

(2) a form of the amended pleading that shall indicate in what respect(s) it differs from the pleading which it proposes to amend, by bracketing or striking through materials to be deleted and underlining materials to be added.

If the motion to amend is granted, the moving party shall file the original forthwith as the amended pleading. Service shall be accomplished consistent with the Fed. R. Civ. P. and these Rules.

(b) Except as may be excused by the Court, a party who files an amended pleading in response to an Order authorizing the filing of that pleading to cure a defect in its pleading shall file:

(1) a copy of the amended pleading, complete with a handwritten or electronic signature; and

(2) a form of the amended pleading that shall indicate in what respect(s) it differs from the pleading that it amends, by bracketing or striking through materials to be deleted and underlining materials to be added.

Service shall be accomplished consistent with the Fed. R. Civ. P. and these Rules.

Adopted May 10, 2017.

### **Civ. RULE 16.1 PRETRIAL CONFERENCES; SCHEDULING; CASE MANAGEMENT**

(a) Scheduling Conferences -- Generally

(1) Conferences pursuant to Fed. R. Civ. P. 16 shall be conducted, in the first instance, by the Magistrate Judge, unless the District Judge otherwise directs. The initial conference shall be scheduled within 60 days of filing of an initial answer, unless deferred by the Magistrate Judge due to the pendency of a dispositive or other motion.

(2) The Judge may conduct such other conferences as are consistent with the circumstances of the particular case and this Rule and may revise any prior scheduling order for good cause.

(3) At each conference each party not appearing *pro se* shall be represented by an attorney who shall have full authority to bind that party in all pretrial matters.

(4) The Judge may, at any time he or she deems appropriate or at the request of a party, conduct a settlement conference. At each such conference attorneys shall ensure that parties are available, either in person or by telephone, and as the Judge directs, except that a governmental party may be represented by a knowledgeable delegate.

(5) Conferences shall not be conducted in those civil cases described in L.Civ.R. 72.1(a)(3)(C) unless the Judge so directs.

(b) Scheduling and Case Management Orders

(1) At or after the initial conference, the Judge shall, after consultation with counsel, enter a scheduling order which may include, but need not be limited to, the following:

(A) dates by which parties must move to amend pleadings or add new parties;

(B) dates for submission of experts' reports;

(C) dates for completion of fact and expert discovery;

(D) dates for filing of dispositive motions after due consideration whether such motions may be brought at an early stage of proceedings (i.e., before completion of fact discovery or submission of experts' reports);

(E) a pretrial conference date;

(F) any designation of the case for arbitration, mediation, appointment of a special master or other special procedure;

(G) limitations on the scope of preservation, as well as on the scope, method or order of discovery as may be warranted by the circumstances of the particular case to avoid duplication, harassment, delay or needless expenditure of costs; and

(H) in an action asserting professional malpractice or negligence,

(1) whether an affidavit of merit has been served, or is required to be served,

(2) the date by which an affidavit of merit must be served,

(3) if an affidavit has been served, whether the defendant has any objections to the adequacy of the affidavit, and

(4) if appropriate, dates for filing of summary judgment motions concerning the necessity or adequacy of the affidavit.

(2) Absent objection of a party or a form of order submitted on consent, either of which must be set forth in a proposed discovery plan submitted pursuant to Federal Rule of Civil Procedure 26(f)(2), a scheduling order entered pursuant to this subsection on or after September 30, 2016 shall be deemed to incorporate an order pursuant to Federal Rule of Evidence 502(d) that:

(i) The production of materials, inadvertent or otherwise, shall not be deemed a waiver of attorney-client privilege or work product protection in this civil action or in any other federal or State proceeding.

(ii) Nothing in (i) above shall limit the right of a party or subpoenaed nonparty to conduct a reasonable review of materials for relevance or otherwise in response to a discovery request or requests.

(3) The Magistrate Judge shall advise each party of the provisions of L.Civ.R. 73.1(a).

(4) In a civil action arising under 18 U.S.C. §§1961-1968, the Judge may require a RICO case statement to be filed and served in the form set forth in Appendix O.

(c) Initial Conferences -- L.Civ.R. 201.1 Arbitration Cases

At the initial conference in cases assigned to arbitration pursuant to L.Civ.R. 201.1(c) the Judge shall enter a scheduling order as contemplated by L.Civ.R. 16.1(b) except that no pretrial date shall be set. Only an initial conference shall be conducted prior to a demand for trial de novo pursuant to L.Civ.R. 201.1(g), except that the Judge may conduct one or more additional conferences if a new party or claim is added, or an unanticipated event occurs affecting the schedule set at the initial conference.

(d) (deleted by order of 9/23/97)

(e) Trial Briefs

Trial briefs shall be served upon counsel and delivered to the Court as directed in the pretrial order or otherwise.

(f) Conference to Resolve Case Management Disputes

(1) Counsel shall confer to resolve any case management dispute. Any such dispute not resolved shall be presented by telephone conference call or letter to the Judge. This presentation shall precede any formal motion.

(2) Cases in which a party appears pro se shall not be subject to L.Civ.R. 16.1(f)(1) unless the Judge so directs. In such cases case management disputes shall be presented by formal motion consistent with L.Civ.R. 16.1(g).

(g) Case Management -- Motions

(1) Case management motions must be accompanied by an affidavit or other document complying with 28 U.S.C. § 1746 certifying that the moving party has conferred with the opposing party in a good faith effort to resolve by agreement the issues raised by the motion without the intervention of the Court and that the parties have been unable to reach agreement. The affidavit or other document complying with 28 U.S.C. § 1746 shall set forth the date and method of communication used in attempting to reach agreement.

(2) L.Civ.R. 7.1 shall apply to case management motions, except that no reply papers shall be allowed except with the permission of the Judge. Unless oral argument is to be heard under L.Civ.R.16.1(g)(3), the Judge may decide the motion on the basis of the papers received when the deadline for submitting the opposition has expired.

(3) No oral argument shall be heard except as permitted expressly by the Judge assigned to hear the motion. In the event oral argument is required, the parties shall be notified by the Court. Oral argument may be conducted in open court or by telephone conference, at the discretion of the Judge. Any party who believes that a case management motion requires oral argument shall request it in the notice of motion or in response to the notice of motion, and so notify the Court in writing at the time the motion or opposition thereto is filed.

Amended: September 23, 1997; March 1, 2010; June 19, 2013; September 30, 2016; July 5, 2018.

**Civ. RULE 24.1 NOTICE OF CLAIM OF UNCONSTITUTIONALITY**

(a) If, at any time prior to the trial of an action in which neither the United States nor any officer, agency or employee thereof is a party, a party to the action questions the constitutionality of an act of Congress, such party (to enable the Court to comply with 28 U.S.C. § 2403(a)) shall forthwith, upon the filing of any pleading which raises the question, notify the Judge to whom the action is assigned, in writing, of the existence of said question, identifying: (1) the title and docket number of the action; (2) the statute challenged; and (3) why it is claimed that the statute is unconstitutional. If memoranda have been served discussing the constitutional question, two copies of each memorandum shall be forwarded with the notification.

(b) If, at any time prior to the trial of an action in which neither the State of New Jersey nor any officer, agency or employee thereof is a party, a party to the action questions the constitutionality of any State statute, such party (to enable the Court to comply with 28 U.S.C. § 2403(b)) shall forthwith, upon the filing of any pleading which raises the question, notify the Judge to whom the action is assigned, in writing, of the existence of said question identifying: (1) the title and docket number of the action; (2) the statute challenged; and