

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

Plaintiff.)
))
v.)) No. _____
))
Defendant.))

MODEL SCHEDULING ORDER FOR FLSA CASES

Pursuant to written notice, a scheduling conference was held on [date]. Present were _____, counsel for Plaintiff, and _____, counsel for Defendant. Prior to the scheduling conference, the parties met and conferred in compliance with Federal Rules of Civil Procedure 26(f). At the conference, the following dates were established as the final deadlines for:

INITIAL DISCLOSURES PURSUANT TO FED. R. CIV. P. 26(a)(1): _____
(should be made before the Rule 16(b) conference, or as soon as possible thereafter but no later than two weeks following the conference)

MOTIONS TO JOIN PARTIES AND AMEND PLEADINGS: _____
(within 2 months after conference)

These deadlines apply only to the Named Plaintiff’s individual claims. Because this is a putative Fair Labor Standards Act (“FLSA”) collective action seeking to facilitate notice to all potential plaintiffs that deadline does not prevent or restrict the joinder of Opt-in Plaintiffs as permitted by any order facilitating notice. Any resulting amendments to the Complaint shall extend through any notice and joinder period ordered by the Court.

MOTIONS TO DISMISS: _____
(within 3 months of conference)

ALTERNATIVE DISPUTE RESOLUTION:

(a) **ADR DEADLINE PURSUANT TO ADR PLAN RULE 4.3(a):**

(within 12 weeks of conference)

Mediator must file Mediation Certification Form:

<https://www.tnwd.uscourts.gov/local-forms>

**(b) SELECTION OF MEDIATOR PURSUANT TO ADR PLAN RULE 5.4(c)2:
MEDIATOR'S NAME:** _____

[insert name of mediator]

STIPULATION FILING DATE: _____

(if no mediator has been selected by the parties, within 1 week of conference)

(If the parties fail to agree upon a Mediator by this deadline, the Court shall select a Mediator for the case from the Court's Mediator list and shall issue an Order notifying the parties of the Mediator's identity)

PRE-NOTICE OF PHASE OF DISCOVERY:

Defendant shall be permitted to serve written discovery on the Named Plaintiff and take the deposition of Named Plaintiff. The Named Plaintiff may only be deposed once for a maximum of seven hours in total at one sitting (whether the deposition is taken pre-notice or post-notice), unless the parties agree otherwise in writing to adjourn in good faith. Named Plaintiff shall be permitted to serve written discovery on the Defendant and take the deposition of Defendant and officers of Defendant. Defendant and each officer of Defendant may only be deposed for a maximum of seven hours in total at one sitting (whether the deposition is taken pre-notice or post-notice), unless the parties agree otherwise in writing to adjourn in good faith.

MOTION TO FACILITATE NOTICE OF FLSA COLLECTIVE ACTION:

(within 120 days of conference)

Defendant shall file its response within thirty days of the filing of Plaintiff's Motion to Facilitate Notice. Plaintiff may file an optional reply brief, limited to five pages, within fourteen days of the filing of Defendant's responsive brief.

ALL OTHER DEADLINES:

Since this is a putative FLSA collective action, the following remaining deadlines should be subject to and contingent upon the Court's ruling on Plaintiff(s)' Motion to Facilitate Notice; thus, the parties must consult and submit a Revised Proposed Scheduling Order within fourteen days after the Court's ruling on Plaintiff(s)' Motion: (1) Completing all written discovery, including discovery and depositions of all fact witnesses; (2) Expert Witness Disclosures Pursuant to Fed. R. Civ. P. 26(a)(2); (3) Expert Witnesses' Depositions; (4) Motions to Exclude Experts under Fed. R. Evid. 702/Daubert Motions; (5) Rule 26(e)(2) Supplementation; (6) Filing Dispositive Motions; (7) Joint Proposed Pretrial Order; (8) Pretrial Conference Dates; and (9) Jury Trial date. A scheduling conference will be conducted following the submission of the

Revised Proposed Scheduling Order.

The parties **[do]** / **[do not]** consent to trial before the Magistrate Judge.

OTHER RELEVANT MATTERS:

As required by Local Rule 26.1(e), the parties have conferred as to whether they will seek discovery of electronically stored information (“ESI”) and [have agreed that e-discovery is not appropriate in this case and therefore they will not seek e-discovery] / [have reached an agreement regarding e-discovery and hereby submit the parties’ e-discovery plan for the court’s approval] / [have not reached an agreement regarding e-discovery and will comply with the default standards described in Local Rule 26.1(e) until such time, if ever, the parties reach an agreement and the court approves the parties’ e-discovery plan].

[Pursuant to agreement of the parties, if privileged or protected information is inadvertently produced, the producing party may, by timely notice, assert the privilege or protection and obtain the return of the materials without waiver].

Pursuant to Local Rule 16.3(d), within 7 days of completion of ADR, the parties shall file a notice via ECF confirming that the ADR was conducted and indicating whether it was successful or unsuccessful, without disclosing the parties’ respective positions at the ADR.

Pursuant to Local Rule 7.2(a)(1)(A), all motions, except motions pursuant to Federal Rule of Civil Procedure 12, 56, 59, and 60 shall, be accompanied by a proposed order in a word processing format sent to the ECF mailbox of the presiding judge.

Pursuant to Local Rule 7.2(a)(1)(B), the parties are required to consult prior to filing any motion (except motions filed pursuant to Federal Rule of Civil Procedure 12, 56, 59, and 60).

The opposing party must file a response to any opposed motion. Pursuant to Local Rule 7.2(a)(2), a party’s failure to respond timely to any motion, other than one requesting dismissal of a claim or action, may be deemed good grounds for granting the motion.

Neither party may file an additional reply to any motion, other than a motion filed pursuant to Federal Rule of Civil Procedure 12(b) or 56, without leave of the court. Pursuant to Local Rule 7.2(c), if a party believes that a reply is necessary, it shall file a motion for leave to file a reply within 7 days of service of the response, setting forth the reasons why a reply is required.

No depositions may be scheduled to occur after the discovery deadline. All discovery requests or other discovery related filings that require a response must be filed sufficiently in advance of the discovery deadline to enable the opposing party to respond by the time permitted by the Rules prior to that date.

Motions to compel discovery are to be filed and served within forty-five days of the default or service of the response, answer, or objection that is the subject of the motion.

However, if such default or service occurs within thirty days before the discovery deadline, the motion to compel must be filed within thirty days after such default or service.

This case is set for a [non/jury] trial.

Pursuant to Federal Rule of Civil Procedure 16(b)(4), the scheduling order may only be modified for good cause and with this Court's consent. Good cause requires the moving party to show that it could not meet the scheduling order's deadline despite that party's diligence. Potential prejudice to the nonmoving party is also evaluated when considering a motion to extend deadlines.

This order has been entered after consultation with the parties.

IT IS SO ORDERED, this ___ day of _____, 20__.

SHERYL H. LIPMAN
CHIEF UNITED STATES DISTRICT JUDGE