

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

v.	Plaintiffs,	Case No. Honorable Shalina D. Kumar Magistrate Judge
	Defendants.	

RULE 16 SCHEDULING ORDER (PHASE II)

**PLEASE DOCKET IMMEDIATELY:
NO FURTHER NOTICE OF THESE DATES WILL BE SENT**

1. Setting Date of Settlement Conference (if applicable);
2. Setting Date for filing of Final Pretrial Order;
3. Setting date of Final Pretrial Conference;
4. Setting Trial Date;
5. Providing for content of Final Pretrial Order and describing material to be prepared and to be made available to the Court and counsel.

1. Final Settlement Conference date and time**: _____.

Is Settlement Conference referred to Magistrate Judge?

___ Yes ___ No

Date to submit Confidential Settlement Conference Summary: _____.

2. Deadline for filing motions in limine to exclude expert testimony (“*Daubert* motions”): _____.

3. Deadline for filing Joint Pretrial Order:_____.
 4. *Deadline for filing all other Motions in Limine:_____.
 5. *Deadline for filing Responses to Motions in Limine:_____.
 6. Final Pretrial Conference Date and Time:_____.
Trial counsel must be present at the Final Pretrial Conference.
 7. Hearing on Motions in Limine:_____.
 8. Trial date and time:_____.
- Jury Trial _____
- Non-Jury Trial _____

**GUIDELINES FOR CONFIDENTIAL
PRE-SETTLEMENT SUMMARIES**
(to be submitted *only* to the Court)

In preparation for the Settlement Conference, each side must provide the Court with the following information. Please email one copy directly to Judge Kumar's Judicial Assistant. **Do not electronically file; do not serve opposing counsel. You must type the question and then your answer.** Pre-Settlement Summary must be prepared in pleading format, double spaced, and including page numbers.

1. Name of the case, including docket number:
2. Name of party submitting this form:
3. Name, address, phone (including cell phone), e-mail and fax number of submitting party/attorney:

4. Name of client who will attend the Settlement Conference, including title:
5. Listing of the pleading demands for damages, declaratory judgments and language for any requested injunction:
6. For the Plaintiff, how you intend to prove damages:
7. For the Defendant, how you intend to meet Plaintiff's claim of damages:
8. Indicate one of the following as to the status of discovery: (i) little or none; (ii) moderate amount, but incomplete; or (iii) essentially complete or complete.
9. Identify discovery/information essential to forming a realistic settlement position (this is not to be a listing of what you will present at trial, but what you need to discuss settlement):
10. List the primary disputed factual issues:
11. Is there a key factual issue where a non-binding early neutral evaluation might significantly advance settlement prospects?
What is it?
12. List the primary disputed legal issues and what your burden of proof is.

Discuss any difficulties you foresee in meeting your burden of proof.
13. Is there a key legal issue that, if resolved, could significantly

advance settlement prospects? *E.g.*, stipulated cross-motions for partial summary judgment, or a *Markman* ruling in a patent case.

14. Chronological summary of settlement offers and responses (use separate sheet if necessary):
15. Honest evaluation, Plaintiff, of what you will settle for and, Defendant, what you will pay. The parties are urged to state serious evaluations. If it appears from the figures provided that settlement would be futile, the Court **WILL CANCEL** the Settlement Conference and simply provide dates through trial. An exercise in futility, for example, would be one in which the Plaintiff states he/she will settle for \$300,000, and the Defendant will only pay \$10,000. Remember, the figures you provide are for the Court only, and not opposing counsel.
16. Brief description of non-monetary interests and objectives of submitting party:
17. Description of likely or possible ongoing or future relationships between the parties:
18. Brief description of sensitive topics:
19. List the two or three strongest points in your case:

20. List the two or three weakest points in your case:
21. Litigation expenses to date, and your estimate of costs/attorney fees if this matter goes to trial:
22. A statement acknowledging that the parties discussed settlement as part of their preparation of this Confidential Pre-Settlement Summary.
23. On the day of the conference, both sides should be prepared to present an oral summary of the case.

****PLEASE NOTE:** The parties are required to discuss settlement and exchange numbers before the Settlement Conference. Failure of any party to engage in this pre-settlement conference process may result in the imposition of sanctions.

At the Settlement Conference, parties (and insurance company representatives) must appear and must have **full** settlement authority. Such persons and entities are ordered to prepare for and participate in the Settlement Conference in objective good faith.

For the Defendant, the representative must have final authority, in the representative's own discretion, to pay a settlement amount up to Plaintiff's last demand. If this representative is an insurance company, the representative must have final authority to commit the company to pay, in the representative's own discretion, an amount up to the Plaintiff's last demand if within policy limits, or if not within policy limits, the limits of the policy, whichever is lower.

For a Plaintiff, such representative must have final authority, in the representative's own discretion, to authorize dismissal of the case with prejudice, or to accept a settlement amount down to Defendant's last offer, whichever is higher.

**SANCTIONS WILL BE IMPOSED IF THE PARTY WITH FULL
SETTLEMENT AUTHORITY FAILS TO APPEAR.**

PLEASE NOTE THE FOLLOWING:

1. **Briefing Schedule:** Unless specifically addressed in this Order, the local court rules apply for filing responses and replies to motions.
2. All briefs must comply strictly with LR 7.1 (Statement of Issues, Statement of Controlling/Most Appropriate Authority), and, in addition, must contain a Table of Contents, an Index of Authorities and an Index of Exhibits. The Exhibits must be tabbed. Unpublished cases should be attached. Counsel are to highlight relevant portions of exhibits to which the Court's attention should be directed. Furthermore, the format requirements as set forth in LR 5.1 must be strictly adhered to. A courtesy copy will not be required for any motion unless specifically requested by the Court.
3. **Motion hearings:** Pursuant to L.R. 7.1(e)(2), the Court will decide motions on the briefs filed, UNLESS the Court issues a Notice of Motion Hearing.
4. **Bench trials:** Findings of Fact and Conclusion of Law are to be submitted on the first day of trial.

* Motions in Limine cannot be filed in Bench Trials, except with leave of court.

THE ABOVE CONSTITUTES AN ORDER OF THIS COURT.

Dated:

Honorable Shalina D. Kumar
United States District Judge

(Revised: 12/2022)