

## INSTRUCTIONS REGARDING PRETRIAL PROCEEDINGS

### IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA

The purpose of these instructions is to summarize information contained in the Court's Local Rules and to direct your attention to specific local court rules pertaining to electronic filing<sup>1</sup> and to relevant dates regarding (1) the scheduling of an early planning conference; (2) the completion of Initial Disclosures; (3) the filing of a Joint Certificate of Interested Persons; (4) the filing of a Joint Preliminary Report and Discovery Plan; (5) the conduct of discovery; (6) the scheduling of the settlement conference after discovery and the reporting of the results of that conference; (7) time limits for various motions; (8) the submission of a proposed Pretrial Order; and (9) the submission of requests to charge. Cases assigned to the Court's 0-months discovery track are exempted from the LR 16 requirements regarding conferences, filing of a Joint Preliminary Report and Discovery Plan, and filing of a consolidated Pretrial Order. Filers may access these rules by visiting the Court's website at [www.gand.uscourts.gov](http://www.gand.uscourts.gov) and clicking on Local Rules.

Counsel are jointly responsible for assuring the orderly conduct of discovery and for submitting promptly the documents requested by the Court without further notice, order, or direction. Failure on the part of any party to cooperate with others in compliance with these instructions may result in the imposition of dismissal, default judgment, or other sanctions as provided by the Federal Rules of Civil Procedure and the Local Rules of this Court.

Plaintiff's counsel is responsible for assuring delivery of a set of these pretrial instructions to defense counsel in conjunction with service of the complaint. Attached to these pretrial instructions are four (four) forms: a form for use by plaintiff's counsel in completing Initial Disclosures (Form I.A); a form for use by defendant's counsel in completing Initial Disclosures (Form I.B); a form for

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<sup>1</sup>Pro se litigants who are not attorneys in good standing with the Bar of this Court must file all documents with the Court in paper form.

counsel's use in submitting the Joint Preliminary Report and Discovery Plan (Form II); and a form for presentation of the proposed consolidated Pretrial Order (Form III). Additional copies of these forms can be obtained by visiting the Court's website at [www.gand.uscourts.gov](http://www.gand.uscourts.gov) and clicking on Local Rules, or clicking on Forms and selecting Pretrial Instruction Package (Associated Forms). They may also be obtained from the Public Filing Counter in each division.

**In Removed Cases.** In civil actions removed to this Court from state court, any time period stated to run from the appearance of a defendant will run from the date the removed case is filed in this Court. LR 26.1(B)(4).

**Electronic Case Filing System.** LR 5.1A; Appendix H. A document filed by electronic means in compliance with LR 5.1A and the Administrative Procedures contained in Appendix H thereto constitutes a written document for the purposes of applying the Federal Rules of Civil Procedure and the Local Rules of this Court.

Attorneys seeking to file documents electronically must be admitted to practice in the United States District Court for the Northern District of Georgia pursuant to LR 83.1. They must complete and submit an Attorney Registration Form online at [www.gand.uscourts.gov](http://www.gand.uscourts.gov), or they may use the Attorney Registration Form attached to these instructions as Appendix H, Form A. Attorneys seeking admission pro hac vice must first have their application for admission pro hac vice granted before registering.

**Electronic Filing and Service of Documents.** When a document is filed electronically, the "*Notice of Electronic Filing*" is automatically generated by the Court's Electronic Case Filing system to all registered parties in the case; and it constitutes service of the filed document. Service on non-registered parties must still be accomplished manually. A document will be deemed timely filed if it is filed prior to midnight. E-mailing a document to the Clerk's Office or to the assigned judge does not constitute "filing" of a document. The filing party shall serve the pleading or other document upon all persons entitled to receive notice or service in accordance with the Federal Rules of Civil Procedure and the Local Rules of this Court. Sample formats for a "Certificate of Service" are attached to these instructions as Appendix H, Form B.

**Conventional Filing of Documents.** Attachments and exhibits larger than two megabytes (2 MB) may be filed electronically in separate 2MB (or less) segments. However, a filer may conventionally submit attachments and exhibits that are not available in electronic form or that exceed 2 MB in size. The Clerk's Office will note on the docket its receipt of the items with a text-only entry.

When a document or thing must be filed conventionally, it should be printed on only one side of the page. A "***Notice of Manual Filing***" should be electronically filed, naming the document or thing that was filed conventionally and stating the reason for the conventional filing. A form for "***Notice of Manual Filing***" is attached to these instructions as Appendix H, Form D.

**Technical Failures.** If a filer is unable to submit a document electronically due to a malfunction of the Court's owned/leased hardware, software, and/or telecommunication facility, he must file a "***Declaration of Technical Difficulties***," which is attached to these instructions as Appendix H, Form C. Technical failure does not include the malfunctioning of a filer's equipment or internet connection. If a filer cannot file a document electronically because of a problem on the filer's end, he or she must timely file the document in a conventional form.

**Correcting Docket Entries:** As soon as possible after an error is discovered in an electronic filing, the filer should contact the Clerk's Office with the case number and document number for which the correction is being requested. The filer should not attempt to refile the document. Corrections to the docket are made only by the Clerk's Office.

**Privacy:** A filer shall omit or, where inclusion is necessary, partially redact personal file identifiers from all filings, whether filed electronically or on paper, unless the assigned judge orders otherwise. The filer is responsible for the redaction of personal data identifiers. The Clerk's Office will not review documents for compliance with this rule, seal on its own motion documents containing personal data identifiers, or redact documents, whether filed electronically or conventionally. For a complete statement of the Court's privacy policy, filers should review Standing Order 04-02, July 28, 2004, In the Matter of Adopting a Policy on Sensitive Information and Public Access to Electronic Case Files, on the Court's web page at [www.gand.uscourts.gov](http://www.gand.uscourts.gov).

<b>SUMMARY OF RELEVANT DATES</b>	
Fed. R. Civ. P. 26(f) Conference	Within 16 days after the appearance of a defendant by answer or motion. LR 16.1.
Plaintiff and Defendant complete Initial Disclosures	Within 30 days after the appearance of a defendant by answer or motion. Fed. R. Civ. P. 26(a)(1). <sup>2</sup>
Joint Certificate of Interested Persons	Within 30 days after the appearance of a defendant by answer or motion. LR 3.3A.
Joint Preliminary Report and Discovery Plan	Within 30 days after the appearance of the first defendant by answer or motion, or within 30 days after a removed case is filed in this Court. <i>Pro se</i> litigants and opposing counsel are permitted to file separate statements. LR 16.2
Commencement of Limited Discovery Period	Thirty (30) days after the appearance of the first defendant by answer to the complaint. LR 26.2A.
Motions not Specially Limited by Rules	Within 30 days after the beginning of discovery unless the filing party has obtained prior permission of the Court to file later. LR 7.1A(2).

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<sup>2</sup>Pursuant to Fed. R. Civ. P. 26(a)(1), Initial Disclosures are due within fourteen (14) days after the conference called for by Fed. R. Civ. P. 26(f). For simplicity, the Local Rules assume the Rule 26(f) conference is held on the last appropriate day (sixteen (16) days after the appearance of a defendant) so that the Initial Disclosures will be due on the 30<sup>th</sup> day following the appearance by a defendant.

<b>SUMMARY OF RELEVANT DATES</b>	
Motions to Compel	Unless otherwise ordered by the Court, prior to close of discovery or, if longer, within 10 days after service of the disclosure or discovery response upon which the objection is based. LR 7.2C; LR 37.1B; Appendix B, Form II.
Close of Discovery	Upon expiration of the assigned discovery track, unless the Court has either shortened the time for discovery or has for cause shown extended the time for discovery. Discovery proceedings must be initiated promptly so that discovery is initiated and completed (including the filing of answers and responses thereto) within the time limitations of the discovery track to which the case is assigned. LR 26.2A, B; Appendix B, Form II.
Settlement Conference after Discovery	No later than 10 days after the close of discovery. LR 16.3.
Summary Judgment Motions	As soon as possible, but, unless otherwise ordered by the Court, not later than 20 days after the close of discovery. LR 7.2D, LR 56.1C; Appendix B, Form II.
Proposed Pretrial Order	No later than 30 days after the close of discovery, or entry of the Court's ruling on any pending motions for summary judgment, which is later. LR 16.4A; Appendix B, Form III.

<b>SUMMARY OF RELEVANT DATES</b>	
Requests to Charge	No later than 9:30 a.m. on the calendar date or specially set date for trial of the case, unless otherwise ordered by the Court. LR 51.1A.

## INSTRUCTIONS

### I. Initial Disclosures

LR 26.1; LR 84.1 (Appendix B, Forms I.A and I.B). Parties to all civil actions, other than those civil actions assigned to the 0-months discovery track, are required to complete court-formulated initial disclosures. The Court has prepared a form, “*Initial Disclosures*,” which counsel are required to use. A copy of the form for use by counsel for plaintiff and counsel for defendant is attached to these instructions. The “*Initial Disclosures*” forms for both plaintiffs and defendants may also be found in the Local Rules as Form I in Appendix B. In cases involving multiple defendants, each plaintiff and each defendant must provide separate disclosures unless the disclosures are the same for all plaintiffs or all defendants.

Each party’s “*Initial Disclosures*” shall be served simultaneously on all other parties to the action at or within thirty (30) days after the appearance of a defendant by answer or motion unless a different time is set by stipulation or court order, or unless a party objects during the conference that initial disclosures are not appropriate in the circumstances of the action and states the objection in the Fed. R. Civ. P. 26(f) and LR 16.2 Joint Preliminary Report and Discovery Plan.

### II. Certificate of Interested Persons

LR 3.3. Counsel for all private (non-governmental) parties shall be required to submit a “*Joint Certificate of Interested Persons*” within thirty (30) days after the appearance of a defendant by answer or motion. The certificate must include a listing of all persons, associations of persons, firms, partnerships or corporations having either a financial interest or some other interest which could be substantially affected by the outcome of this particular case. Subsidiaries,

conglomerates, affiliates, parent corporations, and any other identifiable legal entity related to a party must be listed. Lawyers serving in the proceeding must also be listed. A prescribed form for the certificate is set out in LR 3.3C.

### III. **Early Planning Conference**

LR 16.1. Prior to filing of the “***Joint Preliminary Report and Discovery Plan***,” and within sixteen (16) days of the appearance of a defendant by answer or motion, lead counsel for all parties are required to confer in person in an effort to settle the case, discuss discovery, limit issues, and discuss other matters addressed in the “***Joint Preliminary Report and Discovery Plan***.” Counsel are required to inform the parties promptly of all offers of settlement proposed at the conference. This local rule applies to all cases assigned to the 4- and 8-months discovery tracks. This conference shall comply with the requirements of Fed. R. Civ. P. 26(f).

### IV. **Discovery Limitations**

- A. **Interrogatories**. See Fed. R. Civ. P. 33; LR 26.3.
- B. **Depositions**. See Fed. R. Civ. P. 30(d)(2); LR 30.1. Unless otherwise authorized by the Court or stipulated by the parties, no deposition of any party or witness shall last more than one day of seven (7) hours.
- C. **Extensions of Time**. LR 26.2. There are three discovery tracks in this Court: 0-months discovery, 4-months discovery, and 8-months discovery. Each case is assigned to a discovery track when the complaint is filed. Discovery proceedings must be initiated promptly so that discovery is initiated and completed (including the filing of answers and responses thereto) within the time limitations of the discovery made to which the case is assigned. LR 26.2A. A request for an extension of time for discovery must be filed with the Court prior to the expiration of the existing discovery period. When a motion or request for relief is filed electronically, a proposed order shall be attached as an electronic attachment to the document. Extensions of time for discovery will be granted only in exceptional cases where the circumstances on which the request is based did not exist or the attorney or attorneys could not have anticipated that such

circumstances would arise at the time the Joint Preliminary Report and Discovery Plan was filed. LR 26.2B.

- D. **Motions to Compel**. LR 7.2C; LR 37.1; LR 84.1.C (Appendix B, Form II). Fed R. Civ. P. 37(a)(2)(A)(B) requires the movant to certify that the movant has conferred or has attempted to confer in good faith with the opposing party prior to filing the motion to compel. This certification is required to be included as a part of all motions to compel. Directions regarding the form and content of a motion to compel are contained in LR 37.1A. Motions to compel may be filed prior to the close of discovery or, if longer, any time within ten (10) days after service of the responses upon which the objections are based.

#### V. **Joint Preliminary Report and Discovery Plan**

LR 16.2; LR 84.1.C (Appendix B, Form II). The purpose of the “***Joint Preliminary Report and Discovery Plan***” is to promote early analysis and planning of the case by counsel and to alert the Court to any specific case management needs. The “***Joint Preliminary Report and Discovery Plan***” is a joint filing by counsel, except that *pro se* litigants and opposing counsel are permitted to file separate statements. The completed form must be served within thirty (30) days after the appearance of the first defendant by answer or motion, or within thirty (30) days after a removed case is filed in this Court. The Court has prepared a standard from which counsel are required to use. A copy of the form is attached to these instructions and may also be found in the Local Rules as Form II in Appendix B. If counsel cannot agree on the answers to specific items, the contentions of each party must be shown on the form. This Local Rule applies to all cases assigned to the 4- and 8-months discovery tracks.

#### VI. **Conference Following Discovery**

LR 16.3. Lead counsel and a person possessing settlement authority for each plaintiff and each defendant are required to meet in person no later than ten (10) days following the close of discovery to discuss, in good faith, settlement of the case. The results of the conference shall be reported in Item 26 of the “***Pretrial Order***” (LR 16.4; LR 84.1.D (Appendix B, Form III)). This local rule applies to all cases assigned to the 4- and 8-months discovery tracks.

## VII. Motions

- A. **Generally.** All motions filed in this Court shall be made in compliance with the Federal Rules of Civil Procedure and the Local Rules of this Court. See LR 7.1. Motions that are not specially limited in time by the local or federal rules must be filed within thirty (30) days after the beginning of discovery unless the filing party has obtained prior permission from the Court. LR 7.1A(2); LR 16.2(7) (Appendix B, Form II).
- B. **Motions to Compel.** LR 7.2C; LR 37.1; LR 16.2(7); LR 84.1.C (Appendix B, Form II). Unless otherwise ordered by the Court, a motion to compel discovery must be filed prior to the close of discovery or, if longer, within ten (10) days after service of the disclosure or discovery response upon which the motion is based.
- C. **Summary Judgment.** LR 7.2D; LR 56.1; LR 16.2(7); LR 84.1.C (Appendix B, Form II). Motions for summary judgment shall be filed as soon as possible, but, unless otherwise permitted by Court order, not later than twenty (20) days after the close of discovery. The party opposing the motion has twenty (20) days after service of the motion in which to file a responsive pleading.

## VIII. Proposed Consolidated Pretrial Order

LR 16.4A. The Court has prepared a form, “**Pretrial Order**,” which counsel shall be required to complete and file with the Court no later than thirty (30) days after the close of discovery, or entry of the Court’s ruling on any pending motions for summary judgment, whichever is later. Use of the form “**Pretrial Order**” is mandatory. A copy of the form is attached to these instructions, and it can also be found in Appendix B of the Local Rules as Form III. No deviations from this form shall be permitted, except upon the express prior approval of the Court. The form may be retyped, provided it is not modified in any way. Additional copies of the form “**Pretrial Order**” may be obtained from the Public Filing Counter in each division.

It shall be the responsibility of plaintiff’s counsel to contact defense counsel to arrange a date for counsel to confer on preparation of the proposed pretrial

order. If there are issues upon which counsel for the parties cannot agree, the areas of disagreement must be shown in the proposed pretrial order. In those cases in which there is a pending motion for summary judgment, the Court may, in its discretion and upon request, extend time for filing the proposed pretrial order.

If counsel desire a pretrial conference, a request must be indicated on the proposed pretrial order immediately below the civil action number. Counsel will be notified if the judge determines that a pretrial conference is necessary. A case shall be presumed ready for trial on the first calendar after the pretrial order is filed unless another time is specifically set by the Court.

**IX. Requests to Charge**

LR 51.1A. Requests to Charge shall be filed with the courtroom deputy no later than 9:30 a.m. on the calendar date or specially set date for trial of the case, unless otherwise ordered by the Court. The requests shall be numbered sequentially with each request containing the citations to authorities supporting the request presented on a separate sheet of paper. In addition to the original, counsel must file two (2) copies of each request with the Clerk of Court and must serve one (1) copy of the requests on opposing counsel. Additional instructions regarding requests to charge are contained in Item 22 of the *“Pretrial Order.”*

**BY ORDER OF THE COURT.**

S/  
LUTHER D. THOMAS, CLERK OF COURT