
# CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLAN
# PURSUANT TO
# THE CIVIL JUSTICE REFORM ACT OF 1990

DECEMBER 17, 1991

# UNITED STATES DISTRICT COURT
# FOR THE
# NORTHERN DISTRICT OF GEORGIA

## ORDER

The judges of this Court, having considered the Report of the Advisory Group of the United States District Court for the Northern District of Georgia appointed under the Civil Justice Reform Act of 1990 and having received and considered the report and recommendations of the Court's Rules and Bar Committee regarding said Report, hereby adopt the attached **CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLAN** for this Court, effective December 31, 1991.

SO ORDERED for the Court this 17th day of December, 1991.

WILLIAM C. O'KELLEY
Chief United States District Judge

# THE CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLAN OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA

Pursuant to the provisions of the Civil Justice Reform Act of 1990 (28 USC §§471-82), the Judges of the United States District Court for the Northern District of Georgia have adopted, effective December 31, 1991, the following plan to promote efficient management and termination of civil litigation in this Court and to facilitate a reduction in expenses incurred by litigants in connection with civil actions filed in this Court.

## I. Systematic, Differential Treatment of Civil Cases (28 USC §473(a)(1)).

### A. Specific Case Management.

The Local Rules of Practice for the Northern District of Georgia, particularly LR235-3, the joint Preliminary Statement and Scheduling Order, provide for individualized management of civil cases. For reasons of efficiency and predictability, the Preliminary Statement and Scheduling Order contain standard provisions which apply to almost all civil cases. However, the standard form (Appendix B, Form II, LRNDGa) implementing LR235-3 requires the parties to inform the judge to whom the case is assigned of problems and situations unique to that case which render individualized management of that case necessary. The

judge then incorporates the appropriate, individualized case management directives into the scheduling order for that case.

Local Rule 235-3 requires the Preliminary Statement to be filed no later than 40 days after issue is joined. When the Court established this timetable in 1983, it was believed that this requirement would assure the judge's intervention in the case, if necessary, within three months or less after filing of the complaint. The Court's experience with LR235-3 has, however, shown that joinder of issue in many cases is delayed for months and, sometimes for over a year, because of plaintiff's delay in affecting service of process and due to the defendant or defendants filing motions under FRCivP12 or requesting extensions of time to answer. In addition, the deferral of other proceedings in the case while the Rule 12 motion is briefed, submitted, and ruled on unnecessarily delays the ultimate disposition of the case.

The Court has concluded that such lapses of time are unreasonable and lead to a result inconsistent with Section 103 of the Civil Justice Reform Act (28 USC §476) requiring the Director of the Administrative Office of the United States Courts to disclose for each judicial officer " . . . the number and names of cases that have not been terminated within three years <u>after filing</u>. (emphasis added)" For this reason, the Court adopts, in Part VIII of this Plan, the recommendation of

the Advisory Group that the Federal Rules of Civil Procedures, Rules 8 and 12 be amended to require the defendant to file an answer to the complaint, thereby joining issue in the case, at the time defendant files a Rule 12 motion. The Court also intends to revise its local rules to accelerate its case management timetable as much as possible, consistent with the existing provisions of the Federal Rules of Civil Procedure, without impacting adversely the administration of justice in any particular case.

In addition, as part of this Plan, the Court hereby adopts Recommendation 3 of the Advisory Group (Advisory Report, pp. 46, 49, 52, and 72) made pursuant to 28 USC §273(b)(1) that LR235-3(7) and corresponding Item 7 of the form Preliminary Statement be amended by addition of the following provision: "If the parties anticipate that additional time [beyond that allowed by the assigned discovery track][1] will be needed to complete discovery, please state those reasons in detail below: [space for response.]" Adoption of this provision not only implements the litigation technique of Section 273(b)(1) that counsel work together in planning discovery, but it also permits the judge to act on the finding of the Advisory Group that excessive and/or unguided discovery is the greatest factor contributing to unnecessary litigation expense in this District (see discussions in Advisory Report, Part II (B)(2)(3), pp. 28-36).

[1]This phrase is added to the Advisory Group's Recommendation 3 because of the Court's adoption of discovery tracks in the following Section I(B). The discovery provision is Item 8 in the amended document.

**B. Discovery Tracks.**

This Court's procedures have long recognized the relationship between case complexity and the resulting demands on judicial and other resources. Court management procedures whereby certain groupings of cases, such as habeas corpus petitions, Title VII cases, administrative appeals, truth-in-lending actions, Internal Revenue Service proceedings, and social security actions, are managed differently from the bulk of civil cases filed in this Court reflect this recognition.

As part of this Plan, the Court has determined that it is appropriate to build on its experience with these operational procedures by adoption of the three "tracks" outlined below. These tracks, which are defined by length of the discovery period, will implement the litigation principle included in 28 USC §473(a)(1) that effective case management is tailored to " . . . the amount of time reasonably needed to prepare the case for trial."[2]

The Advisory Group did not recommend adoption of case tracking to the Court, other than those tracks implicit in the local rules of this Court. Adoption of these tracks is, however, consistent with the Advisory Group's finding that the increasing actual life span of cases in this Court is " . . . symptomatic of . . . the

[2]Cases in the 0 months discovery track are not subject to the settlement conference requirements set forth in LR235-2 nor will it be necessary to file a Preliminary Statement under LR235-3 or a Pretrial Order under LR235-4 in such cases.

increasing difficulty of the Court's civil caseload, as demonstrated by the percentage increase in Type II (heavier-weighted) civil cases between SY1988-1991." Advisory Report, pp. 25-6. The Advisory Group's discussions found in Section II (A)(1)(pp. 2-6); Section II (A)(2)(pp. 7-11); and Section II (B)(1)(pp. 23-28) develop further the management issues facing this Court due to its more difficult caseload mix. The Court's goal in differentiating civil cases into three tracks, based on the Court's experience with the cases included in the filing categories listed on Form JS44 of the Court's civil cover sheet, is to provide the Court the additional time it needs to manage these more difficult cases while continuing to provide a discovery period that is appropriate for each civil case progressing through this Court.

The Discovery Tracks adopted are as follows:

**0 MOS. DISCOVERY PERIOD**

| | | | |
|---|---|---|---|
| **Contracts** | | **Bankruptcy** | |
| 150 | Recovery of Overpayment & Enforcement of Judgment | 422 | Appeal 28 USC 158 |
| | | 423 | Withdrawal 28 USC 157 |
| 152 | Recovery of Defaulted Student Loans (Excl. Veterans) | **Social Security** | |
| | | 861 | HIA (1395ff) |
| | | 862 | Black Lung (923) |
| 153 | Recovery of Overpayment of Veteran's Benefits | 863 | DIWC (405(g)) |
| | | 863 | DIWW (405(g)) |
| **Prisoner Prisoner Petitions** | | 864 | SSID Title XVI |
| 510 | Motions to Vacate Sentence | 865 | RSI (405(g)) |
| 530 | Habeas Corpus | | |
| 540 | Mandamus & Other | | |
| | | **Total** | **14 Categories** |

**8 MO. DISCOVERY PERIOD**

| | | | | | |
|---|---|---|---|---|---|
| Antitrust | | Securities/Commodities | | Patent | |
| 410 | Antitrust | 850 | Securities/Commodities Exchange | 830 | Patent |
| | | | | **Total** | **3 Categories** |

## 4 MO. DISCOVERY PERIOD

**Contract**

110 Insurance
120 Manne
130 Miller Act
140 Negotiable Instrument
151 Medicare Act
160 Stockholders Suits
190 Other Contract
195 Contract Product Liability

**Real Property**

210 Land Condemnation
220 Foreclosure
230 Rent Lease & Ejectment
240 Torts to Land
245 Tort Product Liability
290 All Other Real Property

**TORTS:**

**Personal Injury**

310 Airplane
315 Airplane Product Liability
320 Assault, Libel Slander
330 Federal Employers Liability
340 Manne
345 Manne Product Liability
350 Motor Vehicle
355 Motor Vehicle Product Liability
360 Other Personal Injury

**Personal Injury**

362 Personal Injury-Med. Malpractice
365 Personal Injury-Product Liability
368 Asbestos Personal Injury Product Liability

**Personal Property**

370 Other Fraud
380 Other Personal Property Damage
385 Property Damage Product

**Property Rights**

820 Copyrights
840 Trademark

**Truth-in-Lending**

371 Truth-in-Lending

**Civil Rights**

441 Voting
442 Employment
443 Housing/ Accommodations
444 Welfare
440 Other Civil Rights

**Deportation**

460 Deportation

**Prisoner Civil Rights**

550 Civil Rights

**Selective Service**

810 Selective Service

**Federal Tax Suits**

870 Taxes (U.S.Plaintiff or Defendant
871 IRS-Third Party 26 USC 7609

**Forfeiture/Penalty**

610 Agriculture
620 Food & Drug
630 Liquor Laws
640 R.R. & Truck
650 Airline Regs.
660 Occupational Safety/ Health
690 Other

**Labor**

710 Fair Labor Standards Act
720 Labor/Mgmt. Relations
730 Labor/Mgmt. Reporting & Disclosure Act
740 Railway Labor Act
790 Other Labor Litigation
791 Empl.Ret.Inc. Security Act

**Other Statutes**

400 State Reapportionment
430 Banks and Banking
450 Commerce/ICC Rates, etc.
470 Racketeer Influenced and Corrupt Organizations
875 Customer Challenge 12 USC 3410
891 Agricultural Acts
892 Economic Stabilization Act
893 Environmental Matters
894 Energy Allocation Act
895 Freedom of Information Act
900 Appeal of Fee Determination Under Equal Access to Justice
950 Constitutionality of State Statutes
890 Other Statutory Actions

**<Total - 68 Categories>**

## II. Judicial Officer's Active Control of Pretrial Process (28 USC §473(a)(2)).

### A. Judicial Officer's Continuing Involvement.

As the discussion in Part I, above, explained, the Northern District of Georgia already has in place procedures addressing the concern stated in 28 USC §473(a)(2)(A) that the judicial officer remain involved in " . . . assessing and planning the progress of a case." In addition to the preliminary statement and scheduling order, LR235-2(a) requires that lead attorneys for the litigants hold two settlement conferences, one conference 30 days after issue is joined and the second conference 10 days after the close of discovery. The attorneys must report the results of both settlement conferences to the Court. As part of this Plan, the Court is amending LR235-2(a)(1) to incorporate the settlement certificate which reports the results of the initial settlement conference, which may be either an in-person or telephone conference, into the Preliminary Statement. Consolidation of these two required filings will streamline procedures for the bar and will still guarantee the judge an opportunity to assess the likelihood of an early settlement in the case. The filing date for the consolidated preliminary statement is being advanced to 30 days after issue is joined, the former filing time for the settlement certificate.

The Court is also amending as part of this Plan, LR235-2(b) to require that a person with authority to bind the plaintiff or plaintiffs and defendant or

defendants, respectively, be present in person at the post-discovery settlement conference. The Court believes this amendment, which implements the litigation technique suggested in 28 USC §473(b)(5), will promote an increase in the number of civil cases settling before trial.

For cases not settled or otherwise terminated within 30 days after the close of discovery, LR235-4(b) sets forth detailed instructions for preparation of a consolidated pretrial order. Local Rule 235-4(b) establishes, for example, that no further motions will be permitted; requires each party to file a separate witness list (that includes expert, impeachment and rebuttal witnesses) and an exhibit list; and requires each party to designate the portions of depositions which will be introduced at trial. These provisions help avoid controversies which might otherwise delay commencement of the trial of the case.

**B. Early Trial Date.**

The Court adopts Recommendation 4 of the Advisory Group (Advisory Report, pp. 46, 49, 52-3, and 58) insofar as it recommends amending the scheduling order in LR235-3(10) by addition of a provision whereby the judge can set a date for trial of the case, specific as to month or otherwise, to occur within 18 months after the complaint was filed. The scheduling order will also be amended to provide an alternative provision that it is impossible to schedule trial

of the case due to demands of the judge's criminal calendar. Each judge will adopt his or her own procedures for setting a more specific trial date after the pretrial order is filed or for entry of an order stating that, for reasons recognized in the Civil Justice Reform Act of 1990, trial of the case within 18 months of filing is not possible.

The Court is also adopting as part of this Plan, a provision to be added to the preliminary statement whereby the parties can indicate their willingness to consent to having the case tried by a magistrate judge.

Local Rule 235-3(12) as amended shall provide:

A scheduling order signed by the judge imposing time limits for the adding of parties, the amending of pleadings, the filing of motions, and the completion of discovery, and, if appropriate, addressing settlement initiatives and referral of the case to trial before a magistrate judge, in accordance with the form submitted by counsel, except as the judge may specifically state otherwise, and setting the case for trial during a specific month or otherwise prior to 18 months after filing of the case or indicating that a trial date cannot be set due to the demands of the judge's criminal calendar.

The uniform scheduling order incorporated into the Local Rules in Appendix B, Form II, as amended, shall provide:

Upon review of the information contained in the Joint Preliminary Statement and Scheduling Order form completed and filed by the parties, the Court orders that the time limits for adding parties, amending the pleadings, filing motions, completing discovery, and discussing settlement are as stated in the above completed form, except as herein modified: _____

_____

_____

and, this case having been initiated by complaint filed on _____, 19___, is hereby (___) upon the consent of all parties, referred to a magistrate judge for trial OR is set for trial during the month of _____ 19 _____

OR as follows _____

OR

because of the (___) number or (___) complexity of pending criminal cases, a trial date for this case cannot be set.

IT IS SO ORDERED, this ____ day of _____, 19___.

_____
UNITED STATES DISTRICT JUDGE

**C. Reasonable and Timely Discovery.**

As noted by the Advisory Group (Advisory Report, pp. 58-9), the provisions of Local Rule 225 of the Northern District of Georgia address the goals set forth

in this portion of the Civil Justice Reform Act of 1990. As explained in Part I of this Plan, the Court is amending LR225-1(a) to include three discovery tracks. The Court is also amending subsection (b) of LR225-1 regarding extensions of the discovery period.

As amended LR225-1(b) shall provide:

(b) Adjustments to Discovery Period. The Court may, in its discretion, shorten the time for discovery. Motions requesting extensions of time for discovery must be made prior to expiration of the existing discovery period and will be granted only in those cases where the circumstances on which the request is based did not exist or the attorney or attorneys could not have anticipated that such circumstances would arise at the time the preliminary statement was filed.

The Court is also continuing to review its case management timetable as it relates to the discovery period and other litigation landmarks in the case. If, upon further review, the Court finds that it is possible to improve the progression of cases through this Court, supplemental amendments to this Plan amending the Local Rules of Practice will be submitted.

**D. Motion Deadlines.**

Local Rule 235-3(6) (amended LR 235-3(7)) and the corresponding form included in Appendix B to the Court's local rules require that motions other than

those for which a specific filing time is set in either the Federal Rules of Civil Procedure or the Local Rules of Practice for this Court be filed within 100 days after the complaint is filed. This provision together with the specific filing times set forth in LR220, NDGa and the provisions regarding publication of undecided motions contained in Section 476 of the Civil Justice Reform Act of 1990 assure adequate implementation of this litigation principle calling for filing and dispositional guidelines for motions.

The Court is aware that proposed amendments to FRCivP16 are now posted for public comment and that the proposed amendments affect the issuance date of the scheduling order. The Court will continue to monitor the amendments to the Federal Rules of Civil Procedure and adjust its local rules as may be appropriate.

## III. Management of Complex Cases (28 USC §473(a)(3)).

The procedures contained in this Court's local rules that are described and adopted in Parts I and II of this Plan implement the principles and guidelines of litigation management contained in 28 USC §473(a)(3). The Court has made these procedures applicable to all civil cases filed in this Court, except for those cases included in the 0-months discovery track. See LR235-1, as amended, in Appendix A to this Plan.

The Court also adopts Recommendation 1 of the Advisory Group that a place be provided on Form JS44, the civil cover sheet, for the plaintiff to indicate that the case being filed is a complex case. A copy of Form JS44 showing this modification is incorporated in this Plan as Appendix B. Features which may make a case complex are:

(1) Unusually large number of parties

(2) Unusually large number of claims or defenses

(3) Factual issues are exceptionally complex

(4) Greater than normal volume of evidence

(5) Extended discovery period is needed

(6) Problems locating or preserving evidence

(7) Pending parallel investigations or action by government

(8) Multiple use of experts

(9) Need for discovery outside United States boundaries

(10) Existence of highly technical issues and proof

As the Advisory Group noted, Advisory Report, pp. 48, 51, and 60, this new procedure is intended to alert the judge that special oversight and management of the case might be appropriate. In order to assure that the judge receives such notification, the Court will also incorporate the complex case, features-checklist into the preliminary statement. Adoption of these procedures

will also help direct both the Court and the parties' attention to consideration of whether it might be helpful to utilize a special master in this case.

## IV. Voluntary Exchange of Discovery (28 USC §473(a)(4)).

In order to achieve implementation of the litigation principle and guideline stated in 28 USC §473(a)(4), the Court hereby adopts Recommendation 2 of the Advisory Group that the Court adopt a new local rule requiring all plaintiffs and all defendants to answer mandatory interrogatories developed by the Court and that those answers be filed with the Court and served upon each adverse party. The proposed new local rule is included in Appendix C to this Plan.

The Court has modified the Advisory Group's recommended rule in two respects: (1) all defendants' responses to mandatory interrogatories are required to be filed within 15 days after the defendant files an answer to the complaint and (2) Item 9 of both plaintiff's and defendant's interrogatories regarding election of trial by jury or trial by judge has been deleted. Under this Court's existent procedures, the parties are provided an opportunity to indicate their desire for a jury trial in the pretrial order.

## V. Limiting Motions to Compel (28 USC §473(a)(5)).

The Court already imposes on counsel, in LR225-4(a) " . . . the duty to make a good faith effort to resolve by agreement among themselves any disputes

which arise in the course of discovery." Satisfaction of this duty is a prerequisite to the filing of a motion to compel and a certificate stating that counsel attempted to resolve the controversy, signed by the moving party, must be attached to the motion to compel." LR225-4(b). A copy of Local Rule 225 is included in Appendix A to this Plan. No further action by the Court is needed with regard to the litigation guideline stated in 28 USC §473(a)(5).

## VI. Alternative Dispute Resolution Programs (28 USC §473(a)(6)).

The Northern District of Georgia has not heretofore offered on a routine basis programs or procedures alternative to trial for terminating civil cases in this Court. However, as a pilot court under the Civil Justice Reform Act of 1990, the Court is required to make alternative dispute resolution (ADR) programs available to litigants.

The Advisory Group was fully informed of the Court's special status and focused its efforts not on whether analysis of this Court's docket together with comments received from the legal community demonstrated a need for ADR programs, but rather on determining what objectives were appropriate for ADR programs implemented in the Court. See Advisory Report, p. 61. Based on its study, the Advisory Group recommended two ADR programs to the Court which

would be implemented through two new local rules. See Advisory Report, pp. 47; 49-50; 53-55; 61-71.

**A. Court-Annexed Arbitration Program.**

Recommendation 5 of the Advisory Group calls for the Court to create " . . . a mandatory[3] court-annexed arbitration program which is nonbinding and which during the first three years of operation will be implemented in the Atlanta Division only, according to a specified selection process . . . ."

The Court adopts the Advisory Group's proposal with the modifications listed below:

1. The court-annexed arbitration program will be implemented on a pilot basis district-wide, and not just in the Atlanta Division.

2. Attorneys meeting the program's eligibility standards, and not this Court's magistrate judges, will serve as arbitrators.

3. The eligibility requirements for arbitrators proposed by the Advisory Group are modified to delete the practice requirement in this Court. As amended, to qualify to serve as an arbitrator, a private attorney "(1) must have been admitted to the practice of law by the State Bar of Georgia for a period of not

[3]The judge may sua sponte or upon motion by a party remove a case from the arbitration program because of (a) complex legal issues (b) dominance of legal issues or (c) for other good cause. See Item 6, Advisory Group ADR proposal, Advisory Report, p. 67.

less than ten years; (2) must have committed, for not less than five years, 50 percent or more of his or her professional time to matters involving litigation or be a former judge of a United States District Court or of a United States Court of Appeals or be a former judge in a Georgia state court of general jurisdiction or be a former judge on a Georgia appellate court; and (3) must have satisfactorily completed a training program for arbitrators approved by the judges of the Northern District of Georgia."

4. Upon the consent of all parties in the case, a case selected for participation in the Court's court-annexed mandatory arbitration program may instead be referred to mediation before a mediator, selected in accordance with the procedures prescribed in the Advisory Group Report for the selection of arbitrators, from the Court's approved list of mediators.

5. Item 17 of the Advisory Group's proposal is rejected in so far as it recommends "... the hiring of an administrator during the term of the pilot ADR program."

The Advisory Group also recommended, in Item 16 of its court-annexed arbitration proposal " . . . that the Court apply to the United States government for funds to compensate private attorneys who serve as arbitrators during the term of the pilot ADR program." Allocation of such funds is essential to this Court's creation of an alternative dispute resolution program. While the Court is

willing to participate in a pilot ADR program, it is not willing to impose the costs of such participation on the litigants, especially in the absence of statistical evidence showing substantial litigation delays in this Court.

On September 5, 1991, after the Advisory Group had conducted an extensive study of arbitration materials supplied by the Federal Judicial Center and others and formulated its recommendations, this Court was notified that the general counsel for the Administrative Office of the United States Courts has interpreted Section 103 of the Civil Justice Reform Act of 1990 as limiting court-annexed arbitration programs to those districts already designated for use of arbitration. The Advisory Group noted this ruling on page 71 of its Report and included a copy of the general counsel's memorandum as Attachment 8 to the Advisory Group Report. Explanation for the limitation is not given, leaving the Court to wonder whether the omission was intended by Congress in order to encourage experimentation with forms of ADR other than arbitration or whether it was an unintended legislative oversight.

In the event the Judicial Conference of the United States determines that additional statutory approval is in fact needed in order for the Northern District of Georgia to establish a mandatory, non-binding court-annexed arbitration program, the Court requests that such authority be obtained.

Among mediation, minitrial, and summary jury trial, the ADR devices specifically mentioned in 28 USC §473(a)(6), this Court has the greatest interest in mediation, especially with regard to its complex, Type II civil caseload. However, after deliberate inquiry and study, the Court has concluded that the Advisory Group was correct in its assessment that the Court, its bar, and its litigants will best be served by first gaining experience with a more familiar adjudicatory type of ADR program such as arbitration before turning to a less familiar negotiative procedure such as mediation. The Court also believes that more extensive training is needed to prepare attorneys to become good mediators as opposed to training attorneys to become good arbitrators. It is the Court's opinion that prior experience with arbitration will enable the Court to develop a stronger pool of mediators in the event the Court determines, at a later time, that a mediation program should be established.

**B. Reference to Special Masters.**

Recommendation 6 of the Advisory Group encourages the Court to adopt a new local rule " . . . authorizing the parties in complex litigation to agree jointly upon the selection, appointment, and payment of a special master . . . [who] would be authorized under a specially tailored Order of Reference to control and manage discovery, conduct a trial of the action, and enter Findings of Fact and Conclusions of Law dispositive of the case and render a decision which would be

binding on the parties. The rulings and findings of a Special Master would be reviewable by the Court and could be reversed if clearly erroneous. Otherwise, the Findings of Fact and Conclusions of Law of the Special Master would be entered as the final judgment in the case." Advisory Report, pp. 47-8. See also Advisory Report, pp. 49-50; 54-5; 71.

The Court adopts this proposal and recommends that it be broadened: (1) to acknowledge the judge's authority, in compliance with the provisions of FRCivP 53, to initiate appointment of a special master in complex cases; and (2) to develop a list of persons qualified to serve as a special master from which the parties could select a special master to be paid out of government funds appropriated for this pilot program. Special masters chosen by the parties from outside this list would be paid by the parties pursuant to prior agreement between them.

New local rules implementing the special master procedure and the court-annexed arbitration program will be prepared when the Court receives confirmation of the presence of funding and statutory authority to support these two new programs.

## VII. Voluntary Litigation Techniques (28 USC §473(b)).

Several specific amendments to the Local Rules of Practice of this Court have been incorporated into this Plan in order to implement litigation techniques

(1) and (5) of 28 USC §473(b). Technique (1) requires counsel to jointly present a discovery-case management plan at the initial pretrial conference. The Court in Part I(A) of this Plan discussed an amendment to former Item 7 of the Court's Preliminary Statement which is responsive to Technique (1). Amended Item 8 provides counsel an opportunity to set forth a specific discovery management plan for the case, if needed. A companion amendment to LR225-1(b) will generally preclude attempts to restructure discovery later in the life of the case. LR225-1(b), as amended, provides in relevant part that the discovery period will be amended only in those cases " . . . where the circumstances on which the request is based did not exist or the attorney or attorneys could not have anticipated that such circumstances would arise at the time the preliminary statement was filed." Technique (5) regarding the attendance of " . . . representatives of the parties with authority to bind [the parties] in settlement discussions . . . " is implemented by the Court's amendment to LR235-2(b), discussed in Part II(a) of this Plan.

No action is needed by the Court with regard to litigation Technique (2) " . . . that each party be represented at each pretrial conference by an attorney who has authority to bind the party . . . ." The local rules of this Court, in LR235(2)(3)(4), already require the participation of lead counsel in two Court-required settlement conferences and require counsel to sign the Joint Preliminary

Statement and Scheduling Order and joint Pretrial Order, which are required filings in all cases except those assigned to the 0-months discovery tracks. The general practice in this Court is for the preliminary statement and pretrial order to be filed without a prior conference with the judge. The pretrial order (see LR235-4(a)) does, however, provide a convenient mechanism for counsel to request a conference with the judge, whenever they believe a conference is needed.

The Court agrees with the Advisory Group (Advisory Report, p. 72) that Technique (3) of Section 473(b) requiring the signatures of the attorney and the party on all requests for extensions of deadlines for completion of discovery or for postponement of the trial is not the best procedure for curbing delays in civil litigation. The Court will defer implementation of any new procedures under Technique (3) until the Court has had sufficient time to assess the success of the new amendments to the Court's local rules relating to the timing of discovery and the timing of other key stages in litigation in reducing delay in civil litigation.

The Court has also determined that it is not in the best interest of the Court to implement an early neutral evaluation program (Technique 4) at this time. As the Advisory Group observed (Advisory Report, p. 73), this Court already gives emphasis to settlement by its " . . . local rules which make obligatory an early settlement evaluation of the case" by the attorneys. The Court also believes it is appropriate to concentrate its efforts at this time on the new

alternative dispute resolution programs, discussed in Part VI of this Plan, in order to assure that these programs are well-structured and effective.

## VIII. Proposed Changes in Legislation.

The Court adopts, without modification and for the reasons stated by the Advisory Group, the second and third statutory changes recommended by the Advisory Group in Recommendation 7 of the Advisory Group Report, pp. 48, 50, and 55. These legislative proposals, which the Court directs to the attention of the Judicial Conference of the United States, Committee on Rules of Practice and Procedure, are as follows:

- that the jurisdictional amount for diversity cases be increased to $75,000 from the current level of $50,000; and
- that Rules 8 and 12 of the Federal Rules of Civil Procedure be amended to eliminate the provision providing for tolling the time for answering a complaint in cases where a motion to dismiss is filed in lieu of an answer.

The Court does not adopt the recommendation of the Advisory Group that the diversity jurisdiction statute be amended to abolish diversity jurisdiction for resident plaintiffs.

## IX. Resource Needs.

In order to implement the procedures and programs outlined in this Plan and in order to facilitate greater utilization of the Magistrate Judges Division[4] to reduce delay in litigation and unnecessary expenses which may occur in the conduct of civil litigation in this Court, the Court anticipates that it will be necessary to hire additional staff in a variety of positions. As part of this Plan, the Court extends authorization to the appropriate Court official to seek funding for staff positions as needed to implement programs and procedures developed to implement this Civil Justice Expense and Delay Reduction Plan.

In addition, the Court requests that funds allocated under the Civil Justice Reform Act of 1990 be made available to this Court to provide reasonable compensation for attorneys who qualify and serve as arbitrators, mediators, or special masters under this Court's alternative dispute resolution programs during the term of these pilot programs.

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[4]See discussion in Advisory Report, Part II(A)(3) (pp. 20-23) for a discussion of the services performed by the Magistrate Judges Division of this Court. In the civil area, the magistrate judges' contributions are particularly vital in the trial of Title VII cases (which participation is expected to continue under the new Civil Rights Act of 1991), and it is hoped that the Court's new amendment, LR235-3(10), to the Preliminary Statement will encourage more litigants to consent to having their cases tried by a magistrate judge.

## X. Implementation.

The effective date for this Plan is December 31, 1991, and the Court is hereby designating July 1, 1992, as the effective date for local rules adopted and amended pursuant to this Plan.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

New and Amended

LOCAL RULES OF PRACTICE

Appendix A — Page

(Proposed by Advisory Group)

NOTE: Shaded text is deleted; **bold and underscored text is new and proposed.**

## RULE 201

## ADDITIONAL PLEADING REQUIREMENTS

**201-1. Certificate of Interested Persons.**

**201-2. Mandatory Interrogatories for All Parties.**

The parties to all civil actions are required to answer the following mandatory standard interrogatories, except that appeals to this Court of administrative determinations which are presented to this Court for review on a completed record are exempted from the requirements of this rule.

The Court has prepared a form Answers to Mandatory Interrogatories which counsel shall be required to use. A copy of the form is included **as Form I** in Appendix B and copies of the form may be obtained by counsel at the Public Filing Counter in each division. No modifications or deletions to the form shall be made without the prior permission of the Court. All interrogatories must be answered fully in writing in accordance with Federal Rules of Civil Procedure 11 and 33.

If there is more than one plaintiff or more than one defendant in the action, each plaintiff and each defendant must answer each interrogatory separately unless the answer to the interrogatory is the same for all plaintiffs or all defendants.

The answers shall identify the individual attorneys representing a party by full name, law firm and mailing address, and telephone number.

**(a) Interrogatories to be Answered by All Plaintiffs.** Each plaintiff's Answers to Mandatory Interrogatories shall be submitted to the Clerk of Court for filing at the time the complaint is filed. A copy of the Answers shall be served with the summons and complaint upon each defendant. In removed cases, the plaintiff shall file and serve answers 40 days after receiving notice of removal.

The mandatory interrogatories to be answered by all plaintiffs are as follows:

(1) State precisely the classification of the cause of action being filed, a brief factual outline of the case including plaintiff's contentions as to what defendant did or failed to do, and a succinct statement of the legal issues in the case.

(2) Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative caselaw which plaintiff contends are applicable to this action.

(3) List by style and civil action number any pending or previously adjudicated related cases.

(4) Identify by full name, address, and telephone number all witnesses whom plaintiff will or may have present at trial, including expert (any witness who might express an opinion under Federal Rules of Evidence, Rule 702) and impeachment witnesses. For each lay witness, include a description of the issue(s) to which the witness' testimony will relate. For each expert witness, state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.

(5) If you contend that you have been injured or damaged, provide a separate statement for each item of damage claimed containing a brief description of the item of damage, the dollar amount claimed, and citation to the statute, rule, regulation or caselaw authorizing a recovery for that particular item of damage.

(6) Describe or produce for inspection (see FRCivP 33(c)) each document in your custody or control or of which you have knowledge which you contend supports your claims as stated in your answer to interrogatory number 5 above.

(7) Outline in detail the discovery you expect to pursue in this case. The standard period for discovery in this Court is four months (see Local Rule 225-1). If you anticipate that you will need additional discovery time, state specifically the reasons why discovery cannot be completed within four months the time permitted under the discovery track to which the case is assigned.

(8) State the full name, address, and telephone number of all persons or legal entities who have a subrogation interest in the cause of action set forth in plaintiff's cause of action and state the basis and extent of such interest.

**(b) Interrogatories to Be Answered by All Defendants.** Each defendant's Answers to Mandatory Interrogatories shall be submitted to the Clerk of Court for filing no later than 45 15 days after the date on which defendant's answer to the complaint was filed. In cases in which the government is defendant, the government's Answers to Mandatory Interrogatories shall be filed 15 days after the date on which its answer to the complaint was filed. Defendant shall simultaneously serve a copy of his interrogatory answers on each plaintiff. In removed cases, defendant shall file and serve answers within 30 days following receipt of plaintiff's interrogatory answers.

The mandatory interrogatories to be answered by all defendants are as follows:

(1) If the defendant is improperly identified, state defendant's correct identification and state whether defendant will accept service

of an amended summons and complaint reflecting the information furnished in the answer to this interrogatory.

(2) Provide the names of any parties whom defendant contends are necessary parties to this action, but who have not been named by plaintiff. If defendant contends that there is a question of misjoinder of parties, provide the reasons for defendant's contention.

(3) Provide a detailed factual basis for the defense or defenses asserted by defendant in the responsive pleading.

(4) Describe or produce for inspection (see FRCivP 33(c)) each document in your custody or control or of which you have knowledge which you contend supports your defense or defenses as stated in your answer to interrogatory number 3 above.

(5) Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative caselaw which defendant contends are applicable to this action.

(6) If defendant contends that some other person or legal entity is, in whole or in part, liable to the plaintiff or defendant in this matter, state the full name, address, and telephone number of such person or entity and describe in detail the basis of such liability.

(7) Provide the names and addresses of all insurance companies that have liability insurance coverage relating to the matter alleged in the complaint, the number or numbers of such policies, the amount of liability coverage provided in each policy, and the named insured on each policy.

(8) Identify by full name, address, and telephone number all witnesses whom defendant will or may have present at trial, including expert (any witness who might express an opinion under Federal Rules of Evidence, Rule 702) and impeachment witnesses. For each lay witness, include a description of the issue(s) to which the witness' testimony will relate. For each expert witness, state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.

**(c) Plaintiff's Amended Answers.** The plaintiff shall have 11 days after service of defendant's Answers to Mandatory Interrogatories to file and serve any amended answers made necessary by the information received from defendant's Answers.

**(d) Additional Procedures.**

(1) If, after the exercise of reasonable diligence, a party is unable to answer fully a mandatory interrogatory, the party is required to provide the information currently known or available to him and to explain why the party cannot answer fully, to state what must be done in order for the party to be in a position to answer fully, and to estimate when the party will be in that position.

If the opposing party or parties disagrees with the answering party's explanation, the party opponent shall respond in writing within 11 days after service of the party's interrogatory answer.

(2) All parties have a continuing duty to amend seasonably a prior interrogatory response if the party obtains information which establishes that the party's prior response was either incorrect or although correct when made, no longer true or complete. The parties' introduction of documents and use of witnesses at trial will be governed by the provisions of the pretrial order.

NOTE: Shaded text is deleted; **bold and underscored text is new and proposed.**

## RULE 220

## MOTION PRACTICE

**220-1. Filing of Motions and Responses; Hearings.**

**(a) Filing of Motions.**

(1) Every motion presented to the clerk for filing shall be accompanied by a memorandum of law citing supporting authorities and, when allegations of fact are relied upon, by supporting affidavits. Motions not in conformance with this rule shall not be accepted for filing.

(2) Specific filing times for some motions are set forth below. All other motions must be filed WITHIN 100 DAYS after the complaint is filed, unless the filing party has obtained prior permission of the Court to file later.

**(b) Response to Motion.**

(1) Each party opposing a motion shall serve his response, responsive memorandum, affidavits, and any other responsive material not later than ten days after service of the motion, except that in cases of motion for summary judgment the time shall be twenty days after the service of the motion. Failure to file a response shall indicate that there is no opposition to the motion.

(2) Although a reply by the movant shall be permitted, it shall not be necessary for the movant to file a reply as a routine practice. When the movant deems it necessary to file a reply brief, that brief shall be served not later than ten days after service of the responsive pleading. No further briefs may be filed by the parties, except upon order of the Court.

**(c) Hearings.**

All motions shall be decided by the Court without oral hearing unless a hearing is ordered by the Court.

**220-2. Motions Pending on Removal.**

When an action or proceeding is removed to this Court with pending motions on which briefs have not been submitted, the moving party shall serve a memorandum in support of his motion within ~~ten~~ **10** days after removal. Each party opposing the motion shall reply in compliance with ~~Rule~~ **LR** 220-1(b).

**220-3. Emergency Motions.**

Upon written motion and for good cause shown, the Court may waive the time requirements of this rule and grant an immediate hearing on any

matter requiring such expedited procedure. The motion shall set forth in detail the necessity for such expedited procedure.

**220-4. Motions to Compel Discovery.**

Motions to compel are subject to the provisions set forth in this rule. Further instructions on motions to compel are contained in Rule LR 225-4.

**220-5. Motions for Summary Judgment.**

(a) **Generally.** Motions for summary judgment shall be filed in accordance with the provisions of Rule 56 of the Federal Rules of Civil Procedure, except that no date for a hearing shall be set until after the party opposing the motion has had twenty days after service of the motion in which to file his responsive pleading. In accordance with Rule LR 220-1(b)(2), the parties shall not be permitted to file supplemental briefs and materials, with the exception of a reply by the movant, except upon order of the Court.

(b) **Form of Motion.**

(1) The movant for summary judgment shall attach to his motion a separate and concise statement of the material facts to which he contends there is no genuine issue to be tried. Each material fact shall be numbered separately. Statements in the form of issues or legal conclusions (rather than material facts) will not be considered by the Court. Affidavits and the introductory portions of briefs do not constitute a statement of material facts.

(2) The respondent to a motion for summary judgment shall attach to his response a separate and concise statement of material facts, numbered separately, to which he contends there exists a genuine issue to be tried. Response should be made to each of the movant's numbered material facts. All material facts contained in the moving party's statement which are not specifically controverted by the respondent in his statement shall be deemed to have been admitted. The response that a party has insufficient knowledge to admit or deny is not an acceptable response unless the party has complied with the provisions of F.R.Civ.P. FRCivP. 56(f).

(3) All documents and other record materials relied upon by a party moving for or opposing a motion for summary judgment shall be clearly identified for the Court. Where appropriate, dates and specific page numbers shall be given.

(c) Time. Motions for summary judgment shall be filed as soon as possible, but, unless otherwise ordered by the Court, not later than 20 days after the close of discovery, as established by the expiration of the original or extended discovery period or by written notice of all counsel, filed with the Court, indicating that discovery was completed earlier.

## 220-6. Motions for Reconsideration.

Motions for reconsideration shall not be filed as a matter of routine practice. Whenever a party or attorney for a party believes it is absolutely necessary to file a motion to reconsider an order or judgment, the motion shall be filed with the Clerk of Court within 10 days after entry of the order or judgment. Responses shall be filed not later than ~~ten~~ 10 days after service of the motion. Parties and attorneys for the parties shall not file motions to reconsider the Court's denial of a prior motion for reconsideration.

## 220-7. Oral Rulings on Motions.

Unless the Court directs otherwise, all orders, including findings of fact and conclusions of law, orally announced by the judge in Court shall be prepared in writing by the attorney for the prevailing party. The original and one copy of the order shall be submitted to the judge within seven days from the date of pronouncement. Copies shall also be provided each party.

NOTE: Shaded text is deleted; bold and underscored text is new and proposed.

## RULE 225
## DISCOVERY PRACTICE

### 225-1. Discovery Period

(a) Length. All discovery proceedings shall be initiated promptly so that discovery may be initiated and completed within four months after the last answer to the complaint is filed or should have been filed, unless the Court has either shortened the time for discovery or has for cause shown extended the time for discovery. Discovery must be initiated sufficiently early in the discovery period to permit the filing of answers and responses thereto within the time limitations of the existing discovery period.

(a) Length. Discovery proceedings shall be initiated promptly after the last answer to the complaint is filed or should have been filed so that discovery may be initiated and completed within the period designated in the discovery track to which the case is assigned, unless the Court has either shortened the time for discovery or has for cause shown extended the time for discovery. Discovery must be initiated sufficiently early in the discovery period to permit the filing of answers and responses thereto within the time limitations of the existing discovery period.

The discovery tracks established in this Court are (1) 0-months discovery period; (2) 4-months discovery period; and (3) 8-months discovery period. A chart showing the assignment of cases to a discovery track by filing category is contained in Appendix F.

(b) Extensions of Time. Requests for extensions of time for discovery must be filed with the Court prior to the expiration of the original or previously extended discovery period. A request for extension shall include the date issue was joined, the date on which the time limit in question is to expire, the dates of any and all previous extensions of time, and a description of the additional discovery which is needed.

(b) Adjustments to Discovery Period. The Court may, in its discretion, shorten the time for discovery. Motions requesting extensions of time for discovery must be made prior to expiration of the existing discovery period and will be granted only in those cases where the circumstances on which the request is based did not exist or the attorney or attorneys could not have anticipated that such circumstances would arise at the time the preliminary statement was filed.

(c) Expert Witnesses. Any party who desires to use the testimony of an expert witness shall designate the expert sufficiently early in the discovery period to permit the opposing party the opportunity to depose the expert and, if desired, to name its own expert witness sufficiently in advance of the close of

discovery so that a similar discovery deposition of the second expert might also be conducted prior to the close of discovery.

Any party who does not comply with the provisions of the foregoing paragraph shall not be permitted to offer the testimony of the party's expert, unless expressly authorized by Court order based upon a showing that the failure to comply was justified.

**225-2. Limitations on Discovery.**

**(a) Interrogatories.** A party shall not at any one time or cumulatively serve more than 40 interrogatories upon any other party. Each subdivision of one numbered interrogatory shall be construed as a separate interrogatory. If counsel for a party believes that more than 40 interrogatories are necessary, he shall consult with opposing counsel promptly and attempt to reach a written stipulation as to a reasonable number of additional interrogatories. In the event a written stipulation cannot be agreed upon, the party seeking to submit additional interrogatories shall file a motion with the Court showing the necessity for relief.

**(b) Depositions.** Unless otherwise ordered by the Court, no deposition of any party or witness shall last more than six (6) hours.

**(c) Discovery from Expert Witnesses.** Upon reasonable notice and an undertaking to pay the expert's fees and expenses in connection with the deposition, an expert witness whom a party expects to call at trial may be deposed by any party in the action, unless the party who retained the expert notifies the party seeking discovery in writing of his objection. If a written objection is made, the party seeking the expert's deposition must comply with the motion procedure set forth in Rule 26(b)(4)(A)(ii) of the Federal Rules of Civil Procedure. This procedure applies also to requests to conduct discovery beyond interrogatories by means other than deposition.

**225-3. Service and Filing of Discovery Material.**

**(a) Filing Not Generally Required.** Interrogatories, requests for documents, requests for admission, and answers and responses thereto shall be served upon other counsel or parties, but they shall not be routinely filed with the Court. The party responsible for service of the discovery material shall, however, file a certificate with the clerk indicating the date of service. He shall also retain the original discovery material and become its custodian. The original of all depositions upon oral examination shall be retained by the party taking the deposition.

**(b) Selective Filing Required for Motions, Trial, and Appeal.**

(1) The custodial party shall file with the clerk at the time of use at trial or with the filing of a motion those portions of depositions, interrogatories, requests for documents, requests for admission and answers or responses thereto which are used at trial or which are necessary to the motion.

(2) Where discovery materials not previously in the record are needed for appeal purposes, the Court, upon application, may order or counsel may stipulate in writing that the necessary materials be filed with the clerk.

(c) **Depositions Under Seal.** At the request of any attorney of record in the case, the clerk may open the original copy of any deposition which has been filed with the clerk in accordance with this rule. The clerk shall note on the deposition the date and time at which the deposition was opened. The deposition shall not be removed from the clerk's office.

**225-4. Motions to Compel.**

(a) **Duty to Confer.** Counsel shall have the duty to make a good faith effort to resolve by agreement among themselves any disputes which arise in the course of discovery.

(b) **Form of Motion.** When despite their good faith efforts, counsel are unable to resolve discovery issues without intervention of the Court, counsel may file a motion to compel discovery in accordance with Rules 33, 34, 36, and 37 of the Federal Rules of Civil Procedure. The moving party shall attach to his motion a statement certifying that he and opposing counsel conferred in an attempt to resolve the controversy by agreement but that they were unable to do so. He shall also state the issues which remain to be resolved.

A motion to compel shall:

(1) Quote verbatim each interrogatory, request for admission, or request for production to which objection is taken;

(2) State the specific objections;

(3) State the grounds assigned for the objection (if not apparent from the objections); and

(4) Cite authority and include a discussion of the reasons assigned as supporting the motion.

The motion shall be arranged so that the objection, grounds, authority, and supporting reasons follow the verbatim statement of each specific interrogatory, request for admission, or request for production to which an objection is raised.

(c) **Response to Motion.** Response to a motion to compel discovery shall be served within ~~ten~~ 10 days after service of the motion.

(d) **Time Limitation for Filing.** Unless otherwise ordered by the Court, motions to compel discovery must be filed within the time remaining prior to the close of discovery or, if longer, within 10 days after service of the discovery responses upon which the objection is based. The close of discovery is established by the expiration of the original or extended discovery period or by written notice of all counsel, filed with the Court, indicating that discovery was completed earlier.

NOTE: Shaded text is deleted; bold and underscored text is new and proposed.

## RULE 235

## PRETRIAL AND SETTING FOR TRIAL

**235-1. Purpose/Applicability.**

These rules are established to facilitate the prompt and expeditious movement of cases and to assist the Court. Certain provisions of Rule LR 235-3 have been adopted to implement the scheduling requirements of Rule 16 of the Federal Rules of Civil Procedure and the Civil Justice Reform Act of 1990. Local Rule 235 applies to cases assigned to the 4-months and 8-months discovery tracks.

**235-2. Settlement Conferences and Certificates.**

**(a) Conference During Prior to Discovery.**

(1) Within 30 days after issue is joined Prior to the filing of the preliminary statement (see LR 235-3), lead counsel for all parties are required to confer in a good faith effort to settle the case. Counsel shall report the results of said conference in item 9 of the preliminary statement.

(2) Plaintiff's counsel shall be responsible for arranging the date of the conference. The Court encourages counsel to meet in person, but telephone conferences are permitted.

(3) Counsel are required to inform the parties promptly of all offers of settlement proposed at conference.

(3) Within 10 days after the conference counsel shall file a joint statement certifying that the conference was held, whether the conference was in person or by telephone, the date of the meeting, the names of all participants, and that any offers of settlement were communicate to the clients. The certificate shall also indicate whether counsel intend to schedule additional settlement conferences prior to the close of discovery; counsel's opinions as to the prospects of settlement of the case; specific problems, if any, which are hindering settlement; and whether counsel desire a conference with the Court regarding settlement problems. A form settlement certificate prepared by the Court and which counsel shall be required to use is contained in Appendix B.

**(b) Conference After Discovery.**

(1) For cases not settled earlier, counsel for plaintiff shall contact counsel for all other parties to arrange an *in person* conference among lead counsel and a person possessing settlement authority for each plaintiff and each defendant to discuss, in good faith, settlement of the case. The conference must

be held no later than 10 days after the close of discovery. All offers of settlement must be communicated promptly to the parties.

(2) If this personal conference does not produce a settlement, the status of settlement negotiations must be reported in item 26 of the pretrial order.

**(c) Cases Not Subject to Rule.** Pro se litigants and their opposing counsel and cases involving administrative appeals are exempt from the requirements of this rule.

**235-3. Preliminary Statement and Scheduling Order.**

For all cases not settled at the initial settlement conference (Rule LR 235-2(a)), counsel are required to complete the joint preliminary statement and scheduling order form prepared by the Court and attached to these rules as Appendix B. If counsel cannot agree on the answers to specific items, the contentions of each party must be shown on the form. The completed form must be filed 10 30 days after the initial settlement conference issue is joined in the case. Pro se litigants and opposing counsel shall be permitted to file separate statements.

Appeals to this Court of administrative determinations which are presented to the Court for review on a completed record shall be excepted from the requirements of this rule.

The preliminary statement and scheduling order shall include:

(1) A classification of the type of action, a brief factual outline of the case, and a succinct statement of the issues in the case, and a listing of any pending or previously adjudicated related cases.

(2) An indication of whether the case is complex because of the existence of one or more of the following features:

- (a) Unusually large number of parties
- (b) Unusually large number of claims or defenses
- (c) Factual issues are exceptionally complex
- (d) Greater than normal volume of evidence
- (e) Extended discovery period is needed
- (f) Problems locating or preserving evidence
- (g) Pending parallel investigations or action by government
- (h) Multiple use of experts
- (i) Need for discovery outside United States boundaries
- (j) Existence of highly technical issues and proof

(3) The individual names of lead counsel for each party.

(4) Any objections, supported by authority, to this Court's jurisdiction.

(5) The names of necessary parties to this action who have not been joined and any questions of misjoinder of parties and inaccuracies and omissions regarding the names of parties.

(6) A description of any amendments to the pleadings which are anticipated and a time-table for the filing of amendments.

(7) Information regarding timing limitations for filing motions in this case.

(8) A listing of any pending or previously adjudicated related cases.

(8) Directions regarding the length of the discovery period and a space for the attorneys the procedure for requesting extensions to indicate reasons, if any, why additional discovery time is needed.

(9) A report regarding the settlement conference required by LR 235-2(a), including the date; whether the conference was in person or by telephone; the names of lead counsel and other persons who attended; the likelihood of settlement of the case following the conference; dates for future settlement conferences between counsel; and specific problems hindering settlement of the case.

(10) A statement as to whether the parties are willing to consent to trial before a magistrate judge.

(11) The signatures of lead counsel for each party consenting to the submission of the completed preliminary statement and scheduling order form.

(12) A scheduling order signed by the judge imposing time limits for the adding of parties, the amending of pleadings, the filing of motions, and the completion of discovery, and, if appropriate, addressing settlement initiatives and referral of the case to trial before a magistrate judge, in accordance with the completed form submitted by counsel, except as the judge may specifically state otherwise, and setting the case for trial during a specific month or otherwise prior to 18 months after filing of the case or indicating that a trial date cannot be set due to the demands of the judge's criminal calendar.

**235-4. Consolidated Pretrial Order.**

**(a) Procedure.** The parties shall prepare and sign a proposed consolidated pretrial order to be filed with the clerk no later than 30 days after the close of discovery, as defined in Rule LR 225-1. It shall be the responsibility of plaintiff's counsel to contact defense counsel to arrange a date for the conference. If there are issues on which counsel for the parties cannot agree, the areas of disagreement must be shown in the proposed pretrial order. In those cases in which there is a pending motion for summary judgment, the Court may in its discretion and upon request extend the time for filing the proposed pretrial order.

If counsel desire a pretrial conference, a request must be indicated on the proposed pretrial order immediately below the civil action number. Counsel shall be notified if the judge determines that a pretrial conference is necessary. A case shall be presumed ready for trial on the first calendar after the pretrial order is filed unless another time is specifically set by the Court.

**(b) Content.** Each proposed consolidated pretrial order shall contain the information outlined below. No modifications or deletions shall be made without the prior permission of the Court. A form Pretrial Order prepared by the Court and which counsel shall be required to use is contained in Appendix B. Copies of the form Pretrial Order containing adequate space for response are available at the Public Filing Counter in each division.

The proposed order shall contain: ...

(26) A statement of the date on which lead counsel **and persons possessing settlement authority to bind the parties** met personally to discuss settlement, whether the Court has discussed settlement with counsel, and the likelihood of settlement of the case at this time.

....

NOTE: Shaded text is deleted; **bold and underscored text is new and proposed.**

## RULE 250

## SETTLEMENTS

**250-1. Settlement Conferences.**

Refer to Rule LR 235-2 for a statement of this Court's requirements regarding a settlement conferences.

**250-2. Taxation of Costs in Late-Settling Cases.**

**(a) Settlement Before Verdict.** Whenever a civil action scheduled for jury trial is settled or otherwise disposed of in advance of the actual trial, then, except for good cause shown, juror costs for one day shall be assessed equally against the parties and their counsel or otherwise assessed or relieved as directed by the Court. Juror costs include attendance fees, per diem, mileage, and parking. No juror costs will be assessed if notice of settlement or other disposition of the case is given to both the courtroom deputy of the judge to whom the case is assigned and to the Jury Section of the clerk's office one full business day prior to the scheduled trial date.

**(b) Settlement Before Verdict.** Except upon a showing of good cause, the Court shall assess the juror costs equally against the parties and their counsel whenever a civil action proceeding as a jury trial is settled at trial in advance of the verdict. The judge may, in his discretion, direct that the juror costs be relieved or that they be assessed other then equally among the parties and their counsel.

**N E W - P R O P O S E D**

**DOCUMENTS REQUIRED**
**TO BE FILED**
**IN CIVIL CASES PENDING**
**IN THE**
**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF GEORGIA**

## I. ANSWERS TO MANDATORY INTERROGATORIES

**A. Plaintiff's Answers to Mandatory Interrogatories.**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
_____ DIVISION

vs. : Civil Action No. _____

**PLAINTIFF'S ANSWERS TO MANDATORY INTERROGATORIES**

(1) State precisely the classification of the cause of action being filed, a brief factual outline of the case including plaintiff's contentions as to what defendant did or failed to do, and a succinct statement of the legal issues in the case. _____

_____

_____

_____

_____

_____

_____

(2) Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative caselaw which plaintiff contends are applicable to this action. _____

_____

_____

_____

(3) List by style and civil action number any pending or previously adjudicated related cases. _____

_____

_____

(4) Identify by full name, address, and telephone number all witnesses whom plaintiff will or may have present at trial, including expert (any witness who might express an opinion under Federal Rules of Evidence, Rule 702) and impeachment witnesses. For each lay witness, include a description of the issue(s) to which the witness' testimony will relate. For each expert witness, state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion. (Attach witness list to Answers to Mandatory Interrogatories as Attachment A.)

(5) If you contend that you have been injured or damaged, provide a separate statement for each item of damage claimed containing a brief description of the item of damage, the dollar amount claimed, and citation to the statute, rule, regulation or caselaw authorizing a recovery for that particular item of damage. _____

_____

_____

_____

_____

(6) Describe or produce for inspection (see FRCivP 33(c)) each document in your custody or control or of which you have knowledge which you contend

supports your claims as stated in your answer to interrogatory number 5 above. (Attach document list to Answers to Mandatory Interrogatories as Attachment B.)

(7) Outline in detail the discovery you expect to pursue in this case. The standard period for discovery in this Court is four months (see Local Rule 225-1). If you anticipate that you will need additional discovery time, state specifically the reasons why discovery cannot be completed within four months **the time permitted under the discovery track to which the case is assigned**. _____

_____

_____

_____

_____

(8) State the full name, address, and telephone number of all persons or legal entities who have a subrogation interest in the cause of action set forth in plaintiff's cause of action and state the basis and extent of such interest.

_____

_____

**B. Defendant's Answers to Mandatory Interrogatories.**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
_____ DIVISION

vs. : Civil Action No. _____

**DEFENDANT'S ANSWERS TO MANDATORY INTERROGATORIES**

(1) If the defendant is improperly identified, state defendant's correct identification and state whether defendant will accept service of an amended

summons and complaint reflecting the information furnished in the answer to this interrogatory. _____

_____

_____

(2) Provide the names of any parties whom defendant contends are necessary parties to this action, but who have not been named by plaintiff. If defendant contends that there is a question of misjoinder of parties, provide the reasons for defendant's contention. _____

_____

_____

(3) Provide a detailed factual basis for the defense or defenses asserted by defendant in the responsive pleading. _____

_____

_____

_____

_____

_____

(4) Describe or produce for inspection (see FRCivP 33(c)) each document in your custody or control or of which you have knowledge which you contend supports your defense or defenses as stated in your answer to interrogatory number 3 above. (Attach document list to Answers to Mandatory Interrogatories as Attachment A.)

(5) Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative caselaw which defendant contends are applicable to this action. _____

_____

_____

_____

(6) If defendant contends that some other person or legal entity is, in whole or in part, liable to the plaintiff or defendant in this matter, state the full name, address, and telephone number of such person or entity and describe in detail the basis of such liability. _____

_____

_____

_____

(7) Provide the names and addresses of all insurance companies that have liability insurance coverage relating to the matter alleged in the complaint, the number or numbers of such policies, the amount of liability coverage provided in each policy, and the named insured on each policy. _____

_____

_____

_____

(8) Identify by full name, address, and telephone number all witnesses whom defendant will or may have present at trial, including expert (any witness who might express an opinion under Federal Rules of Evidence, Rule 702) and impeachment witnesses. For each lay witness, include a description of the issue(s) to which the witness' testimony will relate. For each expert witness, state the subject matter in which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion. (Attach witness list to Answers to Mandatory Interrogatories as Attachment B.)

NOTE: Shaded text is deleted; **bold and underscored text is new and proposed.**

## II. JOINT PRELIMINARY STATEMENT AND SCHEDULING ORDER

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
_____ DIVISION

vs. : Civil Action No. _____

JOINT PRELIMINARY STATEMENT AND
SCHEDULING ORDER

**1. Description of Case:**

(a) Describe briefly the nature of this action:

_____

_____.

(b) Summarize, in the space provided below, the facts of this case. The summary should not be argumentative nor recite evidence.

_____

_____

_____

_____

_____

_____

_____

_____.

(c) The legal issues to be tried are as follows: _____

_____

_____

_____

_____.

(d) The cases listed below (include both style and action number) are:

(1) Pending Related Cases: _____

_____

(2) Previously Adjudicated Related Cases: _____

_____

2. This case is complex because it possesses one or more of the features listed below (please check):

_____ (1) Unusually large number of parties
_____ (2) Unusually large number of claims or defenses
_____ (3) Factual issues are exceptionally complex
_____ (4) Greater than normal volume of evidence
_____ (5) Extended discovery period is needed
_____ (6) Problems locating or preserving evidence
_____ (7) Pending parallel investigations or action by government
_____ (8) Multiple use of experts
_____ (9) Need for discovery outside United States boundaries
_____ (10) Existence of highly technical issues and proof

3. Counsel:

The following individually-named attorneys are hereby designated as lead counsel for the parties:

Plaintiff: _____

_____

Defendant: _____

_____

**4. Jurisdiction:**

Is there any question regarding this Court's jurisdiction?

(_____) Yes (_____) No

If "yes", please attach a statement, not to exceed one (1) page, explaining the jurisdictional objection. When there are multiple claims, identify and discuss separately the claim(s) on which the objection is based. Each objection should be supported by authority.

**5. Parties to This Action:**

(a) The following persons are necessary parties who have not been joined:

_____

_____.

(b) The following persons are improperly joined as parties:

_____

_____.

(c) The names of the following parties are either inaccurately stated or necessary portions of their names are omitted: _____

_____

_____.

(d) The parties shall have a continuing duty to inform the Court of any contentions regarding unnamed parties necessary to this action or any contentions regarding misjoinder of parties or errors in the statement of a party's name.

6. **Amendments to the Pleadings:**

Amended and supplemental pleadings must be filed in accordance with the time limitations and other provisions of Rule 15, Federal Rules of Civil Procedure. Further instructions regarding amendments are contained in Local Rule 200.

(a) List separately any amendments to the pleadings which the parties anticipate will be necessary: _____

_____

_____.

(b) Amendments to the pleadings submitted LATER THAN 100 DAYS after the complaint preliminary statement is filed will not be accepted for filing, unless otherwise permitted by law.

7. **Filing Times For Motions:**

All motions should be filed as soon as possible. The local rules set specific filing limits for some motions. These times are restated below.

All other motions must be filed WITHIN 100 DAYS after the complaint is filed, unless the filing party has obtained prior permission of the Court to file later. Local Rule 220-1(a)(2).

(a) *Motions to Compel*: before the close of discovery or within the extension period allowed in some instances. Local Rules 220-4; 225-4(d).

(b) *Summary Judgment Motions*: within 20 days after the close of discovery, unless otherwise permitted by Court order. Local Rule 220-5.

(c) *Other Limited Motions*: Refer to Local Rules 220-2, 220-3, and 220-6, respectively, regarding filing limitations for motions pending on removal, emergency motions, and motions for reconsideration.

8. **Discovery Period:**

(a) As stated in Local Rule 225-1(a), discovery in this Court must be initiated and all responses completed within four months after the last answer to the complaint is filed or should have been filed, unless the judge has set another limit.

(b) Requests for extensions of discovery must be made in accordance with Local Rule 225-1(b).

The discovery period commences when the last answer to the complaint is filed or should have been filed. As stated in LR225-1(a), responses to initiated discovery must be completed before expiration of the assigned discovery period.

Cases in this Court are assigned to one of the following three discovery tracks: (a) 0-months discovery period, (b) 4-months discovery period, and (c) 8-months

discovery period. A chart showing the assignment of cases to a discovery track by filing category is contained in Appendix F. The track to which a particular case is assigned is also stamped on the complaint and service copies of the complaint at the time of filing.

If the parties anticipate that additional time beyond that allowed by the assigned discovery track will be needed to complete discovery, please state those reasons in detail below: _____

_____

_____

_____

_____.

8. **Related Cases:**

The cases listed below (include both type and action number) are:

(a) Pending Related Cases: _____

_____

(b) Previously Adjudicated Related Cases: _____

_____

9. Settlement Potential.

(a) The following persons participated in a settlement conference (___) in person (___) by telephone on _____, 19____.

For Plaintiff: Lead Counsel: _____

Other Participants: _____

_____

For Defendant: Lead Counsel: _____

Other Participants: _____

_____

(b) All parties were promptly informed of all offers of settlement and following discussion by all counsel, it appears that there is now:

(_____) A possibility of settlement before discovery.
(_____) A possibility of settlement after discovery.
(_____) A possibility of settlement, but a conference with the judge is needed.
(_____) No possibility of settlement.

(c) Counsel (____) do or (____) do not intend to hold additional settlement conferences among themselves prior to the close of discovery. The proposed date of the next settlement conference is _____, 19_____.

(d) The following specific problems have created a hindrance to settlement of this case. _____

_____

_____.

10. Trial by Magistrate Judge:

The parties (____) do or (____) do not consent to having this case tried before a magistrate judge of this Court.

Completed form submitted this _____ day of _____, 19____.

_____ _____
Counsel for Plaintiff Counsel for Defendant

* * * * * * * * * * * * * *

Upon review of the information contained in the Joint Preliminary Statement and Scheduling Order form completed and filed by the parties, the Court orders that the time limits for adding parties, amending the pleadings, filing motions, completing discovery, and discussing settlement are as stated in the above completed form, except as herein modified: _____

_____

_____

_____

and, this case having been initiated by complaint filed on _____, 19____, is hereby (___) upon the consent of all parties, referred to a magistrate judge for trial OR is set for trial during the month of _____ 19____ OR as follows _____

OR

because of the (___) number or (___) complexity of pending criminal cases, a trial date for this case cannot be set.

IT IS SO ORDERED, this _____ day of _____, 19____.

_____
UNITED STATES DISTRICT JUDGE

## III. PRETRIAL ORDER

**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF GEORGIA**
**_____ DIVISION**

| | | |
|---|---|---|
| Style of Case | : | Civil Action No. _____ |
| | : | Conference (is) (is not) requested. |

**PRETRIAL ORDER**

....

26.

Pursuant to LR 235-2, NDGa, lead counsel **and persons possessing settlement authority to bind the parties** met in person on _____, 19____, to discuss in good faith the possibility of settlement of this case. The Court (____) has or (____) has not discussed settlement of this case with counsel. It appears at this time that there is:

(____) A good possibility of settlement.
(____) Some possibility of settlement.
(____) Little possibility of settlement.
(____) No possibility of settlement.

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44

### Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follow:

I. **(a) Plaintiffs - Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

**(b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved).

**(c) Attorneys.** Enter firm name, address, telephone number, and attorney of record. If there are several attorneys list them on an attachment noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Civ.P. which requires that jurisdiction be shown in pleadings. Place an "X" in one of the boxes. If there is more than on basis of jurisdiction, precedence is given in the order shown below.

**United States Plaintiff.** (1) Jurisdiction is based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

**United States Defendant.** (2) When the plaintiff, if suing the United States, its officers or agencies, place an X in this box.

**Federal Question.** (3) This refers to suits under 28 U.S.C. 1331 where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, and act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence and box 1 or 2 should be marked.

**Diversity of Citizenship.** (4) This refers to suits under 28 U.S.C. 1332 where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below.) (Federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. If case is a complex case, as defined on reverse side of Form JS-44, so indicate in space provided.

**V. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of description in Section IV above is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**VI. Origin.** Place an "X" in one of the seven boxes.

**Original Proceedings.** (1) Cases which originate in the United States district courts.

**Removed from State Court.** (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C. Section 1441. When the petition for removal is granted, check this box.

**Remanded from Appellate Court.** (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

**Reinstated or Reopened.** (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

**Transferred from Another District.** (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

**Multidistrict Litigation.** (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked do not check (5) above.

**Appeal to District Judge from Magistrate Judge's Judgment.** (7) Check this box for an appeal from a magistrate Judge's decision.

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Civ.P.

**Demand.** In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

**Jury Demand.** Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS-44 is used to reference relating pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

(12/91)

JS 44
(Rev 07/66)

# CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I (a) PLAINTIFFS

## DEFENDANTS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

## II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

(For Diversity Cases Only)

| | PTF | DEF | | PTF | DEF |
|---|---|---|---|---|---|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business in This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated *and* Principal Place of Business in Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

## IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

-IF COMPLEX, LIST REASON(S) _____
(See instructions on reverse)

## V. NATURE OF SUIT (PLACE AN x IN ONE BOX ONLY)

**CONTRACT**
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability

**REAL PROPERTY**
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

**TORTS**

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury—Med. Malpractice
- ☐ 365 Personal Injury—Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

**CIVIL RIGHTS**
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 440 Other Civil Rights

**PRISONER PETITIONS**
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 Habeas Corpus
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights

**FORFEITURE/PENALTY**
- ☐ 610 Agriculture
- ☐ 620 Food & Drug
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

**LABOR**
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt. Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

**BANKRUPTCY**
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

**PROPERTY RIGHTS**
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

**SOCIAL SECURITY**
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC (405(g))
- ☐ 863 DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

**FEDERAL TAX SUITS**
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

**OTHER STATUTES**
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes
- ☐ 890 Other Statutory Actions

## VI. ORIGIN (PLACE AN x IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another distinct (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION ☐ UNDER F.R.C.P. 23

DEMAND $

*Check YES only if demanded in complaint:*
JURY DEMAND: ☐ YES ☐ NO

## VIII. RELATED CASE(S) (See instructions on reverse):

IF ANY JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD



UNITED STATES DISTRICT COURT

IV. COMPLEX CASE(S) IF ANY

This case is complex because it possesses one or more of the following:

( ) 1. Unusually large number of parties.

( ) 2. Unusually large number of claims or defenses.

( ) 3. Factual issues are exceptionally complex.

( ) 4. Greater than normal volume of evidence.

( ) 5. Extended discovery period is needed.

( ) 6. Problems locating or preserving evidence.

( ) 7. Pending parallel investigations or actions by government.

( ) 8. Multiple use of experts.

( ) 9. Need for discovery outside United States boundaries.

( ) 10. Existence of highly technical issues and proof.

VIII. RELATED CASE(S) IF ANY JUDGE_____DOCKET NO._____

Civil Cases are deemed related if the pending case involves:

( ) 1. Property included in an earlier numbered pending suit.

( ) 2. Same issue of fact or arises out of the same event or transaction included in an earlier numbered pending suit.

( ) 3. Validity or infringement of the same patent, copyright or trademark included in an earlier numbered pending suit.

( ) 4. Appeals arising out of the same bankruptcy case and any case related thereto which have been decided by the same bankruptcy judge.

( ) 5. Repetitive cases filed by pro se litigants.

(Proposed by Advisory Group)

NOTE: Shaded text is deleted; bold and underscored text is new and proposed.

## RULE 201

## ADDITIONAL PLEADING REQUIREMENTS

**201-1. Certificate of Interested Persons.**

**201-2. Mandatory Interrogatories for All Parties.**

The parties to all civil actions are required to answer the following mandatory standard interrogatories, except that appeals to this Court of administrative determinations which are presented to this Court for review on a completed record are exempted from the requirements of this rule.

The Court has prepared a form Answers to Mandatory Interrogatories which counsel shall be required to use. A copy of the form is included as Form I in Appendix B and copies of the form may be obtained by counsel at the Public Filing Counter in each division. No modifications or deletions to the form shall be made without the prior permission of the Court. All interrogatories must be answered fully in writing in accordance with Federal Rules of Civil Procedure 11 and 33.

If there is more than one plaintiff or more than one defendant in the action, each plaintiff and each defendant must answer each interrogatory separately unless the answer to the interrogatory is the same for all plaintiffs or all defendants.

The answers shall identify the individual attorneys representing a party by full name, law firm and mailing address, and telephone number.

**(a) Interrogatories to be Answered by All Plaintiffs.** Each plaintiff's Answers to Mandatory Interrogatories shall be submitted to the Clerk of Court for filing at the time the complaint is filed. A copy of the Answers shall be served with the summons and complaint upon each defendant. In removed cases, the plaintiff shall file and serve answers 40 days after receiving notice of removal.

The mandatory interrogatories to be answered by all plaintiffs are as follows:

(1) State precisely the classification of the cause of action being filed, a brief factual outline of the case including plaintiff's contentions as to what defendant did or failed to do, and a succinct statement of the legal issues in the case.

(2) Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative caselaw which plaintiff contends are applicable to this action.

(3) List by style and civil action number any pending or previously adjudicated related cases.

(4) Identify by full name, address, and telephone number all witnesses whom plaintiff will or may have present at trial, including expert (any witness who might express an opinion under Federal Rules of Evidence, Rule 702) and impeachment witnesses. For each lay witness, include a description of the issue(s) to which the witness' testimony will relate. For each expert witness, state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.

(5) If you contend that you have been injured or damaged, provide a separate statement for each item of damage claimed containing a brief description of the item of damage, the dollar amount claimed, and citation to the statute, rule, regulation or caselaw authorizing a recovery for that particular item of damage.

(6) Describe or produce for inspection (see FRCivP 33(c)) each document in your custody or control or of which you have knowledge which you contend supports your claims as stated in your answer to interrogatory number 5 above.

(7) Outline in detail the discovery you expect to pursue in this case. The standard period for discovery in this Court is four months (see Local Rule 225-1). If you anticipate that you will need additional discovery time, state specifically the reasons why discovery cannot be completed within four months the time permitted under the discovery track to which the case is assigned.

(8) State the full name, address, and telephone number of all persons or legal entities who have a subrogation interest in the cause of action set forth in plaintiff's cause of action and state the basis and extent of such interest.

**(b) Interrogatories to Be Answered by All Defendants.** Each defendant's Answers to Mandatory Interrogatories shall be submitted to the Clerk of Court for filing no later than ~~45~~ 15 days after the date on which defendant's answer to the complaint was filed. In cases in which the government is defendant, the government's Answers to Mandatory Interrogatories shall be filed 15 days after the date on which its answer to the complaint was filed. Defendant shall simultaneously serve a copy of his interrogatory answers on each plaintiff. In removed cases, defendant shall file and serve answers within 30 days following receipt of plaintiff's interrogatory answers.

The mandatory interrogatories to be answered by all defendants are as follows:

(1) If the defendant is improperly identified, state defendant's correct identification and state whether defendant will accept service

of an amended summons and complaint reflecting the information furnished in the answer to this interrogatory.

(2) Provide the names of any parties whom defendant contends are necessary parties to this action, but who have not been named by plaintiff. If defendant contends that there is a question of misjoinder of parties, provide the reasons for defendant's contention.

(3) Provide a detailed factual basis for the defense or defenses asserted by defendant in the responsive pleading.

(4) Describe or produce for inspection (see FRCivP 33(c)) each document in your custody or control or of which you have knowledge which you contend supports your defense or defenses as stated in your answer to interrogatory number 3 above.

(5) Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative caselaw which defendant contends are applicable to this action.

(6) If defendant contends that some other person or legal entity is, in whole or in part, liable to the plaintiff or defendant in this matter, state the full name, address, and telephone number of such person or entity and describe in detail the basis of such liability.

(7) Provide the names and addresses of all insurance companies that have liability insurance coverage relating to the matter alleged in the complaint, the number or numbers of such policies, the amount of liability coverage provided in each policy, and the named insured on each policy.

(8) Identify by full name, address, and telephone number all witnesses whom defendant will or may have present at trial, including expert (any witness who might express an opinion under Federal Rules of Evidence, Rule 702) and impeachment witnesses. For each lay witness, include a description of the issue(s) to which the witness' testimony will relate. For each expert witness, state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.

**(c) Plaintiff's Amended Answers.** The plaintiff shall have 11 days after service of defendant's Answers to Mandatory Interrogatories to file and serve any amended answers made necessary by the information received from defendant's Answers.

**(d) Additional Procedures.**

(1) If, after the exercise of reasonable diligence, a party is unable to answer fully a mandatory interrogatory, the party is required to provide the information currently known or available to him and to explain why the party cannot answer fully, to state what must be done in order for the party to be in a position to answer fully, and to estimate when the party will be in that position.

If the opposing party or parties disagrees with the answering party's explanation, the party opponent shall respond in writing within 11 days after service of the party's interrogatory answer.

(2) All parties have a continuing duty to amend seasonably a prior interrogatory response if the party obtains information which establishes that the party's prior response was either incorrect or although correct when made, no longer true or complete. The parties' introduction of documents and use of witnesses at trial will be governed by the provisions of the pretrial order.

N E W - P R O P O S E D

# DOCUMENTS REQUIRED TO BE FILED IN CIVIL CASES PENDING IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF GEORGIA

## I. ANSWERS TO MANDATORY INTERROGATORIES

### A. Plaintiff's Answers to Mandatory Interrogatories.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
_____ DIVISION

vs. : Civil Action No. _____

## PLAINTIFF'S ANSWERS TO MANDATORY INTERROGATORIES

(1) State precisely the classification of the cause of action being filed, a brief factual outline of the case including plaintiff's contentions as to what defendant did or failed to do, and a succinct statement of the legal issues in the case. _____

_____

_____

_____

_____

_____

_____

(2) Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative caselaw which plaintiff contends are applicable to this action. _____

_____

_____

_____

(3) List by style and civil action number any pending or previously adjudicated related cases. _____

_____

_____

(4) Identify by full name, address, and telephone number all witnesses whom plaintiff will or may have present at trial, including expert (any witness who might express an opinion under Federal Rules of Evidence, Rule 702) and impeachment witnesses. For each lay witness, include a description of the issue(s) to which the witness' testimony will relate. For each expert witness, state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion. (Attach witness list to Answers to Mandatory Interrogatories as Attachment A.)

(5) If you contend that you have been injured or damaged, provide a separate statement for each item of damage claimed containing a brief description of the item of damage, the dollar amount claimed, and citation to the statute, rule, regulation or caselaw authorizing a recovery for that particular item of damage. _____

_____

_____

_____

_____

(6) Describe or produce for inspection (see FRCivP 33(c)) each document in your custody or control or of which you have knowledge which you contend

supports your claims as stated in your answer to interrogatory number 5 above. (Attach document list to Answers to Mandatory Interrogatories as Attachment B.)

(7) Outline in detail the discovery you expect to pursue in this case. The standard period for discovery in this Court is four months (see Local Rule 225-1). If you anticipate that you will need additional discovery time, state specifically the reasons why discovery cannot be completed within four months the time permitted under the discovery track to which the case is assigned. _____

_____

_____

_____

_____

(8) State the full name, address, and telephone number of all persons or legal entities who have a subrogation interest in the cause of action set forth in plaintiff's cause of action and state the basis and extent of such interest.

_____

_____

**B. Defendant's Answers to Mandatory Interrogatories.**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
_____ DIVISION

vs. : Civil Action No. _____

**DEFENDANT'S ANSWERS TO MANDATORY INTERROGATORIES**

(1) If the defendant is improperly identified, state defendant's correct identification and state whether defendant will accept service of an amended

summons and complaint reflecting the information furnished in the answer to this interrogatory. _____

_____

_____

(2) Provide the names of any parties whom defendant contends are necessary parties to this action, but who have not been named by plaintiff. If defendant contends that there is a question of misjoinder of parties, provide the reasons for defendant's contention. _____

_____

_____

(3) Provide a detailed factual basis for the defense or defenses asserted by defendant in the responsive pleading. _____

_____

_____

_____

_____

_____

(4) Describe or produce for inspection (see FRCivP 33(c)) each document in your custody or control or of which you have knowledge which you contend supports your defense or defenses as stated in your answer to interrogatory number 3 above. (Attach document list to Answers to Mandatory Interrogatories as Attachment A.)

(5) Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative caselaw which defendant contends are applicable to this action. _____

_____

_____

_____

(6) If defendant contends that some other person or legal entity is, in whole or in part, liable to the plaintiff or defendant in this matter, state the full name, address, and telephone number of such person or entity and describe in detail the basis of such liability. _____

_____

_____

_____

(7) Provide the names and addresses of all insurance companies that have liability insurance coverage relating to the matter alleged in the complaint, the number or numbers of such policies, the amount of liability coverage provided in each policy, and the named insured on each policy. _____

_____

_____

_____

(8) Identify by full name, address, and telephone number all witnesses whom defendant will or may have present at trial, including expert (any witness who might express an opinion under Federal Rules of Evidence, Rule 702) and impeachment witnesses. For each lay witness, include a description of the issue(s) to which the witness' testimony will relate. For each expert witness, state the subject matter in which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion. (Attach witness list to Answers to Mandatory Interrogatories as Attachment B.)