IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA {{Division}} DIVISION

,

vs.

,

Plaintiff,

Defendants.

) C/A No.: {{CaseNum}}-SVH

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) SCHEDULING ORDER

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Pursuant to the Federal Rules of Civil Procedure and the Local Civil Rules (D.S.C.), the court establishes the following scheduling order.1 This order is entered to administer the progress and disposition of this case in a manner consistent with the ends of justice, in the shortest possible time, and at the least possible cost to litigants. A scheduling order is “not a frivolous piece of paper, idly entered, which can be cavalierly disregarded by counsel without peril.” *Forstmann v. Culp*, 114 F.R.D. 83, 85 (M.D.N.C. 1987).

Discovery may begin upon receipt of this order, and the court expects the deadlines to be honored. Motions to amend the scheduling order are discouraged; however, any such motion must comply with Local Civil Rule 6.01.

1. Rule 26(f) Conference: The parties are to conduct a conference pursuant to Fed.

R. Civ. P. 26(f) no later than **{{Conference}}**.2

1. Rule 26(a)(1) Initial Disclosures and Rule 26(f) Report: By **{{InitialDisc}}**, the parties must:

1Pursuant to Local Civil Rule 16.01(B), the parties are advised of the availability to proceed before a United States Magistrate Judge. *See* Notice of Availability of United States Magistrate Judge, available from the Office of the Clerk of Court or at [www.scd.uscourts.gov](http://www.scd.uscourts.gov/) (under Forms/Civil/Notice Consent Magistrate AO 85).

2Plaintiff’s counsel is to initiate the scheduling of the Rule 26(f) conference and must include all counsel known to be involved in the matter, regardless of whether they have made an appearance in the case.

* 1. exchange the required initial disclosures under Fed. R. Civ. P. 26(a)(1); the parties are not permitted to waive these disclosures;
  2. file a Fed. R. Civ. P. 26(f) Report in the form attached to this order; and
  3. answer the additional queries required by Local Civil Rules 26.02 and 26.03.

1. Amendment of Pleadings: Any motions to join other parties and to amend the pleadings must be filed by **{{JoinAmend}}**.3
2. Discovery Report: By **{{DiscoveryReport}}**, the parties are to submit jointly the attached Discovery Report form to advise the court of the discovery completed to date and the discovery remaining to be completed. Parties who do not engage in discovery promptly risk denial of their requests to extend deadlines.
3. Expert Witness Disclosures: The rules governing expert witness disclosures changed effective December 1, 2010.4 Experts from whom written reports are due (“Tier 1” experts) are governed by Fed. R. Civ. P. 26(a)(2)(B). Also, Fed. R. Civ.

P. 26(a)(2)(C) requires certain disclosures for witnesses with expert-type information from whom written reports are not due (“Tier 2” experts) (e.g., treating physician, company employee with expert-type information, but who is not subject to Fed. R. Civ. P. 26(a)(2)(B), etc.). The court establishes the following deadlines for expert witness disclosures:5

3This is the earliest deadline for a very important reason: to allow discovery to address all issues and all potential parties. Late requests to amend are, therefore, strongly discouraged, especially if the amendment would add a party. Any request to amend after the scheduling order deadline must include an explanation of why the amendment could not have been sought earlier. Parties that delay seeking to amend until late in the litigation, especially as to known potential parties, risk denial of their motions.

4Effective December 1, 2010, the rules added a requirement that the parties disclose expert witnesses who are not otherwise required by Fed. R. Civ. P. 26(a)(2)(B) to submit a written report. Specifically, the parties are required to disclose the following information regarding such “Tier 2” expert witnesses: “(i) the subject matter on which the witness is expected to present evidence under Federal Rule of Evidence 702, 703, or 705; and (ii) a summary of the facts and opinions to which the witness is expected to testify.” Fed. R. Civ. P. 26(a)(2)(C)(i), (ii).

5Note that although Fed. R. Civ. P. 26(a)(2)(B) and (C) do not require filing any portion of the written report or expert disclosure, Judge Hodges requires counsel to file a document that identifies the experts and certifies compliance with these rules.

1. by **{{PlaDftT2Date}}**—Plaintiffs’ and Defendants’ Tier 2 expert disclosures;
2. by **{{PlaIDExperts}}**—Plaintiffs’ Tier 1 expert disclosures;
3. by **{{DftIDExperts}}**—Defendants’ Tier 1 expert disclosures.
4. Discovery: All discovery must be completed by **{{Discovery}}**. The parties must serve all discovery requests in time for the responses thereto to be made by this deadline. **No motions relating to discovery may be filed until counsel have consulted and attempted to resolve the matter as required by Local Civil Rule**

**7.02 and have had a telephone conference with Judge Hodges in an attempt to resolve the matter informally**.

1. Mediation: In consent cases, Judge Hodges does not include a formal mediation deadline, but notes that Local Civil Rule 16.05 provides that all civil actions are subject to mediation unless the parties decline to participate by notifying the court. For nonconsent cases in which Judge Hodges is referred the case for pretrial management, the parties should consult the presiding district judge’s Standing Order to Conduct Mediation, available at [www.scd.uscourts.gov,](http://www.scd.uscourts.gov/) under the “Mediation/ADR” section, and should abide by the district judge’s mediation deadline.
2. Dispositive Motions: The parties must file any dispositive motions by **{{OtherMotion}}**.
3. Trial: This case is subject to being called for trial in the first term of court following the court’s ruling on all dispositive motions, including, if applicable the district judge’s ruling on a Report and Recommendation. For cases in which no dispositive motions are filed, the case is subject to being called for trial in the first term of court following the dispositive motions deadline.

IT IS SO ORDERED.

{{OrderIssued}} Shiva V. Hodges

Columbia, South Carolina United States Magistrate Judge

**SPECIAL NOTICE TO COUNSEL WITH CASES REFERRED TO**

**MAGISTRATE JUDGE SHIVA V. HODGES**

*Please carefully review the following instructions that relate to issues that frequently arise regarding scheduling orders and related litigation management issues.*

**PRO SE PARTIES**

These instructions and scheduling order deadlines apply to all litigants, whether appearing pro se or represented by counsel. The court has special instructions for pro se litigants available from the court’s website at [www.scd.uscourts.gov](http://www.scd.uscourts.gov/) under the “PRO SE Representing Yourself” section, or from the Office of the Clerk of Court.

**COMMUNICATIONS WITH CHAMBERS**

All communications with the court should be **in writing** and **filed** in the CM/ECF docket. Counsel should never call to speak with Judge Hodges on a case-related matter. Although phone calls to chambers are discouraged, if counsel finds a phone call necessary, an attorney familiar with the case should contact Judge Hodges’ law clerks.

**EXTENSION OF DEADLINES**

Requests for extensions of time or protection via email, fax, mail or telephone are not accepted. The deadlines in scheduling orders issued by this court are established with careful consideration to the nature of the case and the amount of time necessary for discovery. For this reason, extensions should seldom be necessary. If, however, it becomes necessary to seek an extension, the court only considers extension requests made by a motion in compliance with Local Civil Rule 6.01 addressing the following:

1. Date of the current deadline;
2. Whether the deadline has been previously extended;
3. The number of additional days requested and the proposed new deadline;
4. Whether the extension would affect other deadlines;
5. The reasons for the requested extension;
6. The extent to which the parties have diligently pursued discovery during the originally specified period. This showing requires a specification of the discovery (including deposition by witness name and date) that has been completed and the depositions (including witness name) and other discovery that remain to be completed.
7. Whether opposing counsel consents to or opposes the extension.

**Do not** wait until the last day before the deadline to request an extension. **Do not** call chambers to determine if the extension has been granted. You may check the docket through CM/ECF. Absent extraordinary circumstances, requests should be made sufficiently in advance to allow you to receive a response before the deadline passes. *See* Local Civil Rules 6.01 and 6.02. The congestion of counsel’s calendar is insufficient grounds for extensions.

**PROPOSED ORDERS**

The court maintains an email account for the sole purpose of receiving NEFs and proposed orders. However, proposed orders are rarely necessary and should not be submitted in conjunction with motions related to scheduling, discovery, or dispositive motions. Before preparing a proposed order, counsel may consider asking chambers whether a proposed order would be useful. In the event a proposed order is requested or otherwise appropriate, counsel should file the proposed order as an exhibit to the relevant motion, and email a copy of the proposed order to [hodges\_ecf@scd.uscourts.gov](mailto:hodges_ecf@scd.uscourts.gov) in a WordPerfect document (Times New Roman, 13 pt., double-spaced). Do not include the judge’s signature or date block or counsels’ signature block. If the motion is by consent, include all counsels’ consents in the motion, and not on the order.

**COURTESY COPIES**

Please provide a loose-leaf bound (e.g., in a three-ring binder) and tabbed courtesy copy to Judge Hodges’ chambers of motions, related memoranda, and attachments if these documents together exceed 50 pages. Otherwise, no courtesy copies should be sent to chambers. In CM/ECF, each attachment (including exhibits) should be filed as a separate document to the main pleading and labeled with a description (e.g., “John Smith’s Deposition” and not “Exhibit A”).

**WEBSITE**

The District of South Carolina maintains a website (www.scd.uscourts.gov) with various forms and resources, including the Filing Preferences for Judge Hodges, information on protective orders, the filing of confidential and sealed documents pursuant to Local Civil Rule 5.03, as well as district judge-specific notices and special instructions.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA {{Division}} DIVISION

vs.

Plaintiff,

Defendants.

) C/A No.: {{CaseNum}}-SVH

)

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) RULE 26(f) REPORT

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The parties, having consulted pursuant to Rule 26(f), Fed. R. Civ. P., hereby report as follows (check one below):

G We agree that the schedule set forth in the Scheduling Order issued is appropriate for this case. **The parties’ proposed discovery plan as required by Fed. R. Civ. P. Rule 26(f) and the information required by Local Civil Rule 26.03 will be separately filed by the parties.**

G We agree that the schedule set forth in the Scheduling Order issued requires modification as set forth in the attached proposed Consent Amended Scheduling Order (use same format as the court’s standard scheduling order attached hereto). The reason for the modification is attached. **The parties’ proposed discovery plan as required by Fed. R. Civ. P. Rule 26(f) and the information required by Local Civil Rule 26.03 will be separately filed by the parties.**

G We are unable, after consultation, to agree on a schedule for this case. Therefore, we request a scheduling conference with the court. **The parties’ proposed discovery plan as required by 26(f) Fed. R. Civ. P., with disagreements noted, and the information required by Local Civil Rule 26.03 will be separately filed by the parties.**

Plaintiff(s) Defendant(s)

*Signature of Plaintiff’s Counsel Signature of Defendant’s Counsel*

Printed Name of Plaintiff’s Counsel Printed Name of Defendant’s Counsel

and Party Represented and Party Represented

*Dated: Dated:*

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA {{Division}} DIVISION

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) DISCOVERY REPORT

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Pursuant to the court’s directive, the parties have consulted and provide the following report on the status of discovery in this matter:

1. The discovery deadline set out in the scheduling order is .
2. The parties have completed the following discovery to date:
   1. recitation of written discovery completed (date discovery served, date responded to).
   2. Depositions taken (include names of fact and expert witness depositions and dates depositions taken)
3. The parties have the following discovery to complete:
   1. recitation of written discovery to be completed (date discovery served/to be served, date responses due/anticipated).
   2. Depositions to be taken (include names of fact and expert witness depositions noticed and to be scheduled)
4. Other information on status and progress of discovery (if applicable).
5. Choose one:

G The parties anticipate they will be able to complete discovery by the deadline set forth in the scheduling order.

G The parties do not anticipate they will be able to complete discovery by the deadline set forth in the scheduling order and will submit a motion to amend the scheduling order in compliance with Local Civil Rule 6.01 prior to the expiration of the discovery deadline.

Plaintiff(s) Defendant(s)

*Signature of Plaintiff’s Counsel Signature of Defendant’s Counsel*

Printed Name of Plaintiff’s Counsel Printed Name of Defendant’s Counsel and Party Represented and Party Represented

*Dated: Dated:*

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