

UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK

DISTRICT OF VERMONT
FEDERAL BUILDING

BURLINGTON, VERMONT 05402-0945

□ P.O. BOX 945
BURLINGTON 05402-0945
(802) 951-6301

□ P.O. BOX 998
BRATTLEBORO 05302-0998
(802) 254-0250

□ P.O. BOX 607
RUTLAND 05702-0607
(802) 773-0245

RICHARD PAUL WASKO
CLERK

August 15, 2007

**NOTICE OF CHANGES TO LOCAL RULES OF PROCEDURE:
Revised Discovery Schedule Requirements and Filing Deadline Change
Pursuant to Local Rule 26.1 As Amended**

The District of Vermont's Local Rules of Procedure, specifically sections (b) and (c) of Local Rule 26.1, **Discovery**, have been amended with an effective date of **September 1, 2007**. The revised rules now require, where appropriate, the inclusion of deadlines for the disclosure of electronically stored information (ESI) and a deadline for the joining of additional parties or for amending the pleadings. The new rules also afford an additional 15 days time in which the Discovery Schedule may be filed – after September 1, 2007, Discovery Schedules are due within **45** days (instead of 30) after the filing of the Answer or the Third-Party Answer.

A copy of the rule changes and a sample, revised Discovery Schedule are appended to this notice for informational purposes. A sample of the revised Discovery Schedule will also be available as a fillable document from the Court's website: www.vtd.uscourts.gov <*Court Information...Discovery Schedules*>.

Parties are reminded that Discovery Schedules should be prepared *jointly* and be filed as a *single* document.

**RICHARD PAUL WASKO
CLERK OF COURT**

Attachments

V. DEPOSITIONS AND DISCOVERY (Changes shown in red text are effective 09/01/2007)

26.1 Discovery

(a) Required Disclosures; Methods to Discover Additional Matter.

- (1) Initial Disclosures.** The provisions of Fed. R. Civ. P. 26(a)(1) apply in this district unless the court orders otherwise.
- (2) Disclosure of Expert Testimony.** The provisions of Fed. R. Civ. P. 26(a)(2) apply in this district unless the court orders otherwise.
- (3) Pretrial Disclosures.** The provisions of Fed. R. Civ. P. 26(a)(3) apply in this district unless the court orders otherwise.

(b) Discovery Schedule.

- (1) When Due.** Within 45 days after filing the answer — the last answer in multiple defendant cases — counsel for the parties must confer as required by Fed. R. Civ. P. 26(f), and as a result of that conference must *jointly* prepare and file a *single* schedule providing for the completion of discovery no later than 8 months after the last answer was filed.
- (2) Form.** Counsel must conform any proposed stipulated discovery schedule to the sample form following LR 33.1. Copies of this form are available at the Clerk's Office. Locally produced discovery schedules are permitted provided that they conform to the sample in both form and content. Schedules that do not comply will be returned to plaintiff's counsel for resubmission.

(3) **What to Include.** The proposed schedule must include at least following deadlines, as seen in the form below:

- (A) initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1), including, where appropriate, deadlines for disclosure of electronically stored information;
- (B) service of all interrogatories, and requests for production, including where appropriate, deadlines for discovery of electronically stored information;
- (C) completion of non-expert witness depositions;
- (D) disclosure and deposition of plaintiff's expert witnesses;
- (E) disclosure and deposition of defendant's expert witnesses;
- (F) service of all requests for admission;
- (G) in cases subject to Early Neutral Evaluation under LR 16.3(b), the date and time of the ENE session and the evaluator assigned;
- (H) discovery deadline;
- (I) deadline for joining parties and amending pleadings;
- (J) motion filing deadline, including summary judgment motions but excluding motions relating to the conduct of the trial;
- (K) other such deadlines as counsel may find necessary in a particular case; and
- (L) a ready-for-trial date.

Parties are encouraged to include provisions for the disclosure of electronically stored information, including agreements the parties have reached for the form of disclosure, timetables for disclosures and assertions of privilege or work product after production.

(4) **Noncompliance.** Counsel must comply strictly with the terms of this section. Failure to do so constitutes a waiver of the need for discovery and the case will be scheduled for trial when reached.

- (5) **Final Order.** Once approved by the court, the discovery schedule becomes the scheduling order provided by Fed. R. Civ. P. 16(b).
 - (6) **Extensions.** If additional discovery time is required — due to case complexity or other extraordinary circumstances — counsel may move for an extension of time for good cause shown. Absent exceptional circumstances, requests must be made before the discovery deadline expires.
- (c) **Third-Party Discovery Schedule.** Third-party proceedings are subject to subsection (b)(1) above except that their discovery schedule must be filed no more than 45 days after the third-party answer is filed. The schedule must provide for completion of discovery no later than the later of these two dates: the date provided by any schedule filed pursuant to subsection (b)(1) above, or 3 months after the third-party answer is filed.
- (d) **Motions Related to Discovery Procedure.**
- (1) **Good Faith Effort.** Counsel are obligated to make good faith efforts among themselves to reduce all differences relating to discovery procedures and to avoid filing unnecessary discovery motions.
 - (2) **Filing Discovery Motions.**

 - (A) Before Filing. Motions made pursuant to Fed. R. Civ. P. 26 and 37 must not be filed unless the movant has conferred with opposing counsel in a good faith effort to reduce or eliminate the area of controversy or arrive at a mutually satisfactory resolution.
 - (B) Motion with Affidavit. If discovery issues are not resolved and a motion is necessary, an affidavit containing the following must be filed with the motion:

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

_____)
Plaintiff(s),)
v.) Case No. _____
_____)
Defendant(s).)

STIPULATED DISCOVERY SCHEDULE/ORDER

(Items in red text are effective 9/1/2007)

The parties submit the following Discovery Schedule pursuant to Local Rule 26.1(b):

1. The parties shall serve initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) on or before _____. **(Include deadlines for disclosure of electronically stored information and any other agreements the parties reach, for example, agreements concerning the form of disclosures or agreements concerning the assertion of privilege or work product after production.)**
2. The parties shall serve all interrogatories and requests for production on or before _____. **(Include deadlines for disclosure of electronically stored information and any other agreements the parties reach, for example, agreements concerning the form of disclosures or agreements concerning the assertion of privilege or work product after production.)**
3. Depositions of all non-expert witnesses shall be completed by _____.
4. Plaintiff shall submit expert witness reports on or before _____.
Depositions of plaintiff's expert witnesses shall be completed by _____.
5. Defendant shall submit expert witness reports on or before _____. Depositions of defendant's expert witnesses shall be completed by _____.
6. The Early Neutral Evaluation session shall be conducted on _____ at _____m.

The parties have agreed that _____ will serve as the early neutral evaluator.

(Note: Paragraph 6 only applies to ENE-eligible cases pursuant to Local Rule No. 16.3.)

7. The parties shall serve all requests for admission on or before _____.

8. All discovery shall be completed by _____ (no later than 8 months after filing of the Answer or Third-Party Answer).

9. **Motions for joinder of parties and amendments to the pleadings shall be filed on or before**

_____.

10. Motions, including summary judgment motions but excluding motions relating to the conduct of the trial, shall be filed on or before _____.

11. This case shall be ready for trial by _____.

Date

Counsel for Plaintiff(s)

Date

Counsel for Defendant(s)

APPROVED and SO ORDERED: _____

U.S. District/Magistrate Judge

Date: _____