

FILED
DISTRICT COURT OF GUAM

AUG - 1 2005

MARY L.M. MORAN
CLERK OF COURT

DISTRICT COURT OF GUAM
TERRITORY OF GUAM

In re:

GENERAL ORDER
No. 05-00 11

LOCAL RULES OF PRACTICE
REVISIONS TO GR 3.1 AND LR 16.1,
AND ADOPTION OF GR 3.2.

Due to the District Court of Guam's conversion to the Case Management/Electronic Case Filing System ("CM/ECF"), the Court hereby revises the local general rules of the Local Rules of Practice for the District Court of Guam as follows:

GR 3.1 Stipulations.

(a) Stipulations will be recognized as binding only when made in open court or filed in the cause of action. Unless otherwise permitted by Federal law or rule, written stipulations shall not be effective unless approved by separate Court Order.

(b) A proposed Court Order setting forth the nature of the stipulation shall be submitted in separate form to the Court. The Order shall be captioned "Order re: Stipulation" and shall contain the words "the Stipulation filed on [fill in date of filing] is Hereby Approved and So Ordered" with a blank line for the date and a designated signature line for the Judge.

(c) Any stipulation which extends time or provides for a continuance shall contain the reason for the change of date.

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GR 3.2 Submission of Proposed Orders.

(a) All proposed Orders shall be submitted separately. They shall not be integrated as part of the related moving documents. Orders shall be captioned "Order re: [e.g., Substitution of Counsel, Ex Parte Application, Award of Attorneys' Fees, etc.]"

(b) Orders requiring only the Judge's signature may be submitted in electronic form, in a standard word processing format, such as WordPerfect® or Word®, which may be edited as necessary by the judge. The proposed order or other document may be submitted to chambers on a computer diskette or by e-mail to chambers@gud.uscourts.gov.

LR 16.1 Scheduling Order and Discovery Plan.

(a) **Applicability.** Unless otherwise ordered, this Rule is applicable to all civil cases and bankruptcy adversary cases pending in this district, except for the cases exempted by Local Rule 16.1(b). Counsel are expected to meet and confer as required by Rule 26(f) of the Federal Rules of Civil Procedure and Local Rule 16.2, prior to commencing discovery, unless the Court orders otherwise. Counsel are expected to complete pretrial discovery in the shortest time reasonably possible with the least expense.

(b) **Exempt Actions.** The following actions are exempt from compliance with these procedures unless otherwise directed by the Court:

(1) Any action filed by or on behalf of a convicted prisoner, a pretrial detainee, or any other person confined in a territorial or federal institution challenging the validity or the conditions of confinement.

(2) Any action challenging the validity of a criminal conviction or sentence.

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1 (c) **Meeting of Parties, Scheduling Order, Discovery Plan, Status Report and**
2 **Scheduling Conference.**

3 (1) **Meeting of Parties.** All parties are directed to confer in accordance with
4 Local Rule 16.2 and Rule 26(f) of the Federal Rules of Civil Procedure and lodge
5 with the Court with a proposed Scheduling Order and separate proposed Discovery
6 Plan within seventy-five (75) days of the date of the filing of the complaint. The
7 proposed Scheduling Order shall be in substantially the same form as **Attachment**
8 **“LR 16.1A”**¹ and the Discovery Plan shall be drafted in accordance with subsection
9 (e) hereof.
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11 (2) **Initial Communication of Parties.** It is the responsibility of the
12 plaintiff's counsel to initiate the communication necessary to prepare the Scheduling
13 Order. In the event the plaintiff is proceeding *pro se*, the defendant shall contact the
14 plaintiff and arrange a meeting to comply with this Rule in the appropriate time
15 frame.
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17 (3) **Time Limits - Scheduling Notice, Scheduling Order, Scheduling**
18 **Conference and Discovery Plan.** The clerk of Court will schedule a Scheduling
19 Conference to be held within ninety (90) days after the complaint is filed. The clerk
20 shall mail, no later than forty (40) days after the complaint has been filed, a
21 Scheduling Notice in the form set forth in **Attachment “LR 16.1B”** setting forth:
22

23 (A) the date on which the proposed Scheduling Order and
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25 ¹Attachment 16.1A has been revised to omit language setting forth hearing dates for
26 anticipated discovery and/or dispositive motions. It is unnecessary for parties to include such
27 dates in the Scheduling Order. If the parties file discovery and/or dispositive motions, the
28 parties shall follow the motion practice by submitting their Agreement of Hearing Date. *See*
attachment hereto.

1 proposed Discovery Plan shall be lodged by the parties, and

2
3 (B) the date for the Scheduling Conference.

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5 It is the responsibility of plaintiff's counsel or the *pro se* plaintiff to serve a copy of
6 the clerk's Scheduling Notice on all parties who may appear after the clerk's
7 issuance of the Notice of Scheduling Conference.

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9 (4) **Contents of the Scheduling Order.**

10 The Scheduling Order to be submitted by the parties shall contain the following
11 information:

12
13 (A) The nature of the case;

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15 (B) The posture of the case including hearings, motions and
16 discovery;

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18 (C) (If the parties agree to the contents of the Discovery Plan as
19 referred to in Local Rule 16.2 infra): the adoption and incorporation
20 of the attached Discovery Plan as part of the Scheduling Order, **OR**

21
22 (D) (If the parties do not agree to the contents of the Discovery
23 Plan referred to in Local Rule 16.2 infra):

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25 (i) any modifications of the time for disclosures under
26 Rules 26(a) and 26(e)(1) of the Federal Rules of Civil
27 Procedure;

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(ii) a description and schedule of all pretrial discovery each party intends to initiate prior to the close of discovery;

(E) The following dates:

(i) a proposed date limiting the joinder of parties and claims;

(ii) a proposed date limiting the filing of motions to amend the pleadings;

(iii) the assigned date for the required Scheduling Conference;

(iv) discovery cut-off dates (defined as the last day to file responses to discovery);

(v) discovery and dispositive motion cut-off dates (the last day to file motions);

(vi) pretrial conference dates;

(vii) dates for filing the trial brief, exhibit lists, witness lists, and the joint pretrial order as required by Local Rule 16.7, and

(viii) the trial date, and in no event shall the trial date be

1 later than eighteen (18) months after the complaint is filed,
2 unless the Court otherwise allows;

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4 **(F)** The prospects for settlement;

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6 **(G)** Whether the trial is jury or nonjury;

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8 **(H)** The number of trial days required;

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10 **(I)** The names of trial counsel;

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12 **(J)** Whether the parties desire to submit the case early in the
13 litigation to a settlement conference;

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15 **(K)** Suggestions for shortening trial; and

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17 **(L)** Any other issues affecting the status or management of the
18 case.

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20 **(d) Contents of Discovery Plan.** The proposed Discovery Plan shall contain a
21 description, including a schedule, of all pretrial discovery each party intends to initiate prior
22 to the close of discovery, including time and length of discoverable events. The plan shall
23 conform to the obligation to limit discovery under Rule 26(b) of the Federal Rules of Civil
24 Procedure and shall address all matters set forth in Rule 26(f) of the Federal Rules of Civil
25 Procedure.

26
27 **(e) NonAppearance of Defendants - Status Report.** If on the due date of the proposed
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1 Scheduling Order and proposed Discovery Plan, the defendant(s) or respondent(s) have
2 been served and no answer or appearance has been filed, or if service on the defendants has
3 not been effected, counsel for the plaintiff or the *pro se* plaintiff shall file an independent
4 status report setting forth the above information required in subsections A through L to the
5 extent possible. The report shall also include the current status of the non-appearing parties.
6

7 In addition, if service has not been effected, plaintiff's counsel or the *pro se* plaintiff
8 must set forth the reasons why service has not been effected and what attempts at service
9 have been made.
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11 These revisions shall go in effect August 1, 2005.

12 SO ORDERED this 1st day of August, 2005.
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15 CONSUELO B. MARSHAL*
16 UNITED STATES DISTRICT JUDGE
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27 *The Honorable Consuelo B. Marshal, United States Chief District Judge for Central District of
28 California, by designation.

DISTRICT COURT OF GUAM

TERRITORY OF GUAM

Civil Case No. _____

(TITLE OF CASE)

SCHEDULING ORDER

Pursuant to Rules 16 and 26(f) of the Federal Rules of Civil Procedure, and Local Rule 16.1

for the District Court of Guam, the parties hereby submit the following Scheduling Order:

1. The nature of the case is as follows:

2. The posture of the case is as follows:

a) The following motions are on file:

b) The following motions have been resolved:

c) The following discovery has been initiated:

3. All motions to add parties and claims shall be filed on or before:

4. All motions to amend pleadings shall be filed on or before:

5. Status of Discovery:

The Discovery Plan attached hereto is adopted and incorporated as part of this Scheduling

Order; **OR**

a) The times for disclosures under Rules 26(a) and 26(e) of the Federal Rules of

Civil Procedure are modified as follows:

b) The following is a description and schedule of all pretrial discovery each party intends

1 to initiate prior to the close of discovery:

2 Plaintiff:

3 Defendant:

4 6. The parties shall appear before the District Court on the ____ day of _____, 20__ at
5 __:__.m. for the Scheduling Conference.

6 7. The discovery cut-off date (defined as the last day to file responses to discovery) is
7 _____.

8 8. The anticipated discovery motions are:

9 All discovery motions shall be filed on or before _____.

10 9. The anticipated dispositive motions are:

11 All dispositive motions shall be filed on or before _____.

12 10. The prospects for settlement are:

13 11. The Preliminary Pretrial Conference shall be held on the ____ day of _____, 20__
14 at __:__.m. (no later than twenty-one (21) days prior to trial date).

15 12. The parties' pretrial materials, discovery material, witness lists, designations and exhibit
16 lists shall be filed on or before the ____ day of _____, 20__ (no later than fourteen (14) days
17 prior to trial).

18 13. The Proposed Pretrial Order shall be filed on or before the ____ day of _____, 20__
19 (no later than fourteen (14) days prior to trial).

20 14. The Final Pretrial Conference shall be held on the ____ day of _____, 20__, at __:__.
21 __.m. (seven (7) days prior to trial).

22 15. The trial shall be held on the ____ day of _____, 20__, at __:__.m. (in no event
23 shall the trial be later than 18 months after the complaint is filed, unless the Court otherwise
24 allows).

25 16. The trial is /is not a jury trial.

26 17. It is anticipated that it will take ____ days to try this case.

27 18. The names of counsel on this case are:

28 19. The parties do/do not wish to submit this case to a settlement conference.

20. The parties present the following suggestions for shortening trial:

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21. The following issues will also affect the status or management of the case:

DATED this ____ day of _____, ____.

Name of District Court Judge

APPROVED AS TO FORM AND CONTENT:

Attorney for Plaintiff

Attorney for Defendant