

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Plaintiff(s),

Case No.

Judge Robert H. Cleland

v.

Defendant(s).

_____ /

NOTICE OF SCHEDULING CONFERENCE AND ORDER TO APPEAR

You are hereby ORDERED TO APPEAR as follows:

**Chambers of the Hon. Robert H. Cleland
The Federal Building and U.S. Courthouse
526 Water Street
Port Huron, MI 48060**

for the scheduling conference to occur on _____ at _____.

THE COURT EXPECTS TRIAL COUNSEL TO ATTEND THIS CONFERENCE.

Plaintiff is ORDERED to meet and confer with Defendant, and **must file a Rule 26(f)(3) plan** at least **seven days** before the conference. See *Practice Guidelines for Judge Robert H. Cleland: Case management Conference (Civil)* <http://www.mied.uscourts.gov>.

For the conference, counsel must have consulted with clients as needed to be prepared to discuss and decide:

1. Ways to narrow the issues, including eliminating without prejudice claims and defenses that are not presently sustainable in view of evidence in hand (see Fed. R. Civ. P. Rule 16(c)(2)(a)). Note that leave to reinstate such claims or defenses is afforded "freely when justice so requires." Fed. R. Civ. P. 15(a).

Note also: "failure to state a claim is not a "defense."

2. A summary of each claim and affirmative defense, and related issues, including a) the elements of proof and, b) the good faith factual foundation of each;
3. The nature of any corporate, partnership or LLC parties.
4. Confirmation that all corporate parties have filed the disclosure statement required by LR 83.4 at least **SEVEN DAYS BEFORE the conference**.

5. The propriety of (or dispute about) subject matter jurisdiction;
6. The possible relationship to other cases;
7. The likelihood of pleading or party amendments, third-party complaints;
8. The likelihood of expert testimony;
9. Any discovery to date and complexity of further discovery. Counsel are encouraged to commence their Fed. R. Civ. P. 26(a)(1) disclosures without delay and to begin discovery by mutual consent before the conference;
10. Any need to adopt the provisions of the Court's *Model Order Relating to the Discovery of Electronically Stored Information*. See the Court's website for forms.
11. The possible use of case evaluation, mediation, facilitation or arbitration;
12. Consideration of magistrate judge consent jurisdiction per 28 U.S.C.636(b). Agreement would transfer the case in its entirety to one of the court's well-qualified magistrate judges and that judge would manage the case to conclusion, including jury trial as needed. There is no felony trial interference on any magistrate judge's docket, so an earlier and more certain trial date is likely.
13. Bench trial;
14. The likelihood of dispositive motion practice;
15. The likelihood of settlement.

In the event that trial counsel is not available for this conference, substitute counsel with complete working knowledge of the case must appear and be fully prepared to participate and make decisions. A substitute date may sometimes be arranged upon consultation with chambers Case Manager.

BY ORDER OF THE COURT

S/ Lisa Wagner

Case Manager and Deputy Clerk to

Judge Robert H. Cleland

810-292-6522