be respected if presented well in advance of a court setting.
- C.** A trial will generally not be continued because a witness is unavailable. Counsel are expected to anticipate such possibilities and should be prepared to present testimony by written deposition, videotaped deposition, or by stipulation.

## **16. Appearances**

- A.** An attorney or unrepresented litigant who appears at a hearing or conference must:
  - 1.** be familiar with the case;
  - 2.** have authority to bind the party; and
  - 3.** be in charge for that appearance.
- B.** Today there are fewer opportunities for lawyers to speak in court. This is particularly true for lawyers with less than five to seven years of experience. The court strongly encourages every more experienced senior or supervisory lawyer and their clients to allow less experienced lawyers to have the primary or only speaking roles in pretrial conferences, arguments on motions or in pre-motion conferences, and in trials and other proceedings when evidence and arguments are presented. This opportunity is particularly important and appropriate when the less experienced lawyer has drafted or contributed significantly to the underlying motion or response or to the trial or hearing preparation.

The court understands that in some circumstances, it is not appropriate to allow a less experienced lawyer such a prominent role. If the only lawyer who drafted or substantially prepared the motion, brief, or evidentiary presentation is the senior lawyer, or if the motion is dispositive in a "bet-the-company" case, litigants may justifiably want the senior lawyer to do all or most of the in-court talking. But in all but these cases, it is crucial to provide substantive speaking opportunities to less experienced lawyers. The court strongly encourages all lawyers and their clients to do so. The court will take this into consideration in deciding whether to grant requests for oral argument on motions or issues that the court would usually or otherwise decide on the papers.

- C.** If out-of-town counsel want to participate in a conference by telephone, a written request should be made to the case manager well in advance of the hearing or conference date, with notice to other counsel of record and any unrepresented parties. The court will attempt to accommodate these requests. Telephone conferences are generally fine for scheduling conferences but often inadequate if substantive or complex issues must be addressed.
- D.** Counsel or an unrepresented litigant must promptly notify the case manager if any matter set for trial or hearing is resolved.

## **17. Equipment**

### **A. Arrangements**

Counsel tables are equipped with laptop capabilities for presentation through the projector and Elmo systems. Monitors are provided on all counsel tables, as well as on the witness stand and in the jury box. A standard size VCR is available for use. Counsel must use speakers with the laptop computer when sound is part of the presentation.

Counsel must make advance arrangements with the case manager and the courthouse security to bring in additional equipment. If technology will be used, counsel must test the equipment every morning before trial begins to ensure that it is working properly.

## **18. Courtroom Procedures**

### **A. Hours**

The court's hours during trial will vary depending on the case and the needs of the parties, counsel, witnesses, jurors, and the court. Court normally begins at 8:30 a.m. and adjourns at 5:00 p.m., with brief morning and afternoon breaks and a lunch break of approximately 45 minutes. Counsel should be prepared to appear earlier and stay later than the jury.

### **B. Access at Other Time**

Counsel needing access to the courtroom to set up equipment or exhibits outside normal hours must arrange in advance with the case manager to have the courtroom open.

### **C. Telephones**

Telephone messages will **not** be taken by the judge's staff. Cell phones must be silenced in the courtroom.

### **D. Filing Documents**

Two copies of exhibits must be provided to the case manager before or during trial, as well as filed on the court CM/ECF system.

### **E. Attorney Conference Rooms**

Attorney conference rooms are available on request to the judge's case manager. A key will be given to counsel by the court's case manager for use throughout the trial, and counsel will be responsible for clearing the room of all materials and returning the key at the end of the trial.

### **F. Decorum**

The usual standards of courtroom behavior apply.

**G. Witnesses**

Counsel are responsible for summoning witnesses into the courtroom and instructing them on courtroom decorum. Counsel may question witnesses either from counsel table or a lectern. Counsel may make opening statements and closing arguments either from a lectern, standing before the jury, or facing the court.

Counsel should bear in mind the court's hours and arrange for witnesses accordingly. The court will generally not recess to permit counsel to call a missing witness unless he or she has been subpoenaed and has failed to appear.

**H. Seating**

1. In civil cases, seating at counsel tables is generally determined on a first-come, first-served basis on the first day of trial.
  2. Enter and leave the courtroom only by the front doors; do not use the court's entrance or the side entrances.
- I.** While the jury is deliberating, counsel are to be available promptly for jury notes or a verdict.
- J.** After the jury and counsel are excused, counsel may not contact jurors unless and as the court permits.

**19. Voir Dire**

The court will conduct a preliminary examination of the jury panel. Following the court's examination, each side may be allowed to examine the panel. Proposed voir dire questions must be submitted as part of the Joint Pretrial Order.

**20. Depositions**

- A.** The court will generally accept the parties' agreement to use a deposition at trial even though the witness is available; otherwise, the parties are to follow Fed. R. Civ. P. 32.
- B.** Before trial, counsel must provide the case manager with a copy of any deposition to be used at trial.
- C.** Counsel will designate the portions of any deposition to be read or shown by videotape by citing pages and lines in the Joint Pretrial Order. Objections to those portions (citing pages and lines) with supporting authority must be filed at least 7 days before trial.
- D.** Use of videotaped depositions is permitted if counsel edit the videotapes to incorporate the court's rulings on remaining objections.
- E.** In a bench trial, counsel will offer the entire deposition as a trial exhibit. In addition, counsel must attach to the front of the deposition exhibit a summary of what each party intends to prove by such testimony.

## **21. Settlements and Orders of Dismissal**

### **A. Settlements**

- 1.** Counsel are promptly to notify the case manager of a settlement of any case set for conference, hearing, or trial.
- 2.** Announcement of settlement must be followed by the closing papers within 30 days.
- 3.** If a suit involving a minor plaintiff is settled, counsel will jointly move for appointment of a guardian ad litem if necessary. If counsel cannot agree on a guardian ad litem, each counsel will submit the names of three proposed ad litem, and the court will make the appointment. With the motion for appointment, counsel will notify the case manager by letter and request a settlement conference.

### **B. Orders of Dismissal**

Any defendant who has not been served within 120 days after the complaint is filed may be dismissed, in accordance with Fed. R. Civ. P. 4.



**ATTACHMENT 1**

**THE JOINT DISCOVERY/CASE-MANAGEMENT PLAN**

*(Revised April 26, 2021)*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

	§	
	§	
Plaintiff(s),	§	
	§	
v.	§	CIVIL ACTION NO. H-_____
	§	
	§	
	§	
Defendant(s).	§	

**JOINT DISCOVERY/CASE MANAGEMENT PLAN  
UNDER RULE 26(f)  
FEDERAL RULES OF CIVIL PROCEDURE**

Please restate the instruction before furnishing the information.

1. State when and how the meeting of the parties required by Rule 26(f) was held, and identify the counsel or self-represented litigant who attended for each party.
2. List the cases related to this one that are pending in any state or federal court, with the case number and court, and state how the cases are related.
3. Briefly describe what this case is about.
4. Specify the allegation of federal jurisdiction.
5. Identify the parties who disagree and the reasons.
6. Identify any issues as to service of process, personal jurisdiction, or venue.
7. List anticipated additional parties that should be included and when they can be added, and identify any class or collective-action certification issues.
8. State whether each party has made the initial disclosures required by Rule 26(a). If not, describe the arrangements that have been made to complete the disclosures and the dates.
9. If the case includes a claim for attorneys' fees, state whether the parties agree to submit the fees issue to the court for resolution on affidavits or declarations, after the other issues are resolved.
10. Describe the proposed discovery plan, including:
  - A. Responses to the matters raised in Rule 26(f), including any agreements reached concerning electronic and other discovery and any disputed issues relating to electronic and other discovery.

- B. When and to whom the plaintiff anticipates it may send interrogatories and requests for production.
  - C. When and to whom the defendant anticipates it may send interrogatories and requests for production.
  - D. Of whom and by when the plaintiff anticipates taking oral depositions, and whether they can be done by remote means, such as by zoom.
  - E. Of whom and by when the defendant anticipates taking oral depositions, and whether they can be done by remote means, such as by zoom.
  - F. Any threshold issues—such as limitations, jurisdiction, or immunity—that should be scheduled for early resolution, what discovery targeted to those issues may need to occur early, and how long this targeted discovery will take.
  - G. Any experts needed on issues other than attorneys’ fees.
  - H. If medical experts are needed, whether they are only treating physicians or also designated on other issues.
  - I. When the plaintiff (or the party with the burden of proof on an issue) will be able to designate experts and provide the reports required by Rule 26(a)(2)(B), and when the opposing party will be able to designate responsive experts and to provide their reports.
  - J. List expert depositions the plaintiff (or the party with the burden of proof on an issue) anticipates taking and their anticipated completion date, and whether they can be done by remote means, such as by zoom. See Rule 26(a)(2)(B) (expert report).
  - K. List expert depositions the opposing party anticipates taking and their anticipated completion date, and whether they can be done by remote means, such as by zoom. See Rule 26(a)(2)(B) (expert report).
  - L. In a case involving parties that are unincorporated entities, such as an LLC or LLP, state the citizenship of every member and file an affidavit or declaration setting out the citizenship of every member.
11. If the parties are not agreed on a part of the discovery plan, describe the separate views and proposals of each party.
  12. Specify the discovery beyond initial disclosures that has been undertaken to date.
  13. State the date the planned discovery can reasonably be completed.
  14. Describe the possibilities for a prompt settlement or resolution of the case that were discussed in your Rule 26(f) meeting or have emerged since then.

15. From the attorneys' discussion with the clients, state the alternative dispute resolution techniques that are reasonably suitable and when they are likely to be effective in this case.
16. Magistrate judges may hold jury and nonjury trials with the consent of all parties. Indicate the parties' joint position on a trial before Judge Sam Sheldon.
17. State whether a jury demand has been made and if it was made on time.
18. Specify the number of hours it will likely take to present the evidence.
19. List pending motions that may be ruled on at the initial pretrial and scheduling conference.
20. List other pending motions.
21. List issues or matters, including discovery, that should be addressed at the conference.
22. Certify that all parties have filed the Disclosure of Interested Persons as directed in the Order for Conference and Disclosure of Interested Persons, listing the date of filing for original and any amendments.
23. List the names, bar numbers, addresses, telephone numbers, and emails of all counsel and unrepresented parties.

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Counsel for Plaintiff(s)

---

Date

---

Counsel for Defendant(s)

---

Date

**ATTACHMENT 2**

**THE PROPOSED SCHEDULING AND  
DOCKET CONTROL ORDER**

*(Revised March 23, 2021)*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

_____	§	
	§	
Plaintiff(s),	§	
	§	
v.	§	CIVIL ACTION NO. H-_____
	§	
_____	§	
	§	
Defendant(s).	§	

**PROPOSED SCHEDULING AND  
DOCKET CONTROL ORDER**

The disposition of this case will be controlled by the following schedule:

1. \_\_\_\_\_ **MOTIONS TO ADD NEW PARTIES**  
The attorney causing the addition of new parties will provide copies of this Order to new parties.
  
2. \_\_\_\_\_ **MOTIONS FOR LEAVE TO AMEND PLEADINGS**  
Parties filing motions after this deadline must show good cause.
  
- 3a. \_\_\_\_\_ **EXPERTS ON MATTERS OTHER THAN ATTORNEY'S FEES**  
The plaintiff (or the party with the burden of proof on an issue) will designate expert witnesses in writing and provide the report required by Rule 26(a)(2) of the Federal Rules of Civil Procedure.
  
- 3b. \_\_\_\_\_ The opposing party will designate expert witnesses in writing and provide the report required by Rule 26(a)(2) of the Federal Rules of Civil Procedure.
  
4. \_\_\_\_\_ **MEDIATION**  
Mediation or other form of dispute resolution must be completed by this deadline.
  
5. \_\_\_\_\_ **COMPLETION OF DISCOVERY**  
Written discovery requests are not timely if they are filed so close to this deadline that under the Federal Rules of Civil Procedure the response would not be due until after the deadline.

6. \_\_\_\_\_ **PRETRIAL DISPOSITIVE MOTIONS DEADLINE**  
No motion may be filed after this date except for good cause.

7. \_\_\_\_\_ **JOINT PRETRIAL ORDER AND MOTION IN LIMINE DEADLINE**  
The Joint Pretrial Order will contain the pretrial disclosures required by Rule 26(a)(3) of the Federal Rules of Civil Procedure. Plaintiff is responsible for timely filing the complete Joint Pretrial Order. Failure to file a Joint Pretrial Order timely may lead to dismissal or other sanction in accordance with the applicable rules.

8. \_\_\_\_\_ **DOCKET CALL**  
Docket Call will be held at 8:30 a.m. in Courtroom 11-B, United States Courthouse, 515 Rusk, Houston, Texas. No documents filed within 7 days of the Docket Call will be considered. Pending motions may be ruled on at docket call, and the case will be set for trial as close to the docket call as practicable.

9 Additional orders relating to disclosures, discovery, or pretrial motions:

Any party wishing to make any discovery motions should arrange for a pre-motion conference with the court before the preparation and submission of any motion papers. That includes a motion to compel, to quash, or for protection. Email Mrs. Eddins at [Lisa.Eddins@txs.uscourts.gov](mailto:Lisa.Eddins@txs.uscourts.gov) or fax her at 713-250-5213 to arrange for a pre-motion conference. Notify your adversary of the date and time for the conference.

The parties agree to submit attorney's fees issues to the court by affidavit after liability and damages are resolved.

Other: \_\_\_\_\_

Signed on \_\_\_\_\_, at Houston, Texas.

\_\_\_\_\_  
Lee H. Rosenthal  
Chief United States District Judge

**ATTACHMENT 3**  
**CONSENT TO PROCEED BEFORE A MAGISTRATE JUDGE**

*(Revised March 23, 2021)*



*versus*

§  
§  
§  
§  
§  
§  
§

CIVIL ACTION

Consent to Proceed Before a Magistrate Judge

All parties to this case waive their right to proceed before a district judge and consent to have a United States Magistrate Judge conduct all further proceedings, including the trial and judgment. 28 U.S.C. § 636(c).

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Order to Transfer

This case is transferred to United States Magistrate Judge

\_\_\_\_\_

to conduct all further proceedings, including final judgment.

\_\_\_\_\_  
Date

\_\_\_\_\_  
United States District Judge

**ATTACHMENT 4**  
**THE JOINT PRETRIAL ORDER**

*(Revised March 23, 2021)*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

_____	§	
	§	
Plaintiff(s),	§	
	§	
v.	§	CIVIL ACTION NO. H-_____
	§	
_____	§	
	§	
Defendant(s).	§	

**JOINT PRETRIAL ORDER**

**Appearance of Counsel**

List the parties, their respective counsel, and the addresses and telephone numbers of counsel (including e-mail addresses) in separate paragraphs.

**Statement of the Case**

Give a brief statement of the case. The court may read this statement to the jury panel during the voir dire examination. Include names, dates, and places, and a brief statement of the parties' contentions and the issues to be resolved at trial.

**Jurisdiction**

Briefly set out why the court has jurisdiction of the subject matter and the parties. If there is an unresolved jurisdictional question, state the problem.

**Motions**

List any pending motions.

**The Parties' Contentions**

State concisely in separate paragraphs the contentions that are necessary to the relief sought in the case. A lengthy list of every "contention" is not helpful; include only those that are an essential basis for resolving the case.

**Admissions of Fact**

List only those admitted facts necessary to the disposition and relief sought in the case, which require no proof.

**Disputed Facts**

List only those disputed facts necessary to the disposition and relief sought in the case.

### **Agreed Applicable Propositions of Law**

State only those legal propositions not in dispute that are necessary to the disposition and relief sought in the case.

### **Contested Issues of Law**

State briefly the disputed issues of law necessary to the disposition and relief sought in the case. A memorandum of authorities addressing only these issues must accompany the Order.

### **Exhibits**

Each party will attach to this Joint Pretrial Order two copies of a list in the form shown by attachment A (or a similar form) of all exhibits expected to be offered. Each party will make the exhibits available for examination by the opposing parties. This rule does not apply to rebuttal exhibits, which cannot be anticipated.

All parties requiring authentication of an exhibit must notify the offering counsel in writing within 7 days after the exhibit is listed and made available to opposing parties. Failure to do so may be deemed an admission of authenticity.

The court will admit all exhibits listed in the final Joint Pretrial Order into evidence unless the opposing parties file written objections with authorities at least 7 days before trial.

The offering party will mark his own exhibits before trial to include the party's name, case number, and exhibit number on each exhibit.

### **Witnesses**

List separately the names and addresses of witnesses who will be called and those who may be called and include a brief statement of the subject matter and substance of their testimony. If a witness is to appear by deposition, cite the inclusive pages and lines to be read. Objections to those portions (citing pages and lines) with supporting authority must be filed at least 7 days before trial.

Each party will also attach to the Joint Pretrial Order two copies of a list of witnesses' names for use only by court personnel.

Include in this section the following statement:

“If any other witnesses will be called at the trial, their names, addresses and the subject matter of their testimony will be reported to opposing counsel as soon as they are known. This restriction will not apply to rebuttal or impeachment witnesses, the necessity of whose testimony cannot reasonably be anticipated before trial.”

### **Settlement**

Include a statement as to the status of any settlement negotiations.

**Trial**

State:

- (a) whether the trial will be jury or nonjury;
- (b) the probable length of trial;
- (c) the availability of witnesses; and
- (d) any foreseeable logistical problems.

**Additional Required Attachments**

**For jury trials include:**

- (a) Proposed questions for the voir dire examination.
- (b) A single, joint proposed jury charge, including all instructions, definitions, and questions, separately numbered and presented on a separate page, with authority. If there are instructions, definitions, or questions as to which the parties cannot agree, the disputed language is to be set out in bold type, italics, or underlined to identify it as disputed and labeled to indicate which party is requesting the disputed language. The proposed charge must also be submitted on a CD compatible with Corel WordPerfect 11 word processing.
- (c) A memorandum of law.

**For nonjury trials include:**

- (a) Proposed findings of fact and conclusions of law.
- (b) Memorandum of law.

\_\_\_\_\_  
Date

\_\_\_\_\_  
LEE H. ROSENTHAL  
CHIEF UNITED STATES DISTRICT JUDGE

APPROVED:

\_\_\_\_\_  
Counsel for Plaintiff(s)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Counsel for Defendant(s)

\_\_\_\_\_  
Date

**ATTACHMENT 4-A**

**EXHIBIT LIST**

*(Revised March 23, 2021)*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

\_\_\_\_\_,  
\_\_\_\_\_,  
v.  
\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_.

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\_\_\_\_\_  
CA/CR No.

**LEE H. ROSENTHAL**  
CHIEF JUDGE

**Lisa Eddins** \_\_\_\_\_  
COURTROOM COURT  
CLERK REPORTER

\_\_\_\_\_  
PROCEEDING

\_\_\_\_\_  
EXHIBIT LIST OF

NO.	DESCRIPTION	OFFR	OBJ	DATE	
				ADMIT	N/ADM

1	_____				
	_____				
2	_____				
	_____				
3	_____				
	_____				
4	_____				
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6	_____				
	_____				

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10					
11					



**ATTACHMENT 5**  
**CERTIFICATE OF SERVICE IN REMOVED ACTION**

*(Revised March 23, 2021)*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

\_\_\_\_\_ ,

Plaintiff(s),

v.

\_\_\_\_\_ ,

Defendant(s).

§  
§  
§  
§  
§  
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§  
§  
§

CIVIL ACTION NO. H-\_\_\_\_\_

**CERTIFICATE OF SERVICE IN REMOVED ACTION**

I certify compliance with the court's Order entered upon filing of the petition for removal of this action.

On \_\_\_\_\_, 20\_\_\_\_, I served copies of the Order for Conference and Court Procedures on all other parties.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for Defendant(s)