

**RULES OF  
PRACTICE AND PROCEDURE  
OF THE  
UNITED STATES  
DISTRICT COURT  
FOR THE WESTERN DISTRICT  
OF NORTH CAROLINA**



**Local Rules of Civil Procedure  
&  
Local Rules of Criminal Procedure**

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**Effective: January 1, 2008**

**LCvR 16.1        PRETRIAL CONFERENCES**

**(A) *Initial Attorney's Conference.*** As soon as is practicable, and in any event not later than fourteen (14) days from joinder of the issues (as defined in Section (D) below), the parties or their counsel shall confer as provided by Fed. R. Civ. P. 26(f), and conduct an "Initial Attorney's Conference" ("IAC"). In addition, counsel shall also discuss at such conference consent to magistrate judge jurisdiction. See LCvR 73.1(C).

**(B) *Deadline for Filing the Certification of Initial Attorney's Conference.*** Within five (5) days of the IAC, the parties shall complete and file the

Certification of Initial Attorney's Conference ("CIAC"), which shall include a proposed discovery plan. The CIAC shall serve as a guideline for the Court in issuing a Scheduling Order as provided by Fed. R. Civ. P. 16(b). If the parties choose to stipulate out of, or object to, the mandatory initial disclosure procedure required by Fed. R. Civ. P. 26(a)(1), they must so indicate in the discovery plan.

**(C) *Filing Of Joint Stipulation Of Consent To Magistrate Jurisdiction.***

Where all parties agree to magistrate judge jurisdiction, the Joint Stipulation of Consent to Exercise of Jurisdiction by a United States Magistrate Judge shall be filed simultaneously with either the CIAC as provided in Local Civil Rule 73.1(C), or within five (5) days of the Court's ruling on a motion to stay.

**(D) *Joinder of the Issues.*** For the limited purpose of these Local Civil Rules, "joinder of the issues" occurs when the final answer to a complaint, third-party complaint, or crossclaim or the final reply to counterclaim has been filed, or the time for doing so has expired. Rule 12 motions contained in an Answer, but not supported by a brief, act as placeholders and do not prevent joinder of the issues. Where Rule 12 motions are filed and briefed, issues will not join until such motions are resolved by the court, unless otherwise ordered by the Court.

**(E) *Joinder of the Issues and Outstanding Discovery in Removed or Transferred Cases.***

**(1) Procedure Where Issues Already Joined.** In a removed or transferred case in which issues joined prior to removal or transfer, the parties shall conduct an Initial Attorneys Conference (“IAC”) in this district and file the Certificate of Initial Attorneys Conference (“CIAC”) within the time provided by Subsection (A), supra. The time for doing so shall be measured from the date the removed or transferred action is filed in this district.

**(2) Procedure Where Issues Not Previously Joined.** Where issues did not join prior to removal or transfer, the provisions of Subsection (D), supra, apply. Outstanding discovery requests and any previously entered Scheduling Orders are null and void, with discovery not commencing or recommencing until such time as a new Scheduling Order is entered. The admissibility and use of evidentiary material produced prior to transfer or removal is not, however, diminished by this provision.

**(F) Early Discovery.** While the parties may engage in consensual discovery at any time, Court enforceable discovery does not commence until issues have joined and a Scheduling Order is entered. If a party believes that early court sanctioned discovery is warranted, such party may file a motion for leave to take early discovery therein showing good cause. No supporting memorandum of law is required for such a motion.

**(G) Initial Pretrial Conference (“IPC”).** An Initial Pretrial Conference

("IPC") may be requested by the parties in the proposed discovery plan. Unless otherwise directed by a district judge, magistrate judges will preside over the IPC in all cases. Counsel for all parties must appear in person. Permission to appear by telephone will be determined by the judicial officer conducting the conference. Not later than 14 days after receipt of the proposed discovery plan, the court will set the date for the IPC unless the judicial officer conducting the conference deems otherwise appropriate.

Unless otherwise directed by a district judge, magistrate judges will issue the Scheduling Order in all cases and manage the pretrial activity of the case through direct involvement in the establishment, supervision and enforcement of the Scheduling Order and other applicable rules of procedure. Court-sanctioned discovery does not commence until issuance of the Scheduling Order.

Matters which may be considered during the IPC may include, but are not limited to the following: consent to magistrate judge jurisdiction; discovery guidelines and deadlines; Rule 26 disclosures; responses to interrogatories and requests for admission; maintenance of discovery material; video depositions; protective orders; motions deadlines; motions hearings; response to motions; trial subpoenas; counsel's duties prior to trial; trial date; proposed jury instructions; exhibits; mediation; and production of electronically stored

information (“ESI”).

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