

16.1 SCHEDULING OF CIVIL ACTIONS

- (a) **Method of Calculating the Scheduling Order Deadline.** For the purposes of calculating the time periods in Fed. R. Civ. P. 16(b)(2), the date that “any defendant has appeared” means the date on which any defendant files any paper in the action.
- (b) **Timing of Scheduling Order.** The parties must file a proposed scheduling order within 14 days after holding the Fed. R. Civ. P. 26(f) conference.
- (c) **Responsibility for Drafting the Proposed Scheduling Order.**
 - 1. **Plaintiffs’ Attorney Generally Takes the Lead in Drafting.** An attorney for the plaintiffs must prepare a draft of the proposed scheduling order. The plaintiffs’ attorney must present this draft to the attorneys for all other parties for additions and modifications. If no plaintiff is represented by an attorney, an attorney for the defendants must discharge these duties.
 - 2. **Resolving Disagreements.** The attorneys must communicate fully, openly, and in good faith with each other so that they can submit a joint proposed scheduling order. If all attorneys do not agree on a proposed scheduling order, they may not file separate proposed scheduling orders. Rather, they must state disagreements concerning the proposed scheduling order in the joint proposed scheduling order.
- (d) **Content of the Proposed Scheduling Order.** The attorneys must suggest reasonable dates for the proposed scheduling order. The proposed scheduling order must:
 - 1. Propose a date limiting joinder of parties;
 - 2. Propose dates limiting the filing of types of motions. The attorneys in most actions should consider proposing that, subject to Fed. R. Civ. P. 12(h)(2), all dispositive motions be filed within 30 days after the date proposed for the completion of discovery;
 - 3. Include the discovery plan specified in Rule 26.1(c);
 - 4. Estimate the number of days necessary to try the action;
 - 5. Propose a trial date; and
 - 6. State whether any party anticipates requesting a protective order. In the Fed. R. Civ. P. 26(f) conference, the parties must discuss specific areas of written discovery and deposition testimony which may be the subject of a request for protective order. Any party that anticipates requesting a protective order must serve on every other party a proposed protective order and a proposed

stipulation for its entry no later than the date of serving Fed. R. Civ. P. 26(a)(1) initial disclosures. If a party seeks a protective order without first having followed the requirements of this Rule, then it must state the cause within any motion for a protective order later filed with the Court.

- (e) **Sanctions for Failing to Cooperate in Preparing a Proposed Scheduling Order.** If a party or its attorney fails to participate in good faith in the framing of the proposed scheduling order—including the discovery plan—the Court may impose sanctions consistent with Fed. R. Civ. P. 16(f) and 37(b)(2).
- (f) **Actions Exempt from These Procedures.** This Rule does not apply to categories of actions specified in Fed. R. Civ. P. 26(a)(1)(B).