

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

|              |   |                   |
|--------------|---|-------------------|
| [PARTY NAME] | ) |                   |
|              | ) |                   |
| Plaintiff,   | ) |                   |
|              | ) |                   |
| v.           | ) | CA. XX-XXXX (EGS) |
|              | ) |                   |
| [PARTY NAME] | ) |                   |
|              | ) |                   |
| Defendant    | ) |                   |
|              | ) |                   |

ORDER FOR MEET AND CONFER REPORT

The above captioned case has been assigned to Judge Emmet G. Sullivan for resolution.

Pursuant to LCvR 16.3 of the Local Rules, as amended effective as of September 2015, and Fed. R. Civ. P. 26(f), as amended effective February 9, 2015, counsel shall confer by no later than [DATE] and submit their meet and confer report by no later than [DATE]. Counsel are directed to include in their report a brief statement of the case and the statutory basis for all causes of action and defenses.

Counsel are required to comply with LCvR 16.3 and, in particular, LCvR 16.3(c), attached hereto as Appendix I. In considering what form of alternative dispute resolution the parties think the case most suited to, counsel are reminded that among their options are mediation, arbitration, early neutral evaluation, summary jury trial, or any other form of alternative

dispute resolution which can be tailored to the needs of their case.

Extensions or enlargements of time will only be granted upon motion, and not upon stipulation by the parties. Motions for a continuance or other scheduling change must be filed three business days prior to the scheduled hearing and must include alternative dates that have been agreed to by all parties. Requests that do not include an alternative date acceptable to all parties will be denied.

Parties are to communicate with the Court by motion, opposition, and reply; not by letter. Inquiries concerning the status of any pending matter shall be directed to the Courtroom Deputy Clerk, Mr. Mark Coates at (202)-354-3364, or if he is unavailable, to the staff person in the Clerk's Office designated as his substitute. ***Inquiries are not to be directed to chambers.*** Chambers personnel will not handle questions relating to the status or scheduling of pending matters.

In an emergency, however, chambers can be reached at (202)-254-3260.

**SO ORDERED.**

**Signed: Emmet G. Sullivan**  
**United States District Judge**  
**[DATE]**

## LCvR 16.3

### DUTY TO CONFER

**(a) TIME FOR CONFERENCE.**

Counsel (including any nonprisoner *pro se* party) must confer in accordance with this Rule and Fed. R. Civ. P. 26(f) within 21 days before a scheduling conference is held or a scheduling order is due under Fed. R. Civ. P. 16(b) to:

- (1) Discuss the matters set forth in LCvR 16.3(c).
- (2) Make or arrange for disclosures required by Fed. R. Civ. P. 26(a)(1); and
- (3) Develop a discovery plan that indicates the parties' views and proposals.

In a case involving multiple defendants, the 21-day period shall run from the date of appearance or first filing in the form of an answer or motion, pursuant to Fed. R. Civ. P. 12, by the defendant who is given the longest time to answer under the Federal Rules of Civil Procedure. Any party may move to extend the deadline to a time fixed by the Court on the ground that another defendant has not been served or has not yet appeared in the case, or for other sufficient reasons.

If necessary to comply with its expedited schedule for Rule 16(b) conferences, a Court may require the conference between the parties to occur fewer than 21 days before the scheduling conference is held or a scheduling order is due under Fed. R. Civ. P. 16(b).

**(b) EXEMPTED CASES**

The requirement of this Rule, of LCvR 16.3 of these Rules, and Fed. R. Civ. P. 16(b) and 26(f), shall not apply in the following categories of proceedings exempted from initial disclosure under Rule 26(a)(1)(E), Fed. R. Civ. P., or when otherwise ordered. The following categories of proceedings are exempted from both initial disclosure under Fed. R. Civ. P. 26(a)(1)(E) and the Fed. R. Civ. P. 26(f) conference:

- (1) an action for review on an administrative record;
- (2) a petition for habeas corpus or other proceeding to challenge a criminal conviction or sentence;

- (3) an action brought without counsel by a person in custody of the United States, a state, or a state subdivision;
- (4) an action to enforce or quash an administrative summons or subpoena;
- (5) an action by the United States to recover benefit payments;
- (6) an action by the United States to collect on a student loan guaranteed by the United States;
- (7) a proceeding ancillary to proceedings in other courts
- (8) an action to enforce an arbitration award; and
- (9) FOIA actions.

**(c) MATTERS TO BE DISCUSSED BY THE PARTIES.**

At the conference required by this Rule, the parties must confer to discuss the following matters:

- (1) Whether the case is likely to be disposed of by dispositive motion; and whether, if a dispositive motion has already been filed, the parties should recommend to the Court that discovery or other matters should await a decision on the motion.
- (2) The date by which any other parties shall be joined or the pleadings amended, and whether some or all the factual and legal issues can be agreed upon or narrowed.
- (3) Whether the case should be assigned to a magistrate judge for all purposes, including trial.
- (4) Whether there is a realistic possibility of settling the case.
- (5) Whether the case could benefit from the Court's alternative dispute resolution (ADR) procedures (or some other form of ADR); what related steps should be taken to facilitate such ADR; and whether counsel have discussed ADR and their response to this provision with their clients. In assessing the above, counsel shall consider:
  - (i) the client's goals in bringing or defending the litigation;
  - (ii) whether settlement talks have already occurred and, if so, why they did not produce an agreement
  - (iii) the point during the litigation when ADR would be most appropriate, with special consideration given to:

- (aa) whether ADR should take place after the informal exchange or production through discovery of specific items of information; and
    - (bb) whether ADR should take place before or after the judicial resolution of key legal issues;
  - (iv) whether the parties would benefit from a neutral evaluation of their case, which could include suggestions regarding the focus of discovery, the legal merits of the claim, an assessment of damages and/or the potential settlement value of the case; and
  - (v) whether cost savings or any other practical advantages would flow from a stay of discovery or of other pre-trial proceedings while an ADR process is pending.
- (6) Whether the case can be resolved by summary judgment or motion to dismiss; dates for filing dispositive motions and/or cross-motions, oppositions, and replies; and proposed dates for a decision on the motions.
  - (7) Whether the parties should stipulate to dispense with the initial disclosures required by Fed. R. Civ. P. 26(a)(1), and if not, what if any changes should be made in the scope, form or timing of those disclosures.
  - (8) The anticipated extent of discovery, how long discovery should take, what limits should be placed on discovery; whether a protective order is appropriate; and a date for the completion of all discovery, including answers to interrogatories, document production, requests for admissions, and depositions.
  - (9) Whether the requirement of exchange of expert witness reports and information pursuant to Fed. R. Civ. P. 26(a)(2), should be modified, and whether and when depositions of experts should occur.
  - (10) In class actions, appropriate procedures for dealing with Rule 23, Fed .R. Civ. P. proceedings, including the need for discovery and the timing thereof, dates for filing a Rule 23 motion, and opposition and reply, and for oral argument and/or an evidentiary hearing on the motion and a proposed date for decision.
  - (11) Whether the trial and/or discovery should be bifurcated or managed in phases, and a specific proposal for such bifurcation.
  - (12) The date for the pretrial conference (understanding that a trial will take place 30 to 60 days thereafter).
  - (13) Whether the Court should set a firm trial date at the first scheduling conference or should provide that a trial date will be set at the pretrial conference from 30 to 60 days after that conference.
  - (14) Such other matters that the parties believe may be appropriate for inclusion in a scheduling order.

**(d) REPORT TO THE COURT AND PROPOSED ORDER.**

Not later than 14 days following the conference required by this Rule, the attorneys of record and all unrepresented parties that have appeared in the case shall submit to the Court a written report outlining the discovery plan and including a succinct statement of all agreements reached with respect to any of the 14 matters set forth in paragraph (c), a description of the positions of each party on any matters as to which they disagree, and a proposed scheduling order. The report shall be submitted jointly, but the parties may submit alternative proposed orders that reflect any disagreements. The plaintiff shall have the duty to ensure timely filing of the report. If, by the time the report is due, any defendant has not responded to the plaintiff's proposed report or declines to join in the report, the plaintiff shall certify in the report that efforts were made to secure that defendant's participation.

If necessary to comply with its expedited schedule for Rule 16(b) conferences, a court may require the written report outlining the discovery plan be filed fewer than 14 days after the conference between the parties, or excuse the parties from submitting a written report and permit them to report orally on their discovery plan at the Rule 16(b) conference as per Fed. R. Civ. P. 26(f).

***COMMENT TO LCvR 16.3(a):** LCvR 16.3(a) has been modified to conform to the amendments to the Federal Rules of Civil Procedure as amended in December 2000. The amendment (1) modified the date by which the Fed. R. Civ. P. 26(f) conference is to be held and (2) removed the requirement that the Fed. R. Civ. P. 16(b) conference be a face-to-face meeting. The Court, however, encourages face-to-face meetings and retains its authority to require that the conference be conducted face-to-face in a particular case.*

***COMMENT TO LCvR 16.3(b):** The amendment to Fed. R. Civ. P. 26(f) removed the authority to exempt cases by local rule from the discovery conference requirement. The amendment exempts the same categories of proceedings from the conference requirement that are exempted from the initial disclosure requirement. Accordingly, LCvR 16.3(b) lists the proceedings exempted under LCvR 26.2(a) and Fed. R. Civ. P. 26(a)(1)(E), and removes the cases previously exempted by local rule (viz., proceedings involving a nonprisoner pro se plaintiff in which a dispositive motion is filed before the deadline for the meeting expires). Although the first eight enumerated exempt categories of cases were intended to be exclusive and are considered actions that are brought in most, if not all of the Federal District Courts, we have included Freedom of Information Act actions to this list, as item number (9) because they are actions that typically do not require discovery or actions in which an initial disclosure requirement would not make sense. A significant portion of the nation's FOIA actions are pending in this Court.*

***COMMENT TO LCvR 16.3(c):** LCvR 16.3(c) has been amended slightly to conform to the amendments to the Federal Rules of Civil Procedure as amended in December 2000.*

***COMMENT TO LCvR 16.3(d):** The submission date for the report, following the Fed. R. Civ. P. 26(f) conference, has been extended from 10 to 14 days.*