

SAMPLE OUTLINE FOR A RULE 26(f) PLAN AND STATUS REPORT

- 1) On [date], we met and discussed the issues identified under Fed. R. Civ. P. 26(f).
- 2) The basis for the court's jurisdiction is: _____. Jurisdiction [is conceded/will be contested by motion].
- 3) This case is to be tried [before a jury/by the court].
- 4) We have discussed requesting "consent jurisdiction" (28 U.S.C. § 636(c)), to the assigned Magistrate Judge. *If the parties consent, please include a signed form (available from the Clerk) with this plan.*
- 5) Following is a summary of the nature of the plaintiff's claims (please do not simply reprint the complaint):
- 6) The plaintiff consents to withdraw [no claims/the following claims without prejudice, understanding that it is the court's practice to grant leave to amend "freely when justice so requires," Fed. R. Civ. P. 15(a), upon a party later acquiring facts sufficient to allege a claim properly under Rule 11.]
- 7) Any supplemental (or "pendant") state law claims involved in this case are as follows:
- 8) Following is a summary of the nature of the defendant's defenses (please do not simply reprint pleadings):
- 9) The defendant hereby withdraws [no defenses/the following affirmative defenses without prejudice, understanding that it is the court's practice to grant leave to amend "freely when justice so requires," Fed. R. Civ. P. 15(a), upon a party later acquiring facts sufficient to allege a defense properly under Rule 11.
- 10) The Answer was filed on or about: _____.
- 11) We [have/have not] begun discovery by agreement.
- 12) We have read the court's guidelines on discovery, developed the following discovery plan, and recommend that the court enter an Order to this effect:
 - a) The following changes should be made in the timing or substance of any mandatory disclosures:
 - b) Discovery may be needed on the following subjects:
 - c) The case is "[simple/standard/complex/highly complex]." Discovery should continue through [date].
 - d) Discovery need not be phased or limited except as follows:
 - e) No changes should be made in limitations on discovery imposed under the rules except:
 - f) No additional limitations on discovery should be imposed except:
 - g) The following orders should be entered at this time relating to privileges, or under Rule 16(b) [time limits, dates and other matters] or under Rule 16(c) [action by the court which may facilitate the just, speedy and inexpensive disposition of the case]:

Both counsel and parties (especially private individuals and business entities) should develop a pretrial discovery budget. Accordingly, the following information must be included in the discovery plan:
- h) Discovery costs for plaintiff, including attorney fees, may reach about \$ _____.
Discovery costs for defendant, including attorney fees, may reach about \$ _____. **Each party must then state:** "My client, [name], has been specifically advised of the estimated discovery costs above, and has approved."
- 13) We have discussed the possibility of prompt resolution, (including the advisability of alternative dispute resolution, arbitration, early facilitative mediation, an early settlement conference with the court, etc.) And report as follows:
 - a) Our joint view is _____ (In the event that no agreement exists on possible prompt resolution, please indicate as specifically as you can the issues each party sees as a present obstacle. In a non-jury case, do not reveal matters or strategies which might affect the court's ability to remain impartial.)
 - OR-
 - b) plaintiff's view is: _____, while
defendant's view is: _____.
- 14) Based on what is known at this time, we estimate that at trial we may require approximately
 - a) _____ in-court hours for the presentation of plaintiff's case, and
 - b) _____ in-court hours for the presentation of defendant's case.(Note: a well-prepared, ordinary personal injury claim with five or six witnesses should normally require no more than about twenty hours--four five-hour days--including jury selection and argument.)

For Counsel's Information: THE COURT'S GUIDELINES ON DISCOVERY:

Judge Cleland ordinarily requires that discovery proceed as follows:

A. In a simple case, involving few disputed facts or legal issues, discovery should close in about 2 to 3 months after it commences; the case should be resolved in less than a year after the answer.

B. In a standard case, which may involve multiple parties and/or several disputed factual and/or legal issues, discovery should close in about 4 or 5 months after it commences; the case should be resolved about one year after the answer.

C. In a complex case (perhaps involving numerous parties plus very complicated factual and/or legal issues) discovery should close in about 6 to 8 months after it commences; the case should be resolved in less than two years after the answer.

D. In a highly complex case involving numerous parties or classes of parties and highly complicated or novel factual and/or legal issues, discovery will close at the discretion of the court, and counsel are invited to suggest a timeline to the court. The case is thought to be unlikely to be resolved even two years after the answer.