

**HONORABLE NANCY F. ATLAS**

October, 2004

**COURT PROCEDURES**

**THE ATTACHED MUST BE SERVED  
WITH THE SUMMONS AND COMPLAINT  
OR REMOVAL PAPERS**

Your attention is directed to the **Court Procedures** and **attachments**, which are applicable to cases assigned to Judge Atlas.

Plaintiff must serve these materials on all defendants with the summons and complaint. The Order for Conference also must be served on all defendants. A party removing a case to this Court has the same obligation as a plaintiff filing an original complaint. A form of Certificate of Service In Removed Action is attached. Proof reflecting service of these materials must be filed with the Clerk.

In addition, parties may, at their option proceed with civil cases before a Magistrate Judge. Attached is a Consent Form for use by parties that agree to consent to proceed before Magistrate Judge Calvin Botley. Please follow the instructions in the accompanying "Notice of the Right to Try a Civil Case before a Magistrate Judge."

The accompanying procedures are to be used in conjunction with the Local Rules for the Southern District of Texas and not as a substitute for them. The Local Rules of this District can be obtained on the District website at [www.txs.uscourts.gov](http://www.txs.uscourts.gov). The Court requires strict compliance with these Local Rules.

**HONORABLE NANCY F. ATLAS**  
United States Courthouse  
515 Rusk Street, Room 9015  
Houston, Texas 77002-2601  
Tel.: (713) 250-5990  
Fax: (713) 250-5994

**SHELIA ASHABRANNER**  
Case Manager for Judge Nancy F. Atlas  
Post Office Box 61010  
Houston, Texas 77208  
Tel.: (713) 250-5407  
Fax: (713) 250-5994  
Email: [shelia\\_ashabranner@txs.uscourts.gov](mailto:shelia_ashabranner@txs.uscourts.gov)  
[Please **note** the spelling of Ms. Ashabranner's first name.]

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**1. CONTACT WITH COURT PERSONNEL**

- A.** The Court expects that parties will file documents through the District Court’s Case Management/Electronic Case Filing (“CM/ECF”) System. *See* Southern District Local Rule 5.1 (as amended in September 2004) and Administrative Procedures for CM/ECF. **Case-related telephone and email inquiries should be made only to the Case Manager.** Inquiries should **not** be made to the Court’s secretary or law clerks, nor to the Judge directly outside of court.
- B.** Information about the status of documents, entry of orders, or docket entries should be obtained from the CM/ECF or Pacer Systems, or if absolutely necessary, from the United States District Clerk’s Office ((713) 250-5115).
- C.** The Court’s caseload does not allow the Case Manager to respond to casual telephone inquiries about the status of motions or cases. All inquiries to the Case Manager should be by letter sent or delivered to Chambers, or by email. See below.
- D.** Correspondence with the Court must be delivered or sent to the Court’s Chambers:
  - 1. Case-related correspondence should be addressed to:

**Shelia Ashabranner  
Case Manager to Judge Nancy F. Atlas  
United States Courthouse  
515 Rusk Street, Room 9015  
Houston, Texas 77002-2601**

**or**

**Email: [shelia\\_ashabranner@txs.uscourts.gov](mailto:shelia_ashabranner@txs.uscourts.gov)**

[Note the spelling of Ms. Ashabranner’s first name.]

- 2. Letters should be used for minor procedural matters and for discovery disputes. Do **not** address substantive issues in letter or email form. All letters may be docketed at the Court’s discretion.
- 3. Copies of urgent documents (including letters) may be sent or hand-delivered to Chambers, (*see* Emergencies, § 2 below), or may be e-mailed to the Case Manager and counsel prior to and in the same manner as the document is transmitted to the Court. They may **not** be faxed without express prior permission of the Court.

## 2. COURTESY COPIES OF DOCUMENTS

- A. All letters to the Court must be delivered or sent to Chambers, or transmitted by email. *See* addresses above.
- B. The parties **must** forward promptly to Chambers courtesy copies of (i) all documents relating to substantive motions, (ii) all documents that exceed ten (10) pages in length including exhibits and attachments and (iii) documents pertaining to matters to be heard by the Court within the seven (7) days after the document is filed. Parties at their option may forward to chambers courtesy copies of other documents. Do **not** fax copies of documents to Chambers unless specifically authorized to do so by the Court. NOTE: If a document is e-mailed to the Court through the Case Manager after 4:20 p.m., the Judge will not see the document until the next morning.

## 3. EMERGENCIES

- A. Applications for restraining orders or for other immediate relief shall be filed electronically through the CM/ECF system (unless the matter is to be sealed) and all related communications with the Court must be through the Case Manager. Such 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, or an explanation of why such contact is not legally required. *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. Motions for extension of deadlines or cut-off dates in the Docket Control Order are **not** emergencies. (*See* Continuances, § 4 below.)

## 4. CONTINUANCES

- A. Agreements or joint motions among counsel for continuance are not binding on the Court. Motions for continuance will be granted only at the Court's discretion.
- B. Vacation requests will be respected if they are made well in advance of a trial setting.
- C. A trial will *not* be continued because of the unavailability of a witness. Counsel are expected to anticipate such possibilities and should be prepared to present testimony by written deposition, videotaped deposition, or by stipulation.

## 5. APPEARANCES

- A. An attorney who appears at a hearing or conference shall

1. be familiar with the case,
  2. have authority to bind the client, and
  3. be in charge for that appearance.
- B.** Out-of-town counsel wishing to appear at a conference or hearing by telephone must submit a written request to the Case Manager as far in advance of the conference as reasonably possible. The Court will attempt to accommodate such requests.
- C.** Counsel or a *pro se* litigant will notify the Case Manager **immediately in writing** of the parties' settlement of any matter before the court. Upon receipt of a notice that the entire case is settled, the Court may enter a conditional order of dismissal.
- D.** Failure to appear when notified of a setting may subject the attorney and/or his or her client to sanctions, including dismissal for want of prosecution and/or other appropriate order or judgment.
- E.** Motions for admission *pro hac vice* shall include the attorney applicant's averment that he or she has familiarized him/herself with the Local Rules of the Southern District of Texas *and* these Procedures applicable to all cases before Judge Atlas.

## **6. MOTION PRACTICE**

- A. General Guidelines:** The Court follows the written motion practice described in the Local Rules.
1. Counsel must make serious and timely efforts to confer with opposing counsel on all motions to try to reach agreements on the relief to be requested by movant.
  2. Every non-dispositive motion must contain a certificate of conference and a proposed order granting the relief sought. Failure to comply may result in the party's pleading being denied or stricken.
  3. All motions except motions pursuant to FED. R. CIV. P. 56 must be accompanied by a separate proposed order granting or denying the relief requested.
  4. Opposed motions and responses generally will be considered by the Court after the submission date, which is 20 days after filing. However, when circumstances dictate, the motion may be considered prior to the expiration of the full 20 days. The submission day may be extended by agreement of counsel except when the extension violates a Court-imposed deadline. Counsel must immediately notify the Court by letter or agreed order of such an agreement.

Reply Briefs filed by movants will be considered if submitted before the Court rules on the motion. Generally, reply briefs should be submitted within three (3) days after the non-movant's response to the motion is filed.

5. Any party wishing to make a discovery motion should arrange for a conference with the Court before submission of any motion papers. *See* "Discovery and Scheduling Disputes" below.
6. Because most motions will be ruled on without an oral hearing, brief, clear motion papers are very important. Requests for oral argument on motions are not necessary. The Case Manager will notify counsel should the Court determine that oral argument would be beneficial.

**B. Submitted Motions – Need for Expedited Decision:**

1. The Court will rule on motions as soon as possible after the submission day or a response is filed. Counsel of record and *pro se* parties will be furnished with copies of orders.
2. If a pending motion requires resolution on an expedited basis, please advise the Court by letter. *See supra* Section I. D.

**C. Discovery and Scheduling Disputes:** The Court believes that most discovery and schedule-related disputes, especially those dealing with (i) scheduling, (ii) the number, length, and form of oral and written questions, (iii) the responsiveness of answers to oral and written questions, and (iv) the mechanics of document productions, including protective orders and the proper method of raising claims of privilege, can be resolved by counsel without the intervention of the Court. Compromise is encouraged.

1. Counsel are responsible for conferring in good faith to resolve discovery and scheduling disputes. If counsel are unable to reach an agreement, a conference with the Court **MUST** be sought by letter. The request must specify the date, time and place of the parties' prior out-of-court discovery conference and the names of all counsel participating therein. If counsel has been unable to confer with the opposing counsel because of the unavailability or unwillingness of opposing counsel to do so, the statement shall recite the facts concerning attempts to confer.
2. The Court will dispose of discovery disputes at the conference to the extent possible. If a written motion is necessary, the issues to be addressed and a briefing schedule will be set during the conference.

7. **MEMORANDA OF LAW**

A. **Page Limits and Briefing Requirements:** The Court requires concise, pertinent and well organized memoranda of law. Without leave of Court, any memorandum shall be limited to 25 pages. Any memorandum that has more than ten (10) pages of argument must contain the following eight (8) items. A courtesy copy of the memorandum is to be delivered to Chambers. Do not fax pleadings to Chambers unless specifically authorized to do so by the Court. All memoranda of law must contain items 3, 4, 6, and 7 below.

1. A table of contents setting forth the page number of each section, including all headings designated in the body of the brief or memorandum.
2. A table of citations of cases, statutes, rules, textbooks and other authorities, alphabetically arranged.
3. A short statement of the nature and stage of the proceeding.
4. A statement of the issues to be ruled upon by the Court and, with respect to each issue a short statement (supported by authority) of the standard of review.
5. A short summary of the argument.
6. Succinct headings dividing the argument into separate points.
7. A short conclusion stating the precise relief sought.
8. Proposed orders (except on summary judgment motions).

B. **Copies of Authorities and Other Material Cited:**

1. Please append copies of cases and the relevant parts of authorities that are cited in a brief, memorandum or motion only if the authorities are **not** found in the United States Code, United States Supreme Court Reporter, Federal Reporters, Federal Rules Decisions, Federal Supplement, Southwestern Reporter Second or Third, or Vernon's Revised Statutes and Codes Annotated.
2. Copies of supporting affidavits, deposition testimony excerpts, and other discovery referred to in the briefs should be separately filed in one or more appendices of no more than 40 pages.

3. All appendices should contain a table of contents, and appendices filed conventionally (i.e., not electronically) should be tabbed at the right margin to facilitate location of the materials cited.

## 8. **INITIAL PRETRIAL CONFERENCES AND DOCKET CONTROL ORDERS**

Please refer to Local Rule 16.1 and the Court's Order for Conference. In addition:

- A. A Joint Discovery/Case Management Plan (in the attached form ) must be filed at least three (3) business days before the Initial Pretrial Conference.
- B. At the Initial Pretrial Conference, the Court will enter a Docket Control Order. Attached is a form of Docket Control Order used by the Court.
  1. The parties may agree on deadlines for completion of pretrial matters and bring a proposed Docket Control Order to the Initial Pretrial Conference.
  2. The Docket Control Order will govern throughout the case. The Docket Control Order deadlines shall not be modified except by leave of this Court upon a showing of good cause.
  3. If a change to an existing docket control order is requested, the parties shall submit recommendations for adjusting all dates in the Docket Control Order that follow the date sought to be modified.
  4. Counsel shall include in their filings their email addresses.
- C. **Added Parties**: If new parties are joined after the Docket Order is entered, the party causing such joinder shall provide to the new parties (i) copies of all orders previously entered in the case, (ii) the operative Docket Control Order, and (iii) these Court Procedures.

## 9. **REQUIRED TRIAL MATERIALS**

- A. **Joint Pretrial Order**: Joint Pretrial Orders must be signed by all counsel. All parties are responsible for complying with all requirements to prepare the Joint Pretrial Order.
  1. Plaintiff is responsible for ensuring that a complete Joint Pretrial Order is filed timely. A form Joint Pretrial Order is attached. It should be followed, but may be adapted, within reason, to accommodate the size and nature of the case. If plaintiff fails to file the Joint Pretrial Order, then the defendant is responsible for filing defendant's portions of a Proposed Pretrial Order in the Joint Pretrial Order format.

2. Plaintiff must deliver to Court's Chambers a courtesy copy of the Joint Pretrial Order with all attachments.
3. Failure to file the Joint Pretrial Order timely will subject counsel and the client to sanctions, including dismissal for want of prosecution and/or other appropriate relief. This applies also to parties appearing *pro se*.

**B. Other Required Documents:** With the filing of the Joint Pretrial Order, each party also must file:

1. For **All Trials and Evidentiary Hearings:**
  - a. **Exhibit List** (*see* attached form).
  - b. **Witness List** for live witnesses.
  - c. **Designation** of deposition excerpts for witnesses being called by deposition. A copy of each deposition excerpt must be provided to the Court.
  - d. **Objections**, if any, to an opponent's exhibits must be filed within five (5) calendar days after the joint pretrial order is filed. This time limit supersedes S.D. TEX. LOCAL RULE 46.
2. For **Jury Trials**, the parties must file a single, joint proposed jury charge, including all necessary instructions, definitions and questions.
  - a. **Each** requested **instruction** must be numbered and presented with authority.
  - b. The parties shall include in the proposed jury charge all necessary instructions or definitions. The instructions shall, at a minimum, include: (1) the *prima facie* elements of each cause of action and defense asserted, (2) legal definitions required by the jury, (3) items of damages, and (4) methods of calculation of damages. Counsel are to use the Fifth Circuit Pattern Jury Instructions, as modified by case law or statutory amendments, whenever possible. Any deviations must be identified, and accompanied with legal authorities for the proposed deviation.
  - c. Even if the parties, in good faith, cannot agree on all instructions, definitions or questions, the parties should nonetheless submit a single, **unified charge**. Each disputed instruction, definition, or question should be set out in bold type, underlined or italics and identified as disputed. Each disputed item should be labelled to show which party

is requesting the disputed language. Accompanying each instruction shall be all authority or related materials upon which each party relies.

- d. The parties shall also submit the proposed charge electronically in manipulatable format or on a 3½ inch diskette in Corel WordPerfect 6.1, 8.0, or 9.0.
  - e. The parties shall submit a **trial memorandum of law** addressing the law governing the case and all contested issues.
3. For **Non-Jury Trials**, each party must file:
- a. **Proposed Findings of Fact** (with a 3½ inch diskette in Corel WordPerfect 6.1, 8.0, or 9.0);
  - b. **Proposed Conclusions of Law** (with a 3½ inch diskette in Corel WordPerfect 6.1, or 8.0, or 9.0); and
  - c. **Memorandum of Law**. The memorandum of law, proposed findings, and proposed conclusions at a minimum should address the following: (1) the *prima facie* elements of each cause of action and defense asserted, (2) legal definitions, (3) components of damages, and (4) methods of calculation of damages.

## 10. TRIAL SETTINGS

- A. **Civil cases:** The Court sets trial dates at Docket Call in Civil Cases. Docket Call is a final pretrial conference. Parties should be prepared to answer questions on all pending motions. Pending motions may be ruled on at Docket Call. Trial may be set for any day after the Docket Call.
- B. **Criminal cases:** The Court sets the trial date for criminal cases at pretrial conferences.
- C. Unless an attorney has actually commenced trial in court, another trial setting will not cause the Court to pass a trial setting in a case.
- D. **Information on Trial Settings:** The Case Manager cannot definitively ascertain when a case will be reached or where a case is on the trial docket. Any predictions given by the Case Manager are only “educated guesses” and are NOT binding on the Court.

## 11. EXHIBITS

**A. Civil cases:** All exhibits must be **pre-marked** and exchanged among counsel at the time the Pretrial Order is filed, unless a later date is agreed to by counsel. Generally, in civil cases, exhibits that have not been disclosed to opposing counsel **prior** to trial will not be received in evidence. The offering party shall mark its name, the case number, and the exhibit number on each exhibit to be offered.

**Criminal cases:** The schedule for disclosure of exhibits will be set at the pretrial conference.

**B.** Counsel requiring authentication of an opponent's exhibit must notify offering counsel in writing within five (5) business days after the exhibit is identified and made available for examination. Failure to do so is an admission of authenticity. *See S.D. TEX. LOCAL RULE 44.1.*

**C.** Unless otherwise directed by the Court, a party in a civil case may offer in evidence any exhibits listed in the final Joint Pretrial Order **unless** opposing counsel files specific **written objections** within five (5) calendar days after the joint pretrial order is filed. This supersedes S.D. TEX. LOCAL RULE 46. The Court endeavors to rule on objections to exhibits outside the presence of the jury and will do so prior to opening statements, to the extent possible.

**D.** The parties shall provide the Court with a complete set of exhibits for use at trial.

**E. Trial Procedure as to Exhibits:**

1. Counsel may not pass exhibits to the jury during trial without obtaining permission in advance from the Court.
2. Exhibits must be identified in front of the jury before they will be received in evidence. Admitted exhibits will go to the jury during its deliberations.

**F. Disposition of Exhibits:** Counsel should become familiar with S.D. TEX. LOCAL RULE 79.2 regarding disposition of exhibits following trial.

## 12. EQUIPMENT

**A. Sound and Video Equipment:** The Court has substantial projection, ELMO, sound and video equipment in the courtroom. Counsel are invited to use that equipment during trial. Counsel who seek to test the equipment prior to trial shall contact the Case Manager by email, letter or phone, so arrangements can be made to accommodate building security. Parties also may provide their own equipment, but special arrangements must be made with the Case Manager prior to trial.

- B. Other:** Easels with writing pads are available for use in the Courtroom, upon request to the Case Manager prior to trial.

### **13. COURTROOM PROCEDURES**

- A. Hours:** The Court's hours during trial will vary depending upon the type of case and the needs of the parties, counsel, witnesses, and the Court. Court normally will convene at 8:30 a.m. and adjourn by 6:00 p.m., with a 12:15 to 1:30 p.m. lunch recess. The Court generally does not try cases on Friday afternoons, due to civil and criminal conferences, sentencings and other matters scheduled for that time.

**B. Access at Other Times:**

1. Counsel needing 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 to have the Courtroom open.
2. Enter and leave the Courtroom only by the front doors; do not use the Court's entrance or the side entrances without permission.

- C. Telephones:** Telephone messages for counsel generally will **not** be taken by the Judge's staff, and counsel shall refrain from requesting use of telephones in Chambers. Public telephones are available near the elevators.

- D. Filing of Documents:** Handing documents to the Court or Case Manager does **not** constitute the filing of documents.

1. All original documents must be filed in the Court Clerk's Office or electronically.
2. Copies of documents filed within seven (7) days prior to and during trial should be submitted to the Case Manager **IN DUPLICATE**.

- E. Attorney Conference Rooms:** Attorney conference rooms are available upon request to the Judge's Secretary. A key will be given to counsel for use throughout the trial. Counsel must clear the room of all materials and return the key to the Case Manager or Secretary at the conclusion of the trial.

**F. Decorum:**

1. Counsel and parties will comply with S.D. TEX. LOCAL RULE 83.9 regarding Courtroom Behavior. These procedures are strictly enforced.

2. Counsel shall stand when addressing the Court. Counsel may use a lectern positioned appropriately to make oral argument. Counsel may question witnesses standing at the lectern or seated at counsel table.
3. Counsel will ensure that they, all parties, and all witnesses refrain from drinking (other than water), eating, smoking, or reading newspapers, books, etc. in the Courtroom. No telephone beepers, pagers, or cellular phones are allowed to be operated in the Courtroom.

**G. Witnesses:**

1. Counsel are responsible for summoning witnesses into the Courtroom and instructing them on Courtroom decorum. Witnesses may be questioned by the attorney seated at counsel table or standing at the lectern.
2. 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.
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.

**H. Seating Assignments: The Court does not designate seating at counsel tables. Seating is determined on a first-come, first-served basis on the first day of trial.**

**I. Jury Matters:**

1. While the jury is deliberating, counsel are to remain near the Courtroom to be immediately available for jury notes or a verdict, unless given permission to leave by the Court.
2. After the jury is excused, counsel may **not** contact jurors unless permitted to do so by the Court. *See* S.D. Tex. Local Rule 47.

**14. VOIR DIRE**

The Court generally conducts a preliminary examination of the jury panel.

- A.** Following the Court's examination, each side in **civil cases** usually will be allowed to examine the panel briefly, provided that the proposed *voir dire* questions are submitted as part of the Joint Pretrial Order.
- B.** The Court will conduct most, if not all, of the examination of the panel in criminal cases, although the Court makes a case-by-case determination.

## 15. **SETTLEMENTS AND ORDERS OF DISMISSAL**

### A. **Settlements**

1. **Upon the settlement of any case set for conference, hearing or trial, counsel must immediately notify the Case Manager in writing, by letter, or by email (*shelia\_ashabranner@txs.uscourts.gov*).**
2. Upon receipt of parties' announcement of settlement, the Court will enter a 30- or 60-day conditional order of dismissal, which permits a party to move to reopen the case if final settlement cannot be completed within the allotted time.
3. Upon settlement of a suit involving a minor plaintiff, counsel must jointly move for appointment of a guardian *ad litem* if there is potential conflict of interest between the parent(s) and the minor.
  - a. If counsel cannot agree on a guardian *ad litem*, the Court will make the appointment. Counsel may submit the names of qualified attorneys they propose for the appointment.
  - b. Contemporaneously with the motion for appointment, counsel must notify the Case Manager by letter requesting a settlement conference.

### B. **Orders of Dismissal For Want of Prosecution**

Any defendant upon whom service has not been perfected within 120 days after the complaint is filed will be dismissed for want of prosecution in accordance with FED. R. CIV. P. 4(m).

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

	§	
Plaintiff(s),	§	
	§	
v.	§	Civil Action No. H-_____
	§	
	§	
Defendant(s).	§	

**CERTIFICATE OF SERVICE IN REMOVED ACTION**

I certify compliance with the Court's Procedures.

On \_\_\_\_\_, 20\_\_, I served copies of the Order for Conference and Court Procedures on all other parties.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

_____	§	
	§	
Plaintiff(s),	§	
	§	
v.	§	Civil Action No. H-_____
	§	
_____	§	
	§	
Defendant(s).	§	

**JOINT DISCOVERY/CASE MANAGEMENT PLAN**  
**under Rule 26(f) of the**  
**Federal Rules of Civil Procedure**

*(Please **restate** the instruction in **bold** before furnishing the responsive information.)*

1. State where and when the conference among the parties required by Rule 26(f) of the Federal Rules of Civil Procedure was held, and identify the counsel who attended for each party, including name, address, bar number, phone and fax numbers and email addresses.
2. List the cases related to this one that are pending in any state or federal court with the case number and court, and state how they are related.
3. Briefly describe what this case is about.
4. Specify the allegation of federal jurisdiction.
5. Name the parties who disagree with the plaintiff's jurisdictional allegations and state their reasons.
6. List anticipated additional parties that should be included, when they can be added, and by whom they are wanted.
7. List anticipated interventions.
8. Describe class-action issues.
9. 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.

10. 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.
    - (i) Specify the date experts for plaintiff (or party with the burden of proof on an issue) will be designated and their reports provided to opposing party.
    - (ii) Specify the date experts for defendant will be designated and their reports provided to opposing party.
  - g. List expert depositions the plaintiff (or 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 defendant (or opposing party) anticipates taking and their anticipated completion date. *See* Rule 26(a)(2)(B) (expert report).
11. If the parties are not agreed on a part of the discovery plan, describe the separate views and proposals of each party.
12. Specify the discovery beyond initial disclosures that has been undertaken to date.
13. State the date the planned discovery can reasonably be completed.
14. Describe the possibilities for a prompt settlement or resolution of the case that were discussed in your Rule 26(f) meeting.
15. Describe what each party has done or agreed to do to bring about a prompt resolution.
16. From the attorneys' discussion with their client(s), state the alternative dispute resolution techniques that are reasonably suitable.
17. Magistrate judges may now hear jury and non-jury trials. Indicate the parties' joint position on a trial before a magistrate judge.
18. State whether a jury demand has been made and if it was made on time.



**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

	§	
	§	
Plaintiff(s),	§	
	§	
v.	§	CIVIL ACTION NO. H-
	§	
	§	
	§	
	§	
Defendant(s).	§	

**DOCKET CONTROL ORDER**

Anticipated Length of Trial: \_\_\_\_\_ Days                      Jury: \_\_\_\_\_ Non-Jury: \_\_\_\_\_

The disposition of this case will be controlled by the following schedule:

1. (a) **NEW PARTIES** shall be joined by: \_\_\_\_\_  
The attorney causing the addition of new parties must provide  
copies of this Order to new parties.
- (b) **AMENDMENTS to PLEADINGS** by Plaintiff or Counter-  
Plaintiff shall be filed by: \_\_\_\_\_  
(Absent parties' agreement or court approval, answers may not be amended more than  
20 days after this date. Answers to amended claims and counterclaims are due 20 days  
after amended claims or counterclaims are filed.)
  
2. **EXPERT WITNESSES for PLAINTIFF/COUNTER-PLAINTIFF**  
shall be identified by a report listing the qualifications of each  
expert, each opinion the expert will present, and the basis for  
each opinion. DUE DATE: \_\_\_\_\_
  
3. **EXPERT WITNESSES for DEFENDANT/COUNTER-DEFENDANT**  
shall be identified by a report listing the qualifications of each  
expert, each opinion the expert will present, and the basis for  
each opinion. DUE DATE: \_\_\_\_\_

4. **DISCOVERY** must be completed by: \_\_\_\_\_  
Written discovery requests are not timely if they are filed so close to this deadline that the recipient would not be required under the Federal Rules of Civil Procedure to respond until after the deadline.

5. **MEDIATION/ADR:**  
\_\_\_\_\_ **Required;** \_\_\_\_\_ **Strongly suggested**  
\_\_\_\_\_ **Parties' Option**  
**ADR TO BE COMPLETED** by: \_\_\_\_\_

6. **DISPOSITIVE MOTIONS** will be filed by: \_\_\_\_\_

7. **ALL OTHER PRETRIAL MOTIONS** (including *Daubert/Kumho* motions, but *not* including other motions in limine) will be filed by: \_\_\_\_\_  
(Typically this date will match ¶ 6.)

8. **JOINT PRETRIAL ORDER** will be filed by: \_\_\_\_\_  
Plaintiff is responsible for timely filing the complete Joint Pretrial Order in the form set forth in the published Court's Procedures.

9. **DOCKET CALL** is held in Courtroom 9-F, starting at 4:00 p.m. \_\_\_\_\_  
on the date listed here. (The Court will set this date.)  
Absent parties' agreement, no documents filed within 5 days before the Docket Call will be considered at Docket Call without prior permission of the Court to late file.

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**NANCY F. ATLAS**  
**United States District Judge**

**APPROVAL REQUESTED:**

\_\_\_\_\_  
Counsel for Plaintiff(s)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Counsel for Defendant(s)

\_\_\_\_\_  
Date

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

_____	§	
	§	
Plaintiff(s),	§	
	§	
v.	§	Civil Action No. H-_____
	§	
_____	§	
	§	
Defendant(s).	§	

**JOINT PRETRIAL ORDER**

**[See generally Judge Atlas’s Court Procedures, § 9.A.]**

**Appearance of Counsel**

List the parties, their respective counsel, and the addresses, email addresses and telephone numbers of counsel in separate paragraphs.

**Statement of the Case**

Give a brief agreed statement of the case for the information of the Court and/or which the Court may read to the jury panel to see if the panel is acquainted with the facts of or parties to the case. Include names, dates and places.

**Jurisdiction**

Briefly set out why the Court has full and complete jurisdiction of the subject matter and the parties. If there is an unresolved jurisdictional question, state the problem.

**Motions**

Identify any pending motions.

### **Contentions of the Parties**

State concisely in separate paragraphs what each party claims.

### **Admissions of Fact**

List all facts which have been stipulated and admitted and require no proof.

### **Contested Issues of Fact**

List all factual issues in controversy necessary to the final disposition of this case.

### **Agreed Applicable Propositions of Law**

Delineate those legal propositions not in dispute.

### **Contested Issues of Law**

State briefly the issues of law in dispute. A memorandum of law should be filed which addresses these issues.

### **Exhibits**

Each counsel must attach to this Joint Pretrial Order a list (in the form shown by Attachment A or a similar form) of all exhibits to be offered and must provide copies of all such exhibits to opposing counsel. This rule applies to rebuttal exhibits except in the limited circumstances when the exhibits cannot be anticipated.

Any counsel requiring authentication of an exhibit must so notify the 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. *See* S.D. TEXAS LOCAL RULE 44.1.

Exhibits listed in the final pretrial order may be admitted into evidence unless opposing counsel files written objections within five calendar days after the joint pretrial order is filed. This rule supersedes S.D. TEXAS LOCAL RULE 46.

The offering party will mark his own exhibits prior to trial and include the party's name, case number, and exhibit number on each exhibit to be offered.

### **Witnesses**

List the names and addresses of witnesses who will or may be called and include a brief statement of the subject matter and substance of their testimony. If a witness is to appear by deposition, cite the inclusive pages and lines to be read. Objections to those portions (citing pages and lines) with supporting authority must be filed within five (5) calendar days after the joint pretrial order is filed.

Each counsel will also attach to the joint pretrial order a list of witnesses' names.

In the event there are any other witnesses to be called at the trial, their names, addresses and the subject matter of their testimony shall be reported to opposing counsel as soon as they are known. This restriction shall not apply to a purely rebuttal or impeaching witness if necessity of the witness or the testimony cannot reasonably be anticipated before trial.

### **Settlement**

Include a statement addressing whether or not all settlement efforts have been exhausted, the current settlement demand and offer, and whether the case can reasonably be expected to settle.

### **Trial**

Include in this paragraph the following:

- (a) Whether trial will be Jury or Non-Jury;
- (b) Probable length of trial; and
- (c) Availability of witnesses.

### **Additional Required Attachments**

**Motions in Limine:** State whether any party is filing a Motion in Limine. (All Motions in Limine must be filed with the Pretrial Order.)

**For Jury Trials include the following:**

- (a) Proposed questions for the venire panel.
- (b) Proposed jury instructions, definitions, and interrogatories. Each requested instruction, definition, and interrogatory must be numbered and presented on a separate sheet of paper with the citation and authority upon which counsel rely.
- (c) Memorandum of Law.

For Non-Jury Trials include the following:

- (a) Proposed Findings of Fact.
- (b) Proposed Conclusions of Law.
- (c) Memorandum of Law.

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Date

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**NANCY F. ATLAS**  
**United States District Judge**

APPROVAL:

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Counsel for Plaintiff(s)

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Counsel for Defendant(s)



**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**NOTICE OF THE RIGHT TO PROCEED IN  
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 a jury trial and entry of a final judgment.

The choice to proceed before a Magistrate Judge is entirely yours. Tell only the Clerk. Neither the District Judge or Magistrate Judge will be told until and unless all the parties agree.

The District Judge to whom your case is assigned must approve the referral to a Magistrate Judge.

You must use the consent form attached to these procedures. The form also is available from the Clerk.

Michael N. Milby, Clerk  
United States District Clerk  
Southern District of Texas

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

	§	
	§	
Plaintiff(s),	§	
	§	
v.	§	Civil Action No. H-_____
	§	
	§	
	§	
Defendant(s).	§	

**CONSENT TO PROCEED BEFORE  
UNITED STATES MAGISTRATE JUDGE CALVIN BOTLEY  
(Civil Case)**

In accordance with the provisions of 28 U.S.C. § 636(c), the parties to this action waive their rights to proceed before a District Judge of the Court and consent to have United States Magistrate Judge Calvin Botley conduct all further proceedings in the case, including hearings and rulings on motions, pretrial conferences and trial, and the entry of judgment. Counsel for all parties must execute this form.

	for	

**ORDER TO TRANSFER**

It is **ORDERED** that the Clerk of Court reassign this action to **United States Magistrate Judge Calvin Botley** to conduct all further proceedings, including hearings and rulings on motions, pretrial conferences and trial, and the entry of final judgment in accordance with 28 U.S.C. § 636(c) and the consent of the parties.

\_\_\_\_\_  
Date

\_\_\_\_\_  
NANCY F. ATLAS  
UNITED STATES DISTRICT JUDGE