CIVIL RULE 16.1

SCHEDULING CONFERENCE, VOLUNTARY CASE MANAGEMENT CONFERENCE (VCMC) AND LITIGATION PLANS

As a general rule, scheduling conferences will not be held in the following type of cases, unless otherwise ordered by the Court:

1) A petition for habeas corpus or other proceeding to challenge a criminal conviction or sentence.

2) An action to enforce or quash an administrative summons or subpoena.

3) An action by the United States to recover a benefit payment.

4) An action by the United States to collect on a student loan.

5) A proceeding ancillary to proceedings in other courts.

6) Petition to review a decision denying social security benefits.

7) Farm Service Administration Foreclosure Actions.

~~7)~~8) Civil cases in which a prisoner or self-represented litigant is a party.

In all other civil cases, unless otherwise ordered by the Court, a scheduling conference will be conducted within ninety (90) days after the complaint has been filed. The Court, in its discretion, may use telephonic/video conferencing with the parties for this purpose. The Court will notify all parties of the date and time of the scheduling conference.

When the Clerk provides notice to the parties of the time and date of the scheduling conference, counsel will also be provided with a scheduling conference/litigation plan form used by the trial judge who has been assigned the case. This form also contains requests for discovery information that counsel will discuss at their Federal Rule of Procedure 26(f) conferences. Each judge's litigation plan form is available on the Court's website

At least twenty-one (21) days before the time and date set for the scheduling conference, counsel must confer and discuss each of the following items contained on the scheduling conference/litigation plan form. These include, but are not necessarily limited, to the following:

1) Discuss the requirement to make initial disclosures within fourteen (14) days.

2) Expert witness reports/testimony cutoff dates.

3) Number and length of depositions.

4) Discovery cutoff dates.

5) Joinder of parties and amendment of pleadings cutoff date.

6) Dispositive motions filing cutoff date.

7) Availability of Voluntary Case Management Conference (VCMC)

8) Alternative Dispute Resolution: (Dist. Idaho Loc. Civ. R. 16.4)

A) Settlement Conferences

B) Arbitration

C) Mediation

9) Status conference date, if counsel believes one will be necessary.

10) Pretrial conference date (to be entered by the Court).

11) Estimated length of trial.

12) Trial date (to be entered by the Court).

a) **Voluntary Case Management Conference.**

1) **Definition**. Voluntary Case Management Conference (VCMC) is a tool whereby a Magistrate Judge hosts an informal meeting with counsel in civil cases to identify areas of agreement, clarify and focus the issues, and encourage the parties to enter procedural and substantive stipulations. The VCMC conference is not a settlement conference; it is an effort to: (1) assist in the reduction of expense and delay; and (2) enhance direct communication between the parties about their claims.

2) **Timing**. During the Scheduling Conference, the trial judge will discuss with the parties whether the case would benefit from a VCMC conference before a designated Magistrate Judge. If the trial judge and the parties agree that a VCMC conference is warranted, the parties will be ordered to appear at a VCMC conference within 45 days after the Scheduling Conference.

A) Counsel for any party may request an earlier VCMC conference by contacting the court's ADR Coordinator. The ADR Coordinator will discuss the request with the assigned trial judge, who will determine whether it is appropriate to refer the action to an earlier VCMC conference.

B) The Magistrate Judge conducting the VCMC conference may order the VCMC conference be conducted by telephone upon request by counsel for any party.

3) **Process**. At the VCMC conference, the Magistrate Judge will discuss the parties' claims and defenses in order to suggest stipulations and pretrial procedures that may reduce the expense and delay in the case. The Magistrate Judge assigned to the VCMC conference will generally be the same Magistrate Judge assigned to conduct a judicially

supervised settlement conference in the case, although he or she will not be the trial judge assigned to the case or designated for referrals by a District Judge in the same case.

A) All communications during the VCMC conference shall be privileged and confidential.

B) If necessary, the Magistrate Judge conducting the VCMC conference may, after consultation with the trial judge, modify the scheduling order based on agreements reached at the VCMC conference.

Fourteen (14) days after counsel have conferred on the scheduling conference / litigation plan form, counsel must make their initial disclosures as required by Federal Rule of Civil Procedure 26(a)(1).

After counsel have conferred on the scheduling conference and litigation plan form, counsel must forward to the Court the scheduling conference and litigation plan form which they have jointly stipulated to or, in the event counsel are unable to agree, their proposed plan, within the time period prescribed by the judge conducting the scheduling conference.

After the scheduling conference, the Court will prepare and enter an order which will provide time frames and dates for the items contained on the scheduling/litigation plan form. Upon the Court's determination, certain cases can be exempted from these requirements and the parties will be so notified.

b) ~~(B)~~ Electronically Stored Information

The parties shall discuss the parameters of their anticipated e-discovery at the Rule 26(f) conference, as well as at the Rule 16 scheduling conference. More specifically, during the 26(f) conference, the parties shall exchange the following information and discuss the following e-discovery issues:

1) The names of the most likely custodians of relevant electronically stored information, as well as a brief description of each person's title and responsibilities;

2) A list of each relevant electronic device or system that has been in place at all relevant times and a general description of each device or system including, but not limited to, the nature, scope, character, organization, and formats employed in each device or system. The parties should also discuss whether their electronically stored information is reasonably accessible. Electronically stored information that is not reasonably accessible may include information created or used by electronic ~~storage~~ media no longer in use, maintained in redundant electronic storage media, or for which retrieval otherwise involves undue burden or substantial cost;

3) A brief description of the steps each party has taken to segregate and preserve all potentially relevant electronically stored information;

4) The potential for conducting discovery of electronically stored information in phases as a method for reducing costs and burden;

5) The methodology the parties shall employ to conduct an electronic search for relevant electronically stored information and any restrictions as to the scope and method of the search;

6) The format for production (e.g., text searchable image files such as pdf or tiff) of electronically stored information~~, and~~.

~~6)~~7) The potential for entering into an agreement under Federal Rule of Evidence 502(e) regarding the disclosure of a communication or information covered by the attorney-client privilege or work-product protection, as well as the potential for moving the Court to enter an order that incorporates any such agreement under Federal Rule of Evidence 502(d), and

~~7)~~8) Any problems reasonably anticipated to arise in connection with e-discovery (e.g., email duplication).

If the parties fail to reach agreement on any of the e-discovery issues addressed in subparts (4) through (~~7~~8) above prior to the Rule 16 scheduling conference the parties shall bring this fact to the Court's attention at the Rule 16 scheduling conference and discuss whether the Court's intervention on those topics is necessary.

RELATED AUTHORITY

Fed. R. Civ. P. 16, 16(f)

Dist. Idaho Loc. Civ. R. 16.4, 16.5