

RULE 26(f) REPORT INSTRUCTIONS
United States Magistrate Judge David J. Ayo

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 complied with the initial disclosure requirements of Fed. R. Civ. P. 26(a)(1) before the deadline set forth in the Scheduling Order or explain why they have not done so.

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 (without merely repeating the content of the pleadings): (a) the specific facts that support the claim; (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 (without merely repeating the content of the pleadings): (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:

Each party shall identify any amendments to the pleadings and any motions (dispositive or otherwise) that it anticipates filing.

7. Anticipated Expert Witnesses:

Each party shall state the name (if known) of each anticipated expert witness, the witness's field of expertise, and the subject matter of the witness's anticipated testimony.

8. Discovery Plan:

The parties 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, they must either set forth an agreed-upon plan or request a telephone conference with the Magistrate Judge.

9. Stipulations:

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

10. Major Issues of Fact and Law in Dispute:

List the major issues of fact and law in dispute.

11. Related Case Information:

State whether this case is related in any way to any other pending case, whether federal or state, civil or criminal. If there is a related case, list: (1) the name of the related case; (2) the court in which it is pending; (3) the docket number; (4) the assigned judge; 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 21 days before pretrial conference. 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 (1) that they obtained their clients' desires concerning ADR prior to the Rule 26(f) conference, and (2) that, at the Rule 26(f) conference, they discussed in good faith the feasibility of using ADR. Counsel shall state whether ADR will be pursued; if so, then counsel shall identify the stage of the litigation at which ADR is anticipated and state whether the parties agree that a settlement conference with a magistrate judge would be productive.

14. Rule 16 Conference:

A Rule 16 conference with the court may be beneficial. Such conferences may 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 it believes a Rule 16 conference would be beneficial. In certain cases, the court may sua sponte schedule a Rule 16 conference.

15. Electronic Courtroom:

State whether this case is document intensive, i.e., whether it will likely require the admission of a large number of documents at trial. If so, counsel shall estimate the number of pages or documents involved. In accordance with the Fifth Circuit's policy, counsel shall plan to present all documents admitted into evidence at a court proceeding (e.g., hearing, conference, or trial) electronically.

NOTE: In jury trials, the court generally requires that documents or exhibits be shown to the jury via use of the “Visual Presenter” or via CD-ROM. This is particularly true in document-intensive jury trials. The court’s requirements for the case will be discussed more fully at the final pretrial conference. Judge Ayo’s scheduling order requires that a CD-ROM containing all trial exhibits must be delivered to chambers two weeks before the pretrial conference.

16. Electronically Generated Exhibits or Aids:

Describe any electronically-generated exhibits or demonstrative aids that will be used at trial. “Electronically-generated exhibits or aids” refers to any exhibit or demonstrative aid that 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.

17. Handicap Provisions:

Advise the court of any anticipated need for handicap accommodations for any party, witness, or trial participant and identify the nature of the handicap so that the necessary accommodations can be made.

18. Certification:

Counsel shall certify that the report is accurate and complete.