

**RULE 26(f) REPORT INSTRUCTIONS**  
**U.S. Magistrate Judge Carol B. Whitehurst**

**NOTE:** Electronically file this report with the Clerk of Court. Provide opposing counsel with copies of the report.

**1. Participants:**

List 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. (If counsel have not complied, counsel must explain why they have not.)

**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 the following (*do not simply repeat the pleadings here*): (a) the specific facts which support the claim or claims; (b) the law and any contractual provision supporting the claim; and (c) the remedy prayed for as to each defendant.

**5. Brief Statement of Responses:**

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

**6. Anticipated Amendments to Pleadings and Motions:**

The parties shall identify any amendments to pleadings or motions (dispositive or otherwise) that the party anticipates filing.

**7. Anticipated Expert Witnesses:**

Please list by name, if known, field of expertise, and subject matter of testimony.

**8. 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 provide here or notify if a telephone conference with the Magistrate Judge would be helpful to create same.

**9. Stipulations:**

List any matters to which the parties can stipulate. Counsel are encouraged to stipulate to as many factual and legal issues as possible in the interests of reducing pretrial costs and delays.

**10. Major Issues of Fact and Law in Dispute:**

List here the major issues of fact and law in dispute.

### **11. 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.

### **12. Surveillance Evidence:**

In the past, the Court's Scheduling Order addressed the discovery and admissibility of surveillance evidence. Counsel shall state whether they wish to opt in or opt out of the former procedure. In the event counsel opt out or do not agree, the Court will rule on surveillance issues on a case-by-case basis. The former procedure is as follows:

1. A party must make a timely request for discovery of surveillance evidence. Timeliness means that this request must be made prior to the end of the discovery deadline. An untimely request for surveillance evidence may be treated as any other untimely discovery request.
2. The respondent need not respond to the discovery request and need not indicate whether there exists any such evidence until 20 days before trial. On or before the deadline, the respondent shall turn over to the requesting party all surveillance evidence in his possession or control which the respondent intends to offer at trial, and shall identify the individual(s) who will be necessary to lay a proper foundation.
3. The respondent has the right to depose or redepose the individual who might have been the subject of the surveillance prior to responding to the discovery request.
4. Depositions shall be upon reasonable notice to all parties, and shall be limited in scope to impeachment issues and updating any previous deposition.
5. Offering party will be allowed to present surveillance evidence at trial only if (a) there has been compliance with the regulations set forth above, or (b) good cause is shown for an exception to these rules, or (c) the party subject to surveillance has failed to timely request discovery of the evidence in question.
6. Any party who intends to offer surveillance films or video-tapes into evidence at trial shall meet with all other parties to edit the material and agree on the portions to be shown as required in **Paragraph 14(c)** which stated:

**Editing Trial Depositions/Filing Objections.** [No later than ten (10) days before trial], 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. All objections to the deposition will be considered waived unless briefed and filed with the Clerk of Court, WITH A COPY DELIVERED TO THE TRIAL JUDGE'S CHAMBERS, on or before the deadline.

### **13. Alternative Dispute Resolution (ADR):**

Counsel shall affirm that prior to the Rule 26(f) conference counsel obtained their clients' desires as to ADR and that at the Rule 26(f) conference counsel discussed in good faith the feasibility of using ADR. **Counsel shall state whether ADR will be pursued, and if so, at what stage of the litigation. If the parties agree that a settlement conference with a judicial officer would be productive, please set forth four mutually convenient dates and times for a conference.**

**Note:** as a pre-requisite to a settlement conference with a judicial officer, all counsel and/or parties must have exhausted good faith efforts to settle without judicial involvement.

**14. Consent Trials:**

Counsel are advised of their right to consent to trial by a Magistrate Judge pursuant to 28 U.S.C. § 636(c). All counsel and/or unrepresented parties must complete and sign the [AO85 – Notice, Consent, and Reference of a Civil Action to a Magistrate Judge](#) to establish consent jurisdiction. Consents to proceed before the Magistrate Judge shall be e-mailed to: [lawdml\\_consents@lawd.uscourts.gov](mailto:lawdml_consents@lawd.uscourts.gov). Consents are **not** to be filed into the record by the parties.

**15. Track Assignment:**

This case is assigned to the general civil track; however, the parties may request a transfer to the accelerated or standby docket. The necessary forms to request a change of docket status are available from the Clerk of Court at Lafayette, Louisiana.

**16. Electronic Courtroom:**

Counsel shall state here whether this case will be document-intensive, i.e., requiring the admission of a large number of documents at trial. If so, counsel shall set out their best estimate of the number of pages and/or documents involved and plan to conduct all discovery and trial presentation for CD-ROM.

NOTE: In jury trials, the court generally requires that documents or exhibits be shown to the jury via use of the “Visual Presenter” or a CD-ROM. This is particularly true in document-intensive jury trials. The requirements of the assigned trial judge as to this case will be discussed more fully with counsel at the final pretrial conference. The CD-ROM must be delivered to the Courtroom Deputy at least one week before trial.

In Judge Doherty’s cases, counsel will affirm in the final pretrial order that they are familiar with the Visual Presenter and its operation or note the date they have scheduled with this Court’s Courtroom Deputy for training. They will also affirm that they have placed documents on CD-ROM in those cases deemed “document intensive” in this Rule 26(f) Report.

**17. 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 here. “Electronically generated exhibits or aids” refers 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.

**18. Phase II Discovery:**

Parties are to notify this Court whether “Phase II” discovery as noted in Paragraph 8 of the Scheduling Order will be needed.

**19. 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 in advance of trial. Please identify the nature of the handicap so the necessary accommodations can be made.

NOTE: Wheelchair accommodations or hearing impaired.