

**Sample Form 25**  
UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

Chambers of  
**BENSON EVERETT LEGG**  
Chief Judge

101 West Lombard Street  
Baltimore, Maryland 21201  
410-962-0723

December 15, 2009

TO COUNSEL OF RECORD RE: CASE NAME,  
Civil Action No. L-0X-XXX

Dear Counsel:

A telephone conference call has been set for \_\_\_\_\_ at \_\_\_\_\_ to discuss the appropriate schedule in this case. Plaintiff's counsel is requested to initiate the call.

Attached is a preliminary scheduling order with approximate dates for your information. Please consult with one another before the call and be prepared to discuss:

1. Whether there is unanimous consent to proceed before a U.S. Magistrate Judge for all proceedings;
2. Whether you would like to participate in a settlement conference either before or after the completion of discovery;
3. Whether discovery of electronically stored information is expected to be problematic;
4. Whether you would like to defer any of the expert discovery until after summary judgment motions are resolved;
5. Any changes to the dates in the preliminary scheduling order;
6. Whether the allocated deposition hours are sufficient, and
7. Setting a trial date on the Court's calendar and determining its likely duration.

In addition, the preliminary scheduling order authorizes the initiation of discovery, and I want to be certain that counsel are aware of the obligations imposed upon them as part of the discovery process. Please see the attached memorandum regarding discovery procedures for additional guidance.

I further urge counsel to review carefully, before the teleconference, the recent decision of Chief Magistrate Judge Paul Grimm in the case of *Mancia, et al. v. Mayflower Textile Serv. Co., et al.*, No. 08-cv-00273-CCB, \_\_\_F.R.D.\_\_\_, 2008 W.L. 459175 (D. Md. Oct. 15, 2008). The following is a link to the decision for your convenience.

[http://www.mdd.uscourts.gov/Opinions/Opinions/Mancia%20v.%20Mayflower\\_Opinion\\_10.15.08.pdf](http://www.mdd.uscourts.gov/Opinions/Opinions/Mancia%20v.%20Mayflower_Opinion_10.15.08.pdf)

If the scheduled teleconference should not proceed for any reason, the parties are instructed to submit a letter within three business days answering the above questions. Thereafter, the parties shall adhere to the enclosed scheduling order until it is modified by this Court.

Very truly yours,

Benson Everett Legg

Attachments:

Preliminary Scheduling Order  
Standing Order on Discovery Procedures

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

Chambers of  
**BENSON EVERETT LEGG**  
Chief Judge

101 West Lombard Street  
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410-962-0723

MEMORANDUM TO COUNSEL RE: DISCOVERY PROCEDURES

Dear Counsel:

Please be advised that discovery is governed by the following procedures, to which counsel must adhere.

1. Counsel are required to have read and comply with the Federal Rules of Civil Procedure, Local Rules of this Court, Discovery Guidelines of this Court (Appendix A to the Local Rules), and, with respect to discovery of Electronically Stored Information (“ESI”), the Suggested Protocol for Discovery of ESI, posted on the Court’s website, [www.mdd.uscourts.gov](http://www.mdd.uscourts.gov), except as otherwise specified in these procedures or by order of the Court. In addition, all counsel of record will read *Mancia v. Mayflower Textile Servs. Co.*, 253 F.R.D. 354 (D. Md. 2008), and will conduct discovery in accordance with the principles discussed therein, which includes an obligation to cooperate during the conduct of discovery, as well as to limit the cost of discovery so that it is proportional to what is at issue in the case.
2. In cases where a party is represented by more than one attorney of record, no discovery motion, response or opposition may be filed unless the senior attorney of record has read the contents of the motion and any supporting memorandum and exhibits.
3. All discovery requests, responses and objections are governed by the requirements of Rule 26(g) and counsel and parties shall be familiar with the requirements of the rule and the sanctions that may be imposed for failure to comply with it. All discovery responses, answers (including answers to interrogatories and document production requests), and disclosures are to be complete and non-evasive, as required by Rule 37(a)(4). Evasive or incomplete discovery responses, answers or disclosures will be deemed to be a failure to respond, answer or disclose.
4. If a party responding to a discovery request, including interrogatories and document production requests, objects, in whole or part, to the discovery, objections must be specific, non-boilerplate and supported by particularized facts where necessary to demonstrate the basis for the objection. Failure to do so constitutes a waiver of the objection. *Marens v. Carrabba’s Italian Grill, Inc.*, 196 F.R.D. 35 (D. Md. 2000); *Thompson v. HUD*, 199 F.R.D. 168 (D. Md. 2001), *Hall v. Sullivan*, 231 F.R.D. 468 (D. Md. 2005). Similarly, assertions of privilege or work product immunity as a basis for refusing to provide discovery must be particularized, Rule 26(b)(5), and accompanied by the information required by Discovery Guidelines 6 and 9.c. Failure to do so may be

deemed by the Court to be a waiver of the privilege/immunity. *Hall v. Sullivan*, 231 F.R.D. 468 (D.Md. 2005); *Victor Stanley Inc. v. Creative Pipe Inc.* 250 F.R.D. 251 (D. Md. 2008). In responding to document production requests parties will comply with the procedures stated in *Lee v. Flagstaff Industries, Corp.*, 173 F.R./D. 651 (D. Md. 1997), and if the documents or ESI requested is not to be produced contemporaneously with the filing of the answer to the production request, the producing party will give a date certain when it will be produced. In this regard, it is improper to state that the production will be made some unspecified time in the future.

5. I have adopted a policy with respect to discovery disagreements. This policy shall be followed **before** the filing of any discovery motions. In the event of a discovery disagreement, counsel shall notify opposing counsel of their intent to contact my chambers to request a telephone conference. Counsel requesting such a conference shall check the availability of other counsel and then contact my chambers with suggested dates and times. After a date and time have been scheduled, it shall be the responsibility of counsel requesting the conference to arrange and initiate the conference call at the prescribed time. The conference call should take less than 30 minutes. Counsel involved in the dispute shall e-file short letters (not more than two pages) setting forth their respective positions not later than 5 p.m. on the day prior to the scheduled telephone conference. Chambers will tape record the conference call. I will do my best to resolve as many disputes as I can in this informal manner. If, however, I determine that the issues require the formal filing of a motion and briefing, I will so advise counsel. In order for this informal discovery dispute policy to be successful, it is imperative that counsel exercise restraint. I do not have time to resolve each and every dispute that may arise during the course of discovery. I do, however, recognize the great advantage the court can provide in quickly resolving many discovery issues.

Very truly yours,

/s/

Benson Everett Legg

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

[Plaintiff: ]

Plaintiff(s)

vs.

[Defendant: ]

Defendant(s)

Civil Action No. [Case Number: ]

**SCHEDULING ORDER**

This scheduling order is being entered pursuant to Local Rule 103.9. Any inquiries concerning the schedule should be directed to my chambers, not to the Clerk's Office. Any party who believes that any deadline set forth in this Scheduling Order is unreasonable may request in writing a modification of the Order or that a conference be held for the purpose of seeking a modification of the Order, and any such request must be made on or before the first date set forth in Paragraph I below. Thereafter, **the schedule will not be changed except for good cause.**

This case is subject to electronic filing. Please familiarize yourself with the procedures for electronic filing available at: [www.mdd.uscourts.gov](http://www.mdd.uscourts.gov). You must use the electronic filing system for filing documents with the Clerk and sending case related correspondence to chambers. **When you electronically file a document that, including attachments, is 15 pages or longer, you also must provide a paper copy of the document and a paper copy of the notice of electronic filing.** The paper copy should be sent to the Clerk's Office, not directly to my chambers.

*[select this text and press alt-g to generate schedule]*

## II. DISCOVERY

### Initial Disclosures

This is an action in which Fed. R. Civ. P. 26(a)(1) disclosures need not be made.

### Discovery Conference

This action is exempted from the requirements of the first sentence of Fed. R. Civ. P. 26(d) and from Fed. R. Civ. P. 26(f). However, you are encouraged to confer with one another immediately in order to: (a) identify the issue(s), (b) set a discovery plan, (c) determine if the case can be resolved before your clients incur further litigation expense, and (d) establish a cordial professional relationship among yourselves.

### Procedure

All the provisions of Local Rule 104 apply, including the following:

- a. All discovery requests must be served in time to assure that they are answered before the discovery deadline. An extension of the deadline will not be granted because of unanswered discovery requests.
- b. The existence of a discovery dispute as to one matter does not justify delay in taking any other discovery. The filing of a motion to compel or a motion for a protective order will not result in a general extension of the discovery deadline.
- c. No discovery materials, including Rule 26(a)(1) and Rule 26(a)(2) disclosures, should be filed with the court.
- d. Motions to compel shall be filed in accordance with Local Rule 104.8 and applicable CM/ECF procedures.
- e. Please be familiar with the Discovery Guidelines of this Court which are Appendix A to the Local Rules. Appendix D contains guidelines for form discovery requests and confidentiality orders that may be helpful to you.

### Deposition Hours

Please confer with one another and report to me by correspondence within 14 days of the date of this order concerning the number of hours of depositions which you believe are appropriate. If I have not heard from you by that date, each side shall be limited to [Deposition Hours: ] hours of depositions of fact witnesses (including parties). (If you agree to another number of deposition hours and notify me of your agreement, you may consider your agreement approved unless you hear from me to the contrary within 10 days.) If there are two or more parties on a particular side, they must share the deposition time allotted to their side unless upon your request I otherwise rule. Any colloquy engaged in by counsel shall be counted against his/her client's deposition time.

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### III. STATUS REPORT

The parties shall file on the day of the discovery deadline a status report covering the following matters:

- a. Whether discovery has been completed;
- b. Whether any motions are pending;
- c. Whether any party intends to file a dispositive pretrial motion;
- d. Whether the case is to be tried jury or non-jury and the anticipated length of trial;
- e. A certification that the parties have met to conduct serious settlement negotiations; and the date, time and place of the meeting and the names of all persons participating therein;
- f. Whether each party believes it would be helpful to refer this case to another judge of this court for a settlement or other ADR conference, either before or after the resolution of any dispositive pretrial motion;
- g. Whether all parties consent, pursuant to 28 U.S.C. § 636(c), to have a U.S. Magistrate Judge conduct any further proceedings in this case, either before or after the resolution of any dispositive pretrial motion, including trial (jury or non-jury) and entry of final judgment.
- h. Any other matter which you believe should be brought to the court's attention.

### IV. DISPOSITIVE PRETRIAL MOTIONS

If more than one party intends to file a summary judgment motion, the provisions of Local Rule 105.2.c apply.

After motions and responses thereto have been filed, I will advise you if a hearing is to be scheduled.

#### V. STATUS AND PRETRIAL CONFERENCES

I will set a scheduling conference after the status report has been filed, unless that report indicates that one or more of you intends to file a dispositive pretrial motion. In the latter event I will not set a scheduling conference until after I have ruled upon the motion (or the dispositive pretrial motion deadline passes without the anticipated motion being filed).

At the scheduling conference:

- a. I will set a deadline for submitting the pretrial order, motions in limine, proposed voir dire questions and proposed jury instructions;
- b. I will set a pretrial conference date and a trial date; and
- c. I will ask you whether a settlement or other ADR conference with a judicial officer would be useful, and whether all parties would consent to trial (jury or non-jury) before a U.S. Magistrate Judge. **Please confer with your client about these matters before the conference so that you are in a position to respond.**

#### VI. ATTORNEYS' FEES

In any case where attorneys' fees may be sought by the prevailing party, counsel must be familiar with the provisions of Local Rule 109.2 and the Rules and Guidelines for Determining Lodestar Attorneys' Fees in Civil Rights and Discrimination Cases which are Appendix B to the Local Rules.

#### VII. COMPLIANCE WITH LOCAL RULES AND CM/ECF PROCEDURES

The court will demand compliance with the Local Rules and CM/ECF procedures. If you need to obtain a copy of the Local Rules or the CM/ECF procedures, they are available on our website at [www.mdd.uscourts.gov](http://www.mdd.uscourts.gov).

#### VIII. COMPLIANCE WITH PRIVACY PROTECTION RULE

Counsel are reminded that the Federal Rules of Civil Procedure were amended, effective December 1, 2007, with the addition of a new Rule 5.2 which has detailed requirements requiring the redaction of filings with this court that contain an individual's social security number, tax payer identification number, or birth date, the name of an individual known to be a minor, or a financial account number. It is essential that counsel comply with this rule and with

the revised version of the Judicial Conference Privacy Policy adopted in March 2008. For further information on the Judicial Conference Privacy Policy see: [http://www.mdd.uscourts.gov/news/news/privacy\\_memo.pdf](http://www.mdd.uscourts.gov/news/news/privacy_memo.pdf).

Date: \_\_\_\_\_

[Name of Judge]  
United States [Magistrate or District] Judge

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