



JUDGE ANDREW S. HANEN

United States Courthouse
600 East Harrison, #301
Brownsville, Texas 78520-7114
(956) 548-2591

Cristina Sustaeta, Case Manager
United States District Clerk
600 East Harrison, Suite 101
Brownsville, Texas 78520-7114
Direct No.: (956) 548-2629
Cristina_Sustaeta@txs.uscourts.gov
District Clerk's Office: (956) 548-2500

CIVIL PROCEDURES

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Note: This is helpful information. Nothing in this packet supersedes formal rules or common sense.

1. **CONTACT WITH COURT PERSONNEL**

- A. Case-related telephone inquiries are to be made to the Case Manager only. **Inquiries should not be made to the Court's secretary or law clerks.**
- B. The case load may not always allow the Case Manager to respond to calls about motion and case status. Inquiries to the Case Manager should be by letter unless it is a setting in the next 14 days, a criminal case, an emergency hearing, or a bona fide emergency.
- C. Information about the filing of documents, entry of orders, or docket entries should be obtained from the Clerk's office at (956) 548-2500 for civil inquiries and (956) 548-2629 for criminal matters.
- D. At the Court's direction, law clerks may occasionally contact counsel; however, they may only relay messages from the judge and will not discuss the matters. Please do not attempt to engage them in conversation concerning the case.
- E. Correspondence.
 - 1) Do not address substantive issues in letter form because they are not docketed or included in the appellate record.
 - 2) Case-related correspondence must be addressed to:

United States District Clerk
600 East Harrison Street, Suite 101
Brownsville, Texas 78520-7114
- F. Courtesy copies of urgent documents may be sent to Chambers simultaneously with the originals being filed with the Clerk of the Court. Obviously, opposing counsel should be copied at the same time.

2. **EMERGENCIES**

- A. Applications for restraining orders or other applications for immediate relief must be made through the Clerk's office: U.S. District Clerk's Office, 600 E. Harrison Street, Suite 101, Brownsville, Texas 78520, (956) 548-2500.
 - 1) Applications shall be presented to the Court by the Case Manager following counsel's affirmation that the opposing party has been contacted and that both parties can be available for a conference before the Court.

- 2) *Ex parte* applications for restraining orders will not be entertained by the Court unless the requirements of Fed. R. Civ. P. 65(b) have been satisfied.
- B. Counsel shall contact the Case Manager at (956) 548-2629 for matters requiring immediate attention.
- C. Motions for extension of deadlines in the Scheduling and Docket Control Order are not emergencies.
- D. In addition to any filing or electronic filing of emergency motions, counsel shall send a courtesy hard copy of emergency motions directly to Chambers so that they quickly reach the Court's attention.

3. **ELECTRONIC FILINGS**

- A. The Court encourages the electronic filing of all pleadings. This reduces the burden on the Clerk's Office and increases the efficiency of the Court. Correspondence shall not be filed electronically.
- B. Electronic filings shall be in accordance with Administrative Procedures for Electronic Filing in Civil and Criminal Cases. Answers to frequently asked questions regarding electronic filing may be obtained here.
- C. Voluminous, double-sided or irregular documents:
 - 1) Leave of Court is required for the conventional filing of documents greater than 50 pages in length. Such documents should be filed electronically when possible.
 - 2) Leave of Court is required for the conventional filing of documents printed on both sides. Such documents should be filed electronically when possible.
 - 3) Leave of Court is required for the filing of over-sized or irregularly shaped documents which are not capable of being readily imaged by court personnel and equipment. Such documents should be filed electronically when possible.
- D. Nearly all cases filed in this District must be filed through the Electronic Case Filing System (ECF). **The parties shall submit a courtesy hard copy to the District Clerk's Office of all filings, including any attachments, that are greater than 25 pages in length.** Stated differently, any single submission containing a motion, brief, and attachments that *together* contain a total of 25 pages or more must be filed both electronically and in courtesy hard copy directly to the District Clerk's Office.

- E. Counsel should **NOT** attempt to avoid the above requirement by unnecessarily separating a motion, brief, and attachments or exhibits into separate submissions. *See 5.I.*
- F. Both the courtesy hard copy and the electronic filing must be filed on the same day.
- G. Counsel shall not combine two different pleadings (motions or responses) into the same electronically filed document.

4. **CONTINUANCES**

- A. Joint motions for continuances are not binding on the Court, and they will be granted only at the Court's discretion.
- B. Counsel are reminded that, as required by The Civil Justice Reform Act of 1990, 28 U.S.C. § 473(b)(3), the Cost and Delay Reduction Plan [adopted by the Court on October 24, 1991], states that "all requests for extensions of deadlines from completion of discovery or for postponement of the trial [must] be signed by the attorney and the party making the request."
- C. Trial will not be continued because an expert or medical witness is unavailable. Counsel should anticipate such possibilities and be prepared to present testimony by written deposition, videotaped deposition, or by stipulation.
- D. It is the Court's intention to confer with counsel concerning trial scheduling at the initial pretrial conference. Once a trial is scheduled, a continuance will only be granted in extraordinary circumstances.

5. **APPEARANCES**

- A. An attorney in charge of a case must appear at all hearings or conferences. A Motion to Appear on behalf of the attorney in charge will be granted only upon showing of good cause, and only if the attorney to substitute is familiar with the case and has authority to bind the client. The Motion to Appear must be ruled on in advance of the hearing or conference date.
- B. If out-of-town counsel desire to appear by telephone, a written request should be made to the Case Manager as far as reasonably possible in advance of the conference. If permission to attend by phone is granted, counsel making such a request shall make all of the necessary arrangements and bear all related expenses. Counsel shall only use a land-based phone.
- C. Counsel will notify the Case Manager **immediately** of the resolution of any matter that is set for trial or hearing.

6. **MOTION PRACTICE AND BRIEFS**

- A. The Court follows the written motion practice described in the Local Rules.
- B. Unless otherwise indicated in the Scheduling Order entered at the Initial Pretrial Conference, dispositive motions must be filed at least ninety days, and nondispositive motions must be filed at least forty-five days, before the date set for final pretrial conference (also referred to as docket call).
- C. Counsel must respond to an opposed motion within twenty days from the date the motion is filed with the Clerk's Office. If the movant makes a reply, it must be filed within ten days thereafter. The reply should not unnecessarily repeat arguments made in the motion. It should only respond to any new arguments, authority or evidence presented by the opposing party in the response. If the reply is not presented in a timely manner, it will not be considered by the Court unless the Court grants a motion for leave to file the reply late. Failure to file a timely response shall be taken as an indication that the opposing party agrees to the motion and the relief requested. The Court may rule on any motion once it becomes ripe regardless of whether a response has been filed.
- D. After the motion, response, and reply are filed, the Court will not entertain any additional or supplemental filings unless they are accompanied by a motion for leave to file. The motion for leave to file must explain why the argument, evidence or legal authority contained in the additional filing was not included in earlier documents already in the record, and state a specific reason why the Court should grant the motion for leave in the interests of justice.
- E. Any motion, response, or reply filed after the time limits contained in these rules must be accompanied by a motion for leave to file that explains why the document was not timely filed. The Court will only grant a motion for leave to file a motion, response or reply late if good cause is shown. A motion, response, or reply filed late, and not accompanied by a motion for leave will be stricken.
- F. Unless a motion hearing is set, all motions to which the non-movant has had twenty days to respond will be decided without the necessity of a hearing.
- G. Requests for oral argument are not necessary. The Case Manager will notify counsel should the Court determine that a motion hearing would be beneficial. If a motion is pending, all ripe pending motions will be addressed at the next status conference unless counsel are specifically notified to the contrary. If counsel anticipate the need to offer evidence and testimony, leave to do so must be obtained from the Court in advance.

- H. All motions should incorporate supporting briefs or authority and pertinent exhibits. Briefs must be filed together with or incorporated within a motion, response or reply.
- 1) All briefs and memoranda of law must be concise, pertinent, and well organized. Briefs and legal memoranda shall be limited to 20 pages, unless permitted by the Court to exceed this limit.
 - 2) All briefs and memoranda must contain:

Statement of the Issues to be Ruled upon by the Court: a short statement highlighting the issues before the Court with supporting authority and standard of review for each issue.

Summary of the Argument: a short summary divided under appropriate headings and succinctly setting forth separate points.

Conclusion: a short conclusion stating the precise relief sought.
 - 3) Any brief or memorandum with more than 10 pages of argument must also contain the following items:

Table of Contents: setting forth the page number of each section, including all headings designated in the body of the brief or memorandum.

Table of Authorities: listing cases, statutes, rules, textbooks, and other authorities, arranged alphabetically by category.

Statement of the Nature and Stage of the Proceeding.
 - 4) If a response is not filed to an opposed motion within the time allowed by the rules, the Court will deem that the non-movant agrees with the motion and grant same.
- I. References to evidence in support of or in opposition to a motion must be specific, citing page and line numbers for depositions, or page and paragraph number for any other type of exhibit.
- J. The Court believes that most discovery disputes, especially those dealing with (1) scheduling, (2) the number, length, and form of oral and written discovery requests, (3) the responsiveness of answers to oral and written questions, and (4) the mechanics of document production, including protective orders and the proper method of raising claims of privilege, can be resolved by counsel without the Court's intervention. The Court will resolve such disputes, but counsel are admonished to diligently work to reach an agreement prior to bringing these issues to the Court.

- K. In order to curtail undue delay in the administration of justice, the Court will not hear discovery motions unless moving counsel has advised the Court, in the motion, that counsel have conferred in a good faith effort to resolve the matters in dispute but are unable to reach an agreement. If counsel have been unable to confer because of unavailability or unwillingness of opposing counsel to do so, the statement shall recite the facts concerning attempts to confer. Routine motions for sanctions for discovery abuse are discouraged. Sanctions should be sought only in those rare instances when they are necessary.
- L. Motions for extension of discovery deadlines must be filed far enough in advance of the deadline so that opposing counsel may respond prior to the deadline.
- M. If motions are decided without a hearing or are taken under advisement, the Court will make a ruling as soon as possible, and counsel will be furnished with copies of orders.
- N. Counsel are encouraged to authorize the Clerk of the Court to provide facsimile transmission of orders and motions.
- O. Each motion shall be filed in a separate document and should not be combined with other motions or replies.

7. **COPIES OF AUTHORITIES AND OTHER MATERIAL CITED**

- A. Please append copies of cases and the relevant portions of authorities that are cited in a brief, memorandum, or motion if the authorities are not found in the Federal Rules of Civil Procedure, United States Code, United States Supreme Court Reporter, Federal Reporter, Federal Rules Decisions, Federal Supplement, Southwestern Reporter Second or Vernon's Revised Statutes and Codes Annotated.
- B. Copies of any affidavits, deposition testimony, or other discovery referenced should also be contained in the appendix.
- C. All appendices should contain a paginated table of contents and should be tabbed such that the Court can locate the materials more readily.

8. **INITIAL PRETRIAL AND SCHEDULING CONFERENCE**

- A. Joint Discovery/Case Management Plan
 - 1) At least 14 days before the conference, counsel must file a joint case management plan including the identity and purpose of witnesses, sources and types of documents, and other requirements for a prompt and inexpensive preparation of this case for disposition by motion or trial. *See* Fed. R. Civ. P. Rule 26(f).

- 2) A form Joint Discovery/Case Management Plan is attached.
- B. The parties may agree on additional deadlines for completion of pretrial matters and may bring a proposed Scheduling Order with them to the initial pretrial conference.
- C. Attached is a form Scheduling Order used by the Court. (*See* Local Rule 8.)
- D. The Court will, to the extent possible, honor all dates chosen in the case management plan. Counsel are advised to give these dates careful consideration as the Court will not automatically honor agreements between counsel to alter such dates in the case management plan. Agreements between counsel changing deadlines for dispositive motions, final pretrial order, final pretrial conference, and jury selection will not be honored. Counsel may change other deadlines, if all parties agree and a letter memorializing the change signed by all the parties is filed with the Court.

9. **REQUIRED PRETRIAL MATERIALS**

A. Pretrial Disclosures

- 1) The pretrial disclosures relate to the evidence that the party may present at trial, other than solely for impeachment. Each party must provide the following information to the other side.
 - a. The identity of witnesses, including separately identifying which witnesses the party intends to present and those that it may call if the need arises.
 - b. The designation of those witnesses whose testimony is expected to be presented by deposition, including a transcript of the pertinent portions of testimony to be presented.
 - c. The appropriate identification of each document or exhibit to be represented, including any summaries, separately identifying which documents the party expects to present and those that the party may present if the need arises.

Unless otherwise directed by the court, these disclosures must be made at least 30 days before trial. *See* FRCP 26(a)(3). The opposing party must, within 14 days of the disclosures, serve objections to admissibility of witness testimony or exhibits. Failure to timely object waives all objections, except as to relevancy based objections under FRE 402 and FRE 403. *See* FRCP 26(a)(3)(C).

B. Joint Pretrial Order

- 1) Counsel for the plaintiff is responsible for ensuring that the Joint Pretrial Order is filed on time.
- 2) Follow the form distributed by the Court, adapting it within reason to the size and type of case. The Joint Pretrial Order must be signed by all counsel.
- 3) A form Joint Pretrial Order is attached.

C. Other Required Documents

- 1) With the filing of the Joint Pretrial Order, each party must file the following documents separately IN DUPLICATE (captioned, signed by counsel, and with service certified):
- 2)
 - a. Jury Trials:
 - (1) Proposed voir dire questions, proposed jury instructions, definitions, and interrogatories.
 - (a) The jury instructions and interrogatories must be simple and concise. Jury instructions should ALSO be submitted in WordPerfect ® format on a compact disk (CD).
 - (b) Each requested instruction, definition, and interrogatory must be numbered and presented on a separate sheet of paper with the citation of authority upon which counsel rely.
 - (c) Failure to file same will be deemed to be a waiver of any such question, instruction, definition or interrogatory and such failure will be deemed as agreement with the charge as given by the Court.
 - (2) Memorandum of Law.
 - b. Non-Jury Trials:
 - (1) Proposed Findings of Fact and Conclusions of Law.
 - (a) Each proposed conclusion of law must cite supporting authority.

(b) Counsel are strongly encouraged to include references to testimony and exhibits that support each proposed finding of fact.

(c) Counsel must provide hard copies as well as the document file in WordPerfect® format on a compact disk (CD).

(2) Memorandum of Law.

c. Parties must file four (4) copies of their exhibit list, objections to the exhibits, and four (4) copies of their witness list for all trials and hearings. (*See* attached form.)

10. **TRIAL SETTINGS**

A. The Court uses the final pretrial conference as docket call.

1) All pending motions may be ruled on at docket call, and a case will be set for trial if the complete Joint Pretrial Order has been filed.

2) The Court maintains a four-week trailing docket during which a case is subject to call to trial on short notice.

B. Unless an attorney has actually commenced trial in another court, prior trial settings will not cause a case to be passed.

C. A case not reached for trial will be reset as soon thereafter as possible.

11. **EXHIBITS**

A. All exhibits must be marked and exchanged among counsel prior to trial. The offering party will mark his own exhibits with the party's name, case number, and exhibit number on each exhibit to be offered.

B. Any counsel requiring authentication of an exhibit must notify offering counsel in writing within five (5) business days after the exhibit is made available to opposing counsel for examination. Failure to do so is an admission of authenticity.

C. The Court will admit all exhibits listed in the Final Joint Pretrial Order into evidence unless opposing counsel files written objections supported by authority at least three (3) business days before trial.

- D. Counsel will not pass exhibits to the jury during trial without obtaining permission in advance from the Court. All admitted exhibits will go to the jury during its deliberations.
- E. In addition to the original exhibits, counsel for each party is required to provide the Court with a copy of that party's exhibits in a properly tabbed and indexed notebook.
- F. Counsel are advised to plan on the Court admitting only admissible, relevant and needed exhibits. Wholesale listing of documents is burdensome to the Court and the jury and will not be allowed.
- G. Disposition of Exhibits Following Trial:
 - 1) Exhibits that are not easily stored in a file folder (like posters, parts, or models) must be withdrawn after the completion of the trial and reduced reproductions or photographs substituted.
 - 2) If there is no appeal, exhibits will be removed by the offering party within thirty (30) days after disposition of the case.
 - 3) When there is an appeal, exhibits returned by the court of appeals will be removed by the offering party within ten (10) days after written notice from the clerk.
 - 4) Exhibits not removed will be disposed of by the clerk, and the expenses incurred will be assessed/charged against the offering party.

12. **EQUIPMENT**

- A. Counsel are responsible for providing any equipment necessary to facilitate opening/closing arguments, (i.e. Power Point, etc.). Contact the Case Manager/Court Reporter prior to trial to see what equipment will be needed and to make arrangements with building security.
- B. Easel with writing pads and drawing boards are available for use in the courtroom. A DVD/VCR is available for videotapes.
- C. A Document Camera is available for projecting letter-sized documents or smaller, including pictures.
- D. Any requests for daily copy provided by the Court Reporter should be handled before the beginning of trial. The court reporter reserves the right to not provide daily copy.

13. **COURTROOM PROCEDURES**

- A. **Hours:** The Court's hours during trial vary depending upon the type of case and the needs of the parties, counsel, witnesses, and the Court. Court will normally convene at 9:00 a.m. and adjourn at 5:00 p.m., recessing for lunch between 12:00 noon and 1:30 p.m. with morning and afternoon breaks.
- B. **Access at Other Times:** Counsel requesting access to the courtroom to set up equipment or exhibits before or after normal hours of court must arrange in advance with the Case Manager.
- C. **Telephones:** Telephone messages for counsel will **not** be taken by the Court's staff, and counsel shall refrain from requesting use of telephones in chambers. Public telephones are available. Cell phones are not allowed in the courtroom.
- D. **Filing Documents:** Two copies of documents filed immediately prior to and during the trial should be submitted to the Case Manager.
- E. **Decorum:**
- 1) Counsel and parties will comply with the Texas Disciplinary Rules of Professional Conduct, the Texas Lawyers Creed and the Local Rules adopted by the Southern District of Texas. These procedures are strictly enforced. (See the Courtroom Etiquette attachment)
 - 2) Counsel will ensure that all parties and witnesses refrain from chewing gum, drinking, eating, smoking, or reading newspapers, books, etc., in the courtroom. No such articles are allowed in the courtroom. No cellular telephones or beepers are allowed in the courtroom.
- F. **Witnesses:**
- 1) Counsel are responsible for summoning witnesses into the courtroom and instructing them on courtroom decorum. Witnesses may be questioned while the attorney is seated at the counsel table or standing at the podium as needed.
 - 2) Counsel must obtain Court's permission before approaching a witness.
 - 3) Counsel shall make every effort to elicit from the witnesses only information relevant to the issues in the case and to avoid cumulative testimony.
 - 4) Counsel should bear in mind the Court's hours and arrange for witnesses accordingly. The Court will not recess to permit counsel to call a missing witness unless he or she has been subpoenaed and has failed to appear.

G. Seating:

- 1) The Court has designated the counsel table nearest the jury as the plaintiff's table; seating at the respective tables is determined on a first come first served basis on the first day of trial.
- 2) Once counsel have determined their seating arrangement, the case manager or reporter will note their position on a chart for the Court and there will be no change once trial has begun, except at the Court's direction.
- 3) Enter and leave the courtroom only by the front doors; do not use the Court's entrances.
- 4) Stand to make objections and remain standing until the judge has ruled or you have been otherwise instructed.

H. Deliberations: While the jury is deliberating, counsel are to remain near the courtroom to be available for jury notes or a verdict.

I. Ex-juror contact: After the jury and counsel are excused, counsel may not contact jurors without permission.

14. **VOIR DIRE**

- A. In general, the Court will conduct the examination of the venire. However, on a case-specific basis the Court may allow counsel to do the voir dire. This issue should be raised at a pretrial conference or by motion.
- B. Proposed voir dire questions must be filed with the clerk with the Joint Pretrial Order.

15. **DEPOSITIONS**

- A. The Court will accept the parties' agreement to use relevant portions of a deposition at trial even though the witness is available; otherwise, follow Fed. R. Civ. P. 32. However, the court cautions counsel against the overuse of deposition testimony.
- B. Counsel will designate the portion of any deposition to be read by citing page and line numbers in the Joint Pretrial Order. Objections to those portions, citing page and line numbers, with supporting authority must be filed at least three (3) business days before trial. Counsel making such objection shall have the burden of securing a ruling from the Court before the trial has begun.

- C. Use of videotape depositions is permitted if counsel voluntarily edit them to resolve objections and incorporate rulings by the Court.
- D. In a non-jury trial, counsel shall provide a list of the portions of the depositions offered as an exhibit, citing page and line numbers and an edited portion of the deposition for the Court's use and the judge will read all deposition evidence.

16. **SETTLEMENT AND ORDERS OF DISMISSAL**

- A. Counsel shall immediately notify the Case Manager upon settlement of any case set for conference, hearing, or trial.
- B. Announcements of Settlements:
 - 1) Announcements must be received in writing.
 - 2) The Court will enter an Order of Dismissal upon receipt of the announcement of settlement.
 - 3) The parties' closing papers will supersede the Court's Order of Dismissal.
- C. Suits Involving Minor Plaintiffs:
 - 1) Upon settlement of a suit involving a minor plaintiff or prior to any mediation or other ADR procedure, counsel will jointly move for appointment of an attorney ad litem if there is potential conflict of interest between the parent(s) and the minor.
 - 2) If counsel cannot agree on an attorney ad litem, each counsel will submit the names of three proposed attorneys ad litem, and the Court will appoint one.
 - 3) If the case is settled, contemporaneously with the Motion for Appointment, counsel will notify the Case Manager by letter requesting a settlement hearing.
 - 4) All parties and attorneys must appear for the settlement hearing, unless excused by the Court.
- D. Any cause of action in which service upon defendant has not been perfected within 120 days after filing of the complaint will be dismissed for want of prosecution in accordance with Fed. R. Civ. P. 4(j).

[ATTACHMENTS]



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CIVIL ACTION B-

Order Setting Conference

1. Counsel shall appear for an initial pretrial conference:

_____, 200___, at _____ .m.

Before the Honorable Andrew S. Hanen
United States District Judge
Third Floor-Courtroom No. 6
United States Courthouse
600 E. Harrison Street, #301
Brownsville, TX 78520

2. Within 15 days of receiving this order, counsel must file a list of all entities that are financially interested in this litigation, including parent, subsidiary, and affiliated corporations as well as all known attorneys of record. When a group description is effective disclosure, an individual listing is not necessary. Underline the names of corporations with publicly traded securities. Counsel must promptly amend the list when parties are added or additional interested parties are identified.
3. The plaintiff must serve the defendant within 120 days of filing the complaint. The plaintiff's failure to file proof of service within that time may result in dismissal by the court on its own initiative. *See* Fed. R. Civ. P. Rule 4(m).
4. At least 14 days before the conference, counsel must file a joint case management plan listing the identities and purposes of witnesses, sources and types of documents, and other requirements for a prompt and inexpensive preparation of this case for disposition by motion or trial. *See* Fed R. Civ. P. Rule 26(f).
5. The parties shall agree on additional deadlines for completion of pretrial matters including all expert designation dates and discovery cut-offs as well as dates for exchanging of initial disclosures if they have not already been completed.
6. By the conference, counsel will have interviewed their clients and read all relevant documents; readily available documents will have been exchanged at the plan meeting at the latest.
7. The court will set a schedule for initial preparation and may rule on motions pending or made at the conference.

8. Counsel in charge of a case must appear at all hearings or conferences. A motion to appear on behalf of the attorney-in-charge will be granted only upon showing of good cause, and only if the attorney to be substituted is familiar with the case and has authority to bind the client. The motion to appear must be ruled on in advance of the hearing or conference date.
9. Counsel who appear at the conference must have authority to bind the client and must know the facts.
10. Counsel must have discussed alternative dispute resolution with their clients and each other; at the conference, the court will consider whether a method of ADR is suited to this case.
11. The court will enter a scheduling order and may rule on any pending motions at the conference.
12. The Plaintiff(s) filing this suit, or the party removing this suit from state court, **SHALL SERVE THE OPPOSING PARTY OR PARTIES** with copies of:
 - A. this ORDER FOR CONFERENCE,
 - B. the form for the JOINT REPORT ON MEETING REQUIRED BY RULE 26(f) AND JOINT DISCOVERY/CASE MANAGEMENT PLAN.
13. These papers **SHALL BE SERVED CONTEMPORANEOUSLY WITH THE SUMMONS AND COMPLAINT.**
14. The parties will be bound by the provisions contained in this ORDER, the papers mentioned in No. 4 above, and the dates set out in the scheduling order to be entered in this case.
15. Failure to comply with this order may result in sanctions, including dismissal of the action and assessment of expenses.
16. All parties receiving this order shall copy all other parties with a copy of this order.

BY THE ORDER OF THE COURT



versus

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CIVIL ACTION B-

**JOINT DISCOVERY/CASE MANAGEMENT PLAN
UNDER RULE 26(F)
FEDERAL RULES OF CIVIL PROCEDURE**

Please restate the instruction before furnishing the information.

1. State where and when the meeting of the parties required by Rule 26(f) was held and identify the counsel who attended for each party.
2. List the cases related to this one that are pending in any state or federal court with the case number and court.
3. Specify the allegation of federal jurisdiction.
4. Name the parties who disagree and the reasons.
5. List anticipated additional parties that should be included, when they can be added, and by whom they are wanted.
6. List anticipated interventions.
7. Describe class-action issues.
8. State whether each party represents that it has made the initial disclosures required by Rule 26(a). If not, describe the arrangements that have been made to complete the disclosures.
9. Describe the proposed agreed discovery plan, including:
 - A. Responses to all the matters raised in Rule 26(f).
 - B. When and to whom the plaintiff anticipates it may send interrogatories.
 - C. When and to whom the defendant anticipates it may send interrogatories.
 - D. Of whom and by when the plaintiff anticipates taking oral depositions.
 - E. Of whom and by when the defendant anticipates taking oral depositions.
 - F. When the plaintiff (or the party with the burden of proof on an issue) will be able to designate experts and provide the reports required by Rule 26(a)(2)(B) and when the opposing party will be able to designate responsive experts and provide their reports.
 - G. List expert depositions the plaintiff (or the party with the burden of proof on an issue) anticipates taking and their anticipated completion date. *See* Rule 26(a)(2)(B) (expert report).

- H. List expert depositions the opposing party anticipates taking and their anticipated completion date. *See* Rule 26(a)(2)(B) (expert report).
10. If the parties are not agreed on a part of the discovery plan, describe the separate views and proposals of each party.
 11. Specify the discovery beyond initial disclosures that has been undertaken to date.
 12. State the date the planned discovery can reasonably be completed.
 13. Describe the possibilities for a prompt settlement or resolution of the case that were discussed in your Rule 26(f) meeting.
 14. Describe what each party has done or agreed to do to bring about a prompt resolution.
 15. From the attorneys' discussion with the client, state the alternative dispute resolution techniques that are reasonably suitable and state when such a technique may be effectively used in this case.
 16. Magistrate judges may now hear jury and non-jury trials. Indicate the parties' joint position on a trial before a magistrate judge.
 17. State whether a jury demand has been made and if it was made on time.
 18. Specify the number of hours it will take to present the evidence in this case.
 19. List pending motions that could be ruled on at the initial pretrial and scheduling conference.
 20. List other motions pending.
 21. Indicate other matters peculiar to this case, including discovery, that deserve the special attention of the court at the conference.
 22. List the names, bar numbers, addresses and telephone numbers of all counsel.

Counsel for Plaintiff(s) _____	Date _____
Counsel for Defendant(s) _____	Date _____

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

VS. §
§ CIVIL ACTION NO. B-
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Scheduling Order

1. Trial: Estimated time to try: ____ days. Bench Jury
2. New parties must be joined by: _____
Furnish a copy of this scheduling order to new parties.
3. The plaintiff's experts will be named with a report furnished by: _____
4. The defendant's experts must be named with a report furnished by: _____
5. Discovery must be completed by: _____

*Counsel may agree to continue discovery beyond the deadline, but there will be no intervention by the Court.
No continuance will be granted because of information acquired in post-deadline discovery.*

6. Dispositive Motions will be filed by: _____
- Non-Dispositive Motions will be filed by: _____

***** The Court will provide these dates. *****

7. Joint pretrial order is due: _____
The plaintiff is responsible for filing the pretrial order on time.
8. Final Pretrial Conference is set for 1:30 p.m. on: _____
9. Jury Selection is set for 9:00 a.m. on:* _____

*Counsel to do voir dire. Jury to be twelve (12) members with the agreement of ten (10) or more members on each issue required to reach a verdict.

The case will remain on standby until tried.

Signed this the _____ day of _____, 20____.

Andrew S. Hanen
United States District Judge

XC: ALL COUNSEL OF RECORD



REQUIRED CONTENTS OF THE JOINT PRETRIAL

1. **Appearance of Counsel.** List each party, its counsel, and counsel's address and telephone number in separate paragraphs.
2. **Statement of the Case.** Give a brief statement of the case, one that the Judge could read to the jury panel for an introduction of the facts and parties; include names, dates, and places.
3. **Jurisdiction.** Briefly specify the basis for the Court's jurisdiction of the subject matter and the parties. If there is an unresolved jurisdictional question, state it.
4. **Motions.** List pending motions.
5. **Contention of the Parties.** State concisely in separate paragraphs each party's claims.
6. **Admission of Fact.** List all facts that require no proof.
7. **Contested Issues of Fact.** List all material facts in bona fide controversy.
8. **Agreed Propositions of Law.** List the legal propositions that are not in dispute.
9. **Contested Propositions of Law.** State briefly the unresolved questions of law, with authorities to support each.
10. **Exhibits.**
 - A. On a separate form similar to the one provided by the Clerk, each party will attach four lists of all exhibits expected to be offered and will make the exhibits available for examination by opposing counsel. All documentary exhibits must be exchanged before trial, except for rebuttal exhibits or those whose use cannot be anticipated.
 - B. A party requiring authentication of an exhibit must notify the offering counsel in writing within five days after the exhibit is listed and made available; failure to object in writing in advance of the trial concedes authenticity.
 - C. Within reason, other objections to admissibility of exhibits must be made at least three business days before trial; the Court will be notified in writing of disputes, with copies of the disputed exhibit and authority.
 - D. Parties must mark their exhibits to include the date and case number on each.
 - E. At the trial, the first step will be the offer and receipt in evidence of exhibits.

11. **Witnesses.**
- A. On a separate form, each party will attach four lists with the names and addresses of witnesses who may be called with a brief statement of the nature of their testimony.
 - B. If other witnesses to be called at the trial become known, their names, addresses, and subject of their testimony will be reported to opposing counsel in writing as soon as they are known; this does not apply to rebuttal or impeachment witnesses.
12. **Settlements.** State that all settlement efforts have been exhausted, and the case will have to be tried.
13. **Trial.** State estimated length of trial and logistical problems, including availability of witnesses, out-of-state people, bulky exhibits, and documentation.
14. **Attachments.** Each party must file as a separate document (captioned, signed by counsel, and with service certified) these required attachments in duplicate.
- A. For a Jury Trial:
 - (1) Proposed questions for the voir dire examination.
 - (2) Proposed charge, including instructions, definitions, and special interrogatories, with authority.
 - B. For a Non-Jury Trial:
 - (1) Proposed findings of fact with agreed and contested ones separated.
 - (2) Conclusions of law with authority.

Approved:

Attorney-in-Charge, Plaintiff

Date: _____

Attorney-in-Charge, Defendant

Date: _____

UNITED STATES DISTRICT COURT		SOUTHERN DISTRICT OF TEXAS	
UNITED STATES OF AMERICA v.		BROWNSVILLE DIVISION	
		CIVIL ACTION No. B-	
		EXHIBIT LIST	
LIST OF: TYPE OF HEARING:		AUSA:	
JUDGE: ANDREW S. HANEN	CLERK: CRISTINA SUSTAETA	REPORTER: BARBARA BARNARD	

No.	DESCRIPTION	OFR	OBJ	ADM	DATE
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No.	DESCRIPTION	OFR	OBJ	ADM	DATE
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22.					
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UNITED STATES DISTRICT COURT		SOUTHERN DISTRICT OF TEXAS
UNITED STATES OF AMERICA v.		BROWNSVILLE DIVISION
		CIVIL ACTION No. B-
		WITNESS LIST
LIST OF: TYPE OF HEARING:		AUSA:
JUDGE: ANDREW S. HANEN	CLERK: CRISTINA SUSTAETA	REPORTER: BARBARA BARNARD

No.	NAME OF WITNESS
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No.	NAME OF WITNESS
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**Notice of the Right to Try
a Civil Case before a Magistrate Judge**

With the consent of all the parties, a United States Magistrate Judge may preside in a civil case, including jury trial and final judgment.

The choice of trial before a magistrate judge is entirely yours. Tell only the clerk. Neither the judge or magistrate judge will be told until all the parties agree.

The district judge to whom your case is assigned must approve the referral to a magistrate judge.

You may get consent forms from the clerk.

Michael N. Milby, *Clerk*

United States District Court



Southern District of Texas
Brownsville Division

versus

§
§
§
§
§
§
§

CIVIL ACTION B-

Consent to Proceed Before a Magistrate Judge

All parties to this case waive their right to proceed before a district judge and consent to have a United States Magistrate Judge conduct all further proceedings, including the trial and judgment. 28 U.S.C. § 636(c).

Order to Transfer

This case is transferred to United States Magistrate Judge _____ to conduct all further proceedings, including final judgment.

Date

Andrew S. Hanen
United States District Judge

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

FOR INFORMATION REGARDING THE FOLLOWING:

U.S. DISTRICT CLERK.....	548-2500
CRIMINAL CASES.....	548-2528
CIVIL CASES.....	548-2500
JURY.....	548-2508
ADMISSION OF ATTORNEYS.....	548-2500
APPEALS.....	548-2500
BAIL BONDS, DISBURSEMENT.....	548-2500
BILL OF COSTS, CERTIFICATION OF JUDGMENT, ABSTRACTS.....	548-2500
CASE MANAGERS TO DISTRICT JUDGES	
CRISTINA SUSTAETA, HONORABLE ANDREW S. HANEN.....	548-2629
STELLA CAVAZOS, HONORABLE HILDA G. TAGLE.....	548-2628
CASE MANAGERS TO UNITED STATES MAGISTRATES	
LINDA GARCIA, HONORABLE JOHN WM. BLACK.....	548-2570
SALLY GARCIA, HONORABLE FELIX RECIO, JR.	548-2564
INTERPRETERS.....	548-2581
LAW LIBRARY.....	548-2509
UNITED STATES ATTORNEY’S OFFICE.....	548-2554
UNITED STATES PROBATION OFFICE.....	548-2522
UNITED STATES PRETRIAL OFFICE.....	548-2667
UNITED STATES PUBLIC DEFENDER’S OFFICE.....	548-2573
UNITED STATES MARSHAL’S OFFICE.....	548-2519



Courtroom Etiquette

People who appear in court must observe these and other conventions of courteous, orderly behavior.

- A. Be punctual.
- B. Remain in attendance until excused. All persons sitting before the bar shall remain there during each session and return after each recess. Parties and counsel must remain in attendance during jury deliberations; absence waives the right to attend the return of the verdict.
- C. Dress with dignity.
- D. Address others only by their titles, if applicable, and surnames, including lawyers, witnesses, and court personnel.
- E. Unless instructed otherwise, stand when the Court speaks to you; stand when you speak to the Court. Speak only to the Court, except for questioning witnesses and, in opening and closing, addressing the jury.
- F. Avoid approaching the bench. Counsel should anticipate the necessity for rulings and discuss them when the jury is not seated. When a bench conference is unavoidable, get permission first.
- G. Hand to the Case Manager, not the judge or reporter, all documents or items tendered for examination by the judge.
- H. Stand when the judge or jury enters or leaves the courtroom.
- I. Contact with the law clerks is ex parte contact with the Court. Contact must be through the Case Manager.
- J. Assist in the summoning of witnesses from outside the courtroom. Furnish the Case Manager, marshal, and court reporter with a list of witnesses showing the order in which they are likely to be called.
- K. Question witnesses while standing at the lectern unless instructed otherwise by the Court. When it is necessary to question a witness about an exhibit, ask permission to approach the witness.

- L. Conduct no experiment or demonstration without permission.
- M. Do not participate in a trial as an attorney if you expect you may be called as a witness without prior permission of the Court.
- N. Avoid disparaging remarks and acrimony toward counsel and discourage ill will between the litigants. Counsel must abstain from unnecessary references to opposing counsel, especially peculiarities.
- O. Make no side-bar remarks or speaking objections.
- P. Counsel are responsible for advising their clients, witnesses, and associate counsel about proper courtroom behavior and about pertinent rulings of the Court such as rulings on motions in limine.
- Q. Request the use of easels, light boxes, and other equipment well in advance so that they may be set up while the Court is not in session.