

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Plaintiff(s), : ___ Civ. _____ (JMF)
-v- : :
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: :
Defendant(s). : CIVIL CASE
 : MANAGEMENT PLAN
 : FOR COMPLEX CASES
 : AND SCHEDULING
 : ORDER
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This Civil Case Management Plan for Complex Cases (the “Plan”) is to be utilized for all cases before Judge Furman that have been designated for inclusion in the Complex Case Pilot Project under the Standing Order of Chief Judge Preska, filed as *In re: Pilot Project Regarding Case Management Techniques for Complex Civil Cases in the Southern District of New York*, 11 Misc. 388 (November 1, 2011) (the “Standing Order”). By submitted this Plan, the parties, by their counsel, represent that they have read the Report of the Judicial Improvements Committee (the “Report”), which is an attachment of the Standing Order, and considered the matters therein.

This Plan is submitted by the parties in accordance with Fed. R. Civ. P. 26(f)(3).

- 1. All parties [consent _____ / do not consent _____] to conducting all further proceedings before a United States Magistrate Judge, including motions and trial. 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences. [*If all parties consent, the remaining paragraphs need not be completed.*]
- 2. Settlement discussions [have _____ / have not _____] taken place.
- 3. The parties [have _____ / have not _____] conferred pursuant to Fed. R. Civ. P. 26(f).
- 4. Any motion to amend or to join additional parties shall be filed within _____ days from the date of this Order.
- 5. Discovery
 - a. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York.
 - b. Initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) shall be completed no later than _____ days from the date of this Order. [*The parties may propose the production of some readily identifiable document or category of documents in lieu of initial disclosures.*]

- c. All fact discovery shall be completed no later than _____. [By separate letter submitted to the Court, the parties may propose phased discovery and/or bifurcation.]
- d. All expert discovery, including reports, production of underlying documents, and depositions, shall be completed no later than _____.
- e. No later than thirty (30) days prior to the date in paragraph 5(c) (i.e., the completion of all fact discovery), the parties shall meet and confer on a schedule for expert disclosures, including reports, production of underlying documents, and depositions, provided that (i) expert report(s) of the party with the burden of proof shall be due before those of the opposing party's expert(s); and (ii) all expert discovery shall be completed by the date set forth in paragraph 5(d).
- f. Discovery is governed by the procedures set forth in the Report at II.B (Discovery Disputes Not Involving Assertion of Privilege or Work Product), C (*In Camera* Sampling of Assertions of the Privilege), D (Documents Presumptively Not to Be Logged on Privilege Log), E (Privilege Log Descriptions of Email Threads) and G (Subpoenaed Material).

6. Limitations on Discovery and Interim Discovery Deadlines

- a. Interim deadlines set forth in this paragraph 6 may be extended by the written consent of all parties without application to the Court, provided that all fact discovery is completed by the date set forth in paragraph 5(c) above.
- b. Initial requests for production of documents shall be served by _____.
- c. The plaintiff(s) shall provide HIPAA-compliant medical records release authorizations to the defendant(s) no later than _____.
- d. The use of interrogatories is governed by Local Rule 33.3. Interrogatories addressing the issues in Local Rule 33.3(s) are limited to ____ per side and are to be served by _____.
- e. Depositions shall be completed by _____.
 - i. Depositions are limited to ____ per side of no greater length than _____. [*Presumptively seven (7) hours in length*].
 - ii. Absent an agreement between the parties or an order from the Court, depositions are not to be held until all parties have responded to initial requests for document production.

- iii. There is no priority in deposition by reason of a party’s status as a plaintiff or a defendant.
 - iv. Absent an agreement between the parties or an order from the Court, non-party depositions shall follow initial party depositions.
 - v. A witness designated by a party in the “Joint Final Trial Report” (described at IV.C and D of the Report) as a fact witness but who was not examined at a deposition during the discovery period by the adverse party [may _____ / may not _____] be examined prior to trial.
- f. Requests to admit are limited to _____ per side of no more than twenty-five (25) words in length and are to be served no later than _____.
7. In the case of discovery disputes, parties should follow Local Civil Rule 37.2 with the following modifications. Any party wishing to raise a discovery dispute with the Court must first confer in good faith with the opposing party, in person or by telephone, in an effort to resolve the dispute. If this meet-and-confer process does not resolve the dispute, the party may submit a letter to the Court, no longer than three (3) pages, explaining the nature of the dispute and requesting an informal conference. Such a letter *must* include a representation that the meet-and-confer process occurred and was unsuccessful. If the opposing party wishes to respond to the letter, it should promptly call Chambers to advise that a responsive letter will be forthcoming and it should submit the responsive letter within three (3) business days. Counsel should be prepared to discuss with the Court the matters raised by such letters, as the Court will seek to resolve discovery disputes quickly, by order, by conference, or by telephone.
8. All motions and applications shall be governed by the Federal Rules of Civil Procedure, the Local Rules of the Southern District of New York, and the Court’s Individual Rules and Practices (available at <http://nysd.uscourts.gov/judge/Furman>).
9. Alternative Dispute Resolution/Settlement
- a. Counsel for the parties have discussed an informal exchange of information in aid of early settlement of this case and have agreed upon the following:
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- b. Counsel for the parties have discussed the use of the following alternate dispute resolution mechanisms for use in this case: (i) a settlement conference before a Magistrate Judge; (ii) participation in the District’s Mediation Program; and/or (iii) retention of a privately retained mediator. Counsel for the parties propose the following alternate dispute resolution mechanism for this case:

- c. Counsel for the parties recommend that the alternate dispute resolution mechanism designated in paragraph 10(b) be employed at the following point in the case (e.g., within the next sixty (60) days; after the deposition of plaintiff is completed (specify date); after the close of fact discovery):

- d. The use of any alternative dispute resolution mechanism does not stay or modify any date in this Order.

10. This case [is _____ / is not _____] to be tried to a jury.

11. Pretrial Deadlines

- a. The “Joint Preliminary Trial Report on Close of Fact Discovery” described at IV.A of the Report is due fourteen (14) days after the date set in paragraph 5(c) for the completion of fact discovery.
- b. All counsel must meet in person for at least one (1) hour to discuss settlement prior to the submission of the “Joint Preliminary Trial Report on Close of Fact Discovery.”
- c. Unless the Court rules otherwise after review of the “Joint Preliminary Trial Report on Close of Fact Discovery,” summary judgment motions and any motion to exclude the testimony of experts pursuant to Rules 702-705 of the Federal Rules of Evidence and the *Daubert v. Merill Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), line of cases, are to be filed within forty-five (45) days of the close of fact or expert discovery (whichever is later). Unless otherwise ordered by the Court, opposition to any such motion is to be filed two (2) weeks after the motion is served on the opposing party, and a reply, if any, is to be filed one (1) week after service of any opposition.
- d. In the absence of a summary judgment motion, the “Joint Final Trial Report” described at IV.C and D of the Report is due forty-five (45) days following the close of fact or expert discovery (whichever is later). Any motions *in limine* shall be filed

on or before the date on which the “Joint Final Trial Report” is due. If a summary judgment motion is filed, the “Joint Final Trial Report” is due forty-five (45) days following the Court’s ruling on the motion.

- e. In addition to the matters addressed in 11(a) and (d), if this action is to be tried before a jury, joint requests to charge, joint proposed verdict forms, and joint proposed *voir dire* questions shall be filed on or before the due date of the “Joint Final Trial Report.” Counsel are required to meet and confer on a joint submission of proposed jury instruction and verdict form, noting any points of disagreement in the joint submission. Jury instructions may not be submitted after the “Joint Final Trial Report,” unless they meet the standard of Fed. R. Civ. P. 51(a)(2)(A).
- f. In addition to the matters addressed in 11(a) and (d), the parties shall submit with the “Joint Final Trial Report” a schedule for (i) the submission of direct testimony of each side’s witnesses by declaration or affidavit, subject to live cross-examination; and (ii) proposed findings of fact and conclusions of law.

12. Counsel for the parties have conferred and the present best estimate of the trial ready date is _____.

13. Counsel for the parties have conferred and the present best estimate of the length of trial is _____.

14. Other issues to be addressed at the Initial Pretrial Conference, including those set forth in Fed. R. Civ. P. 26(f)(3), are set forth below.

Counsel for the Parties:

_____	_____
_____	_____
_____	_____
_____	_____

This Order may not be modified or the dates herein extended, except by further Order of this Court for good cause shown. Any application to modify or extend the dates herein (except as provided in paragraph 6(a)) shall be made in a written application in accordance with Court's Individual Rules and Practices and shall be made no fewer than two (2) business days prior to the expiration of the date sought to be extended. Absent exceptional circumstances, extensions will not be granted after deadlines have already passed.

The parties must contact the chambers of the Magistrate Judge designated to this case on or before _____ in order to schedule settlement discussions under his/her supervision in or about _____.

The next Case Management Conference is scheduled for _____ at _____.

SO ORDERED.

Dated: _____
New York, New York

JESSE M. FURMAN
United States District Judge