



**The Honorable Beth Phillips
United States District Court
Western District of Missouri**

Procedures as to Proposed Scheduling Orders

As provided in Fed. R. Civ. P 26(f) and Local Rule 26.1(a), the parties shall meet to discuss settlement, make or arrange for Rule 26.1(a)(1) disclosures and develop a proposed discovery plan as required by Rule 26(f). This meeting shall take place no later than 14 days before the proposed scheduling order is due. Discovery shall commence immediately after this Rule 26(f) conference is held.

The parties will be responsible for filing one, joint Proposed Scheduling Order, signed by both parties.

The **Proposed Scheduling Order** should include:

1. Trial date: A proposed trial date.
 - a. Indication of the length of time required for trial.
 - b. Whether trial will be jury trial or bench trial
2. Proposed dates for adding parties.
3. Proposed date for amending the pleadings.
4. Discovery completion date.
5. Dates for designating expert witnesses.
6. Dispositive motion filing deadline.

On CM/ECF, this document will be filed in your case under Other Filings – Other documents – Proposed Scheduling Order.

The following chart provides guidance as to Judge Phillips' expectations for some of your proposed dates as mentioned above.

Matter	Time before trial
Designation of Experts	4 months before discovery completion deadline
Discovery Completion deadline	6 months before trial
Dispositive Motions deadline	5 months before trial
Teleconference with Court to discuss status of settlement negotiations	Automatically set 4-5 weeks before trial
Pretrial Date	Automatically set 2 weeks before trial
Trial Date	Typically 150 days after the deadline for filing dispositive motions

Documents to file before Pretrial Conference

A pretrial conference will be set by Judge Phillips approximately two weeks before the trial date. The following documents need to be filed before the pretrial conference:

1. **Motions in Limine.** Motions in limine shall be filed at least ten (10) days prior to the pretrial conference. Responses to motions in limine shall be filed at least three (3) days prior to the pretrial conference.
2. **Stipulation of Uncontested Facts.** At least three (3) days prior to the date the pretrial conference is to be held, the parties shall file a stipulation of any uncontested facts. If no stipulated facts can be agreed upon, including facts related to the Court's subject matter jurisdiction, the parties shall file a joint statement to that effect. Notwithstanding the fact that the time for discovery will have closed, a request to stipulate, if preserved in the record, will constitute a request for admission under Rule 36 and failure to stipulate may be subject to sanctions under Rule 37(c).
3. **Witness List.** Pursuant to Local Rule 39.1, at least five (5) days prior to the date the pretrial conference is to be held, each party shall file and serve a list of all witnesses who may be called at trial. If a witness is not listed by a party, that witness will not be permitted to testify absent leave of Court and then only for the purpose of unanticipated rebuttal or impeachment. After the time for filing lists of witnesses has expired, no supplemental or amended list will be filed without leave of Court and for good cause.
4. **Exhibit List.** Pursuant to Local Rule 39.1, at least five (5) days prior to the date the pretrial conference is to be held, that party will file and serve a list of all exhibits which may be offered at trial. The parties shall additionally prepare and provide to the courtroom deputy an exhibit index, with said index being prepared on a form provided by the clerk's office. Each exhibit will be designated as either "Plaintiff's" or "Defendant's," numbered with an Arabic numeral and described following the enumeration. If an exhibit consists of more than one (1) page or part, the number of pages or parts shall be included in the description on the exhibit index. The exhibit number must be marked on each exhibit at the time of listing. It is not necessary to list exhibits to be used only for rebuttal purposes. Except by leave of Court for good cause, no exhibit will be received in evidence which is not listed by the counsel offering the exhibit. After the time for filing lists of exhibits has expired, no supplemental or amended list of exhibits will be filed without leave of Court for good cause.
5. **Stipulation as to the Admissibility of Evidence.** At least three (3) days prior to the date the pretrial conference is to be held, the parties shall file a stipulation as to the admissibility of evidence, when the identification and foundation of the exhibit is not to be contested. Notwithstanding the fact that the time for discovery will have closed, a request to stipulate, if preserved in the record, will constitute a request for admission under Rule 36 and failure to stipulate may be subject to sanctions under Rule 37(c).
6. **Designation of Deposition Testimony.** Ten (10) days before the date the pretrial conference is to be held, each party asserting an affirmative claim or claims for relief (plaintiff, third-party plaintiff, counterclaiming defendant, etc.), shall file and serve a designation, by page and line number, of any deposition testimony to be offered in evidence as a part of that party's case.

7. Objections to Designated Deposition Testimony. At least ten (10) days prior to the date the pretrial conference is to be held, each party defending against an affirmative claim for relief shall file and serve:
 - a. Any objections to proposed deposition testimony designated by any other party;
 - b. A designation, by page and line number, of any deposition testimony to be offered as cross-examination to deposition testimony designated by other parties; and
 - c. A designation, by page and line number, of any deposition testimony to be offered in evidence as part of that party's case-in-chief in connection with such defense.
8. Submission of Deposition Designations. Five (5) days prior to the date the pretrial conference is to be held, each party shall serve, file and deliver to all other parties and the Court, its objections to any deposition testimony designated pursuant to subparagraphs 7. a. and b. above.

The Court should receive deposition designations in the following manner:

1. The parties are to jointly submit one copy of each designated deposition.
 2. Each party is to highlight the portion of the deposition they want to designate. Highlight counter-designations as well.
 3. Each party should use a different highlight color to indicate their designations (for example, plaintiff uses yellow; defendant uses blue).
 4. Each party should also indicate their objections on the actual deposition by bracketing those portions in the margin of the deposition, again using a different color to indicate the portion to which each party objects.
 5. Each party should submit to the Court a Word version document of the Objections to Deposition Designations that you filed in CM/ECF. Send that via email to my judicial assistant at annette_cordell@mow.uscourts.gov
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9. Jury Instructions. Three (3) days prior to the pretrial conference, the parties shall jointly submit an original (without sources) and an annotated (with sources) set of proposed jury instructions. Proposed annotated instructions shall reflect the authorities upon which the instruction is based and should be taken from or drawn in the manner of *Model Civil Jury Instructions for the District of Courts of the Eighth Circuit* and/or *Missouri Approved Instructions* (MAI) where available and appropriate. All instructions shall be designated as "Instruction No. ____" without indicating which party proposed the instruction.

Parties shall also submit instructions electronically to the courtroom deputy. The instructions should be typed in Word format.

The Court prefers to receive joint instructions from the parties. Separate instructions are appropriate only when the parties cannot agree upon a specific instruction. In that instance, counsel shall state in writing the reason for the objection with authority cited as well as an alternative instruction. The deadline for submitting objections and alternative proposed instructions is one (1) week before the date of trial.

10. Trial Brief. At least five (5) days prior to the pretrial conference, counsel for each party may file a trial brief stating the factual and legal contentions for the party for whom the trial brief is filed.
11. Voir Dire Questions. At least five (5) days prior to the pretrial conference, counsel for each party is requested to file a list of questions or topics for voir dire examination desired to be propounded by the Court. Objections to opposing party's voir dire questions shall be filed at least five (5) days prior to trial.

Settlement Deadline

Unless otherwise ordered, the court imposes a settlement deadline of 12:00 Noon on the day before trial.

If the case is settled after that date, the court may enter an order to show cause why certain costs should not be imposed on the party or parties causing the delay in settlement.