

REVISED FEBRUARY 2018

The following is a **sample Scheduling Order** which will be appropriate in a majority of the cases under case management.

The parties, however, should feel free to amend the proposed case management order to reflect the needs of a particular case and should be prepared to fully discuss with the Magistrate Judge the items covered in Local Rule 16.01, as well as any other matters that they believe would be necessary to set and conduct realistic case management. A copy of the order should be submitted in WORD or Word Perfect to brownchambers@tnmd.uscourts.gov by email attachment and not filed on ECF.

If the parties are unable to agree on any part of the order they should set out their respective positions in the draft order and the Magistrate Judge will decide on the final plan after hearing from the parties at the conference.

The parties are reminded that this order, initiated by the Plaintiff, is due THREE full business days before the scheduled conference.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
_____ DIVISION

JOHN DOE,)	
)	
Plaintiff)	
)	No. _____
v.)	Judge ____/Brown
)	[Jury Demand]
JOHN DOE,)	
)	
Defendant)	

INITIAL CASE MANAGEMENT ORDER

Pursuant to Local Rule 16.01(d)(2), the following Initial Case Management Plan is **adopted**.

1. Jurisdiction: The order should provide the specific jurisdictional basis for the lawsuit and state whether there is any dispute as to jurisdiction in the matter. If there is a dispute it should be briefly set out. This would include any issue of

defective service of process. If there is an LLC or partnership there should be a clear statement of the residency of all members if jurisdiction is based on diversity.

2. Plaintiff's theory of the case: This should be a short version of the plaintiff's theory and should not exceed **1½ pages**, except in unusual circumstances. It should not be simply a repeat of the complaint.

3. Defendant's theory of the case: The defendant's theory should also be a short summary not to exceed **1½ pages**.

4. Identification of the issues: Set out the issues that have been resolved, if any, and the issue that remains unresolved.

5. Need for other claims or special issues under Rules 13-15, 17-21, and Rule 23 of the Federal Rules of Civil Procedure: If the parties anticipate counter-claims, cross-claims, third-party claims, and joinder of other parties or claims, or class action certification, or the need for resolution of any issues arising under the above-cited rules, they should be stated here.

6. Witnesses, if known, subject to supplementation for each party.

7. Initial disclosures and staging of discovery: A date for initial disclosures should be set if disclosures have not already been made. If the parties wish to waive Rule 26(a), they should so state. In most cases an overall deadline for all discovery should be stated. If the needs of a particular case

dictate, discovery may be staged or may provide particular dates for disclosure of experts and Rule 26(a)(2) statements. If, because of anticipated jurisdictional motions or motions to dismiss, stays or limitations on discovery are needed, they should be set out under this paragraph.

Conclude with the statement that prior to filing any discovery-related motion the parties will schedule and conduct a telephone conference with the Magistrate Judge. **[The counsel requesting the conference shall check with opposing counsel as to their availability before setting a time certain with the Court.]**

8. Dispositive motions: A deadline for the filing of dispositive motions should be listed as well as specific dates for the response and reply. Normally the response should be a date **28 days** after the date of the motion filed, and the reply should be **14 days** after the date the response is filed. The order should provide that the motion and response memoranda are limited to **25 pages** and the reply, if a reply is filed, is limited to **five pages**, absent Court permission for longer pleading. The order should provide that if dispositive motions are filed early, the response and reply dates are moved up accordingly.

Judge Crenshaw requires the following two paragraphs for cases assigned to him:

The parties shall develop a plan for the resolution of the case that includes at least two independent attempts to resolve

the case. The first attempt shall occur within **90 days** of the initial case management conference, and the second attempt shall occur before the deadline for filing dispositive motions. The parties are encouraged to consider the ultimate dispute resolution option provided in Local Rule 16.02 through 16.07.

No motion for **partial** summary judgment shall be filed except upon leave of court. Any party wishing to file such a motion shall first file a **SEPARATE** motion that gives the justification for filing a partial summary judgment motion in terms of the overall economy of time and expense for the parties, counsel and the court.

Judge Trauger requires the following paragraph for cases assigned to her:

The Magistrate Judge will request a trial date once the dispositive motions have been filed.

9. Other deadlines: If there are other deadlines that need to be established due to the nature of the case they should be set out in this section. This should include any motion to amend pleadings or add parties.

10. Motions to seal: Any party requesting that documents or portions of documents be sealed must demonstrate compelling reasons to seal the documents and that the sealing is narrowly tailored to those reasons. The motion to seal, even if unopposed, must "analyze in detail, document by document, the propriety of secrecy, providing reasons and legal citations." *Beauchamp v. Federal Home Loan Mortgage Co.*, No. 15-6067, 2016 WL 3671629 at *4-

5 (6th Cir. Jul. 11 2016) (quoting *Shane Grp., Inc. v. Blue Cross Blue Shield of Michigan*, Nos. 15-1544, 1551, 1552, 2016 WL 3163073 at *3 (6th Cir. June 7, 2016)). Protective orders should not provide that documents produced in discovery and designated as "confidential" will automatically be sealed upon filing or use at trial. Any such language in a proposed protective order will be stricken and may result in denial of the motion to enter the protective order.

11. Modification of case management order: Any motion to modify the case management order or any case management deadline shall be filed at least **seven days** before the earliest affected deadline. If the parties agree, the motion may be filed up to the earliest affected deadline. The motion must include a statement confirming that counsel for the moving party has discussed the requested modification or extension with opposing counsel and whether there is any objection to the motion. The motion (even if a joint motion) must also include: (i) all deadlines, even unaffected deadlines, so that it will not be necessary for the Court to review previous case management orders in consideration of the motion, and (ii) a statement that the requested extension will still conform to the requirements of Local Rule 16.01(d)(2)(f) that no dispositive motion, including response and replies, be filed later than **90 days** in advance of the target trial date.

12. E-Discovery: The parties will address any e-discovery issues and if the parties do not agree on e-discovery they will comply with Administrative Order 174.

13. Alternative dispute resolution: In this section the parties should set out any plans for alternative dispute resolution and whether they believe alternative dispute resolution is appropriate. The parties may wish to set a target date for mediation or a settlement conference. The date can be concurrent with the next case management conference.

14. Consent to trial before the Magistrate Judge: Parties should state if they all consent to trial before the Magistrate Judge. Unless all parties consent the statement should be that the parties do not consent. The position of a single party should not be disclosed.

15. Subsequent case management conferences: Normally there should be a provision for a subsequent case management conference. This date will be selected based upon the needs of the case. In most situations it will be scheduled approximately **60 days** before the close of fact discovery and will be held by telephone. The parties should list **877-873-8017** with code **1958322#** as the call in number.

16. Target trial date: In this section the parties should state whether the case will be a jury or a bench trial and the estimated length of the trial.

The parties should further request a target trial date. Normally this date should be approximately **four months** after the date set for the filing of a reply brief for dispositive motions, or if no dispositive motions are anticipated, approximately **two to three months** after the close of discovery. The trial date will not be set less than **90 days after** the close of dispositive motions. A recommended trial date will be set and the District Judge will set the dates for the final pretrial order and trial by later order.

It is so **ORDERED**.

JOE B. BROWN
United States Magistrate Judge