

-----x

Plaintiff,

-Against

____ Civ. ____ (KMW)

Defendant.

SCHEDULING
ORDER

-----x

APPEARANCES:

Plaintiff(s) by: _____ Defendant(s) by: _____

WOOD, U.S.D.J.:

Pursuant to Fed.R.Civ.P. 16(b), after holding an initial pre-trial conference, it is hereby ordered that:

Pleadings and Parties: Except for good cause shown --

1. No additional parties may be joined after _____.
2. No additional causes of action or defenses may be asserted after _____.

Discovery. Except for good cause shown, all discovery shall be commenced in time to be completed by _____. The Court expects discovery to be completed within 90 days of the first scheduling conference. In the event that the parties believe that additional time is needed, the parties shall request an extension from the Court, by joint letter, and shall accompany that request with a proposed Amended Scheduling Order, with the extension not to exceed 60 days. Any further extensions will be given only after a showing of good cause that additional time is needed.

Motions. Except for good cause shown, no motions shall be filed or heard after _____. The parties may satisfy this deadline through the submission of a letter to the Court requesting a pre-motion conference.

Pre-trial Order. A joint pre-trial order shall be submitted by _____. The pre-trial order shall conform to the Court's instructions, a copy of which may be obtained from the Deputy Clerk. It shall be accompanied by **Memoranda of Law**, and, in a case to be tried to a jury, **Proposed Voir Dire** and **Requests to Charge**.

Trial. The parties shall be ready for trial on or after_____
_____. Estimated trial time is_____.
Jury. _____. Non-Jury. _____. **(Please check.) A copy of the
Court's Trial Procedures can be downloaded from the Court's Website
at <http://www.nysd.uscourts.gov/judges/USDJ/wood.htm>**

Final Pretrial Conference. The Court will schedule a final pretrial conference in jury cases after the parties have filed their pre-trial order. Non-jury cases will be referred to the Magistrate Judge for settlement after the pre-trial order has been signed.

Mediation. Counsel for the parties have discussed the merits of mediation in regard to this action and wish to employ the free mediation services provided by this Court. **Yes** _____ **No** _____.

Other Directions:

A pending dispositive motion cancels any previously scheduled status conference and adjourns the dates set out in this Scheduling Order as to all parties making or opposing the motion. In the event a dispositive motion is made after the completion of discovery, the dates for submitting the Memoranda of Law, Requests to Charge, Proposed Voir Dire, Pre-trial Order and start of trial shall be changed from that shown above to three (3) weeks from the decision on the motion. The final pre-trial conference, if any, will be scheduled by the Courtroom Deputy.

At any time after the Ready Trial Date, the Court may call the parties to trial upon forty-eight hours' notice. Therefore, counsel must notify the Court and their adversaries in writing of any potential scheduling conflicts, including, but not limited to, trials and vacations, that would prevent a trial at a particular time. Such notice must come before counsel are notified by the Court of an actual trial date, not after. Counsel should notify the Court and all other counsel in writing, at the earliest possible time of any particular scheduling problems involving out-of-town witnesses or other exigencies.

The parties also have the option of trying this action before the Magistrate Judge assigned to this case. See 28 U.S.C. § 636(c). Such a trial would be identical to a proceeding before this Court in all respects, and the judgement would be directly appealable to the Second Circuit Court of Appeals. Given the nature of this Court's criminal docket, it is more likely that electing to proceed before the Magistrate Judge would result in the parties receiving a firm trial date.

All communications to the Court and all filed papers must identify the name and docket number of the case, followed by the initials of the Judge (KMW), contain the writer's typewritten name, party's name, law firm (if any), business address and telephone number, and be signed by the individual attorney responsible for the

matter (unless the party is proceeding pro se). Any letter to the Court must state the manner in which the letter was served on all other counsel.

If either party wishes to change the dates set forth in this Scheduling Order, it must submit a written request to the Court that complies with § 1.E. of Judge Wood's Individual Practices.

SO ORDERED.

DATED: New York, New York
_____, 2002

Kimba M. Wood
United States District Judge

Copies of this Order have been mailed to Counsel for the parties.

MODEL DISCOVERY PLAN¹

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

[PLAINTIFF'S NAME]
Plaintiff,

-against-

_____ Civ _____

DISCOVERY PLAN

[DEFENDANT'S NAME]
Defendant.

-----X

DISCOVERY PLAN PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 26(f)

Pursuant to Federal Rule of Civil Procedure 26(f), during a conference on [DATE] between counsel for plaintiff [PLAINTIFF'S NAME] (plaintiff) and counsel for defendant [DEFENDANT'S NAME] (defendant), counsel for the parties discussed and agreed to the following discovery plan:

(1) The parties shall exchange the initial disclosures required under Federal Rule of Civil Procedure 26(a) (1) no later than [DATE].²

(2) Both plaintiff and defendant shall serve their first

¹ The Court recognizes that discovery plans will vary in accordance with the needs of the parties. This Model Discovery Plan is intended only to guide the parties in developing more individualized plans.

² Rule 26(f) (1) no longer accommodates local rules; hence, parties should follow Rule 26(a) (1) in determining the timing, form and requirement of initial disclosure. "These disclosures must be made at or within 14 days after the Rule 26(f) conference 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 Rule 26(f) discovery plan." Fed.R.Civ.P. 26(a) (1) (E).

request for production of documents, pursuant to Federal Rule of Civil Procedure 34, no later than [DATE].

(3) Both plaintiff and defendant shall serve their notices of deposition, pursuant to Federal Rule of Civil Procedure 30, no later than [DATE]. Plaintiff anticipates deposing: (a) [NAME]; (b) [NAME]; and (c) [NAME]. Defendant anticipates deposing: (a) [NAME]; (b) [NAME]; and (c) [NAME].

(4) Depositions of the parties shall commence after [DATE], at mutually convenient dates and times, without prejudice to either party conducting a non-party deposition beforehand at a mutually convenient date, time and place.

(5) Both plaintiff and defendant shall serve subpoenas upon any third party witnesses no later than [DATE], seeking the production of documents and/or depositions.

(6) Plaintiff shall serve its expert's report upon defendants, pursuant to Federal Rule of Civil Procedure 26(a)(2),³ no later than [DATE]. The reports shall set forth the facts on which the expert relies and the process of reasoning by which the expert's conclusions are reached.

(7) Defendant shall serve its expert's rebuttal report upon plaintiff, pursuant to Federal Rule of Civil Procedure 26(a)(2),⁴ no

³ "[T]he [expert witness] disclosures shall be made at least 90 days before the trial date or the date the case is to be ready for trial. . . ." Fed.R.Civ.P. 26(a)(2)(C).

⁴ "[I]f the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under paragraph (2)(B), [such rebuttal shall be made] within 30 days after the disclosure made by the other party." Fed.R.Civ.P. 26(a)(2)(C).

later than [DATE].

(8) Depositions of the experts shall commence no later than [DATE FOR PLAINTIFF'S EXPERT] and [DATE FOR DEFENDANT'S EXPERT].

(9) All discovery shall be complete by [DATE].

(10) The parties reserve the right to seek or to schedule additional discovery as may become necessary, so long as it is completed by [SAME DATE AS APPEARS IN (9) ABOVE].

Dated: [PLACE]
[DATE]

[NAME OF PLAINTIFF'S ATTORNEY]
Attorney's for plaintiff
[PLAINTIFF'S NAME]

[NAME OF DEFENDANT'S ATTORNEY]
Attorney's for defendant
[DEFENDANT'S NAME]

By: _____
[NAME]

By: _____
[NAME]