

**FORM**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

	:	CIVIL ACTION
	:	
v.	:	
	:	
	:	NO.

**REPORT OF RULE 26(f) MEETING**

In accordance with Federal Rule of Civil Procedure 26(f), counsel for the parties conferred on (date) (please make sure you include this date) and submit the following report of their meeting for the Court’s consideration:

**I. Discussion of Claims, Defenses and Relevant Issues**

The best practice is for each party to give a concise narrative of their case, their client, the facts, the theories, the parties, the witnesses, remedies, statutory damages, contract damages, personal injury damages (injuries, type, length of treatment). These can be listed by party and as separate narratives. The defense needs to say more than “it disputes” it needs to give at a minimum a synopsis of how it sees this case from a liability point of view and from a damages point of view relative at least to the initial disclosures of the party. This report is the first impression the court will get of your case, and your defense, and quite often you and your firm. It is providing a court a road map to date and a road map to the finish line and, in most cases, by this time, it is early in the case but it is late in the dispute process that did not resolve amicably and brings us down the road into court so the parties really can and should have a good handle on the whole case by now. I am looking to see that on paper. The report is the foundation of the

Rule 16, and as such it remains an important reference filing right through to verdict.

The Court takes seriously Rule 26(f)(2)'s mandate that the parties confer and discuss these issues, and the parties should refer to the Rule as well as Rule 16 before completing this template.

You should assume that the court has read the pleadings. However, the facts supporting the claims and defenses are unknown. You need to visualize the case through verdict so as to alert the court as to any potential discovery, witness, legal, logistical, document recovery issues you anticipate. Summarize your discussion of primary issues, threshold issues and those issues on which the parties will need to conduct discovery. Identify what information each party needs in discovery as well as when and why. Also indicate likely motions and their timing.

## **II. Informal Disclosures**

Please read what is required by these disclosures before representing to the court they have been exchanged. If items have not been forthcoming, the court needs to know this so as to get the case on track from the outset. Specifically identify not only the information listed in Rule 26(a)(1), but any additional information the parties agree to disclose informally.

Keep in mind that self-executing discovery must not be delayed until the pretrial conference. In fact, the court presumes it has been completed by the time of the conference. If the parties have not made the Rule 26(a) initial disclosures the parties should explain what has not been provided yet and why.

## **III. Formal Discovery**

Indicate nature, sequence, and timing of formal discovery, as well as any need to conduct discovery in phases to prepare for the filing of motions or for settlement discussions. Specifically delineate what discovery will be conducted formally.

In standard track cases, the Court usually allows up to ninety days from the date of the Rule 16 conference to complete fact discovery, sixty days for exchange of experts' reports and up to sixty days to conduct expert depositions. In special management cases the Court will permit additional time to conduct fact and or expert discovery if the parties identify specifically the reason to do so. A case will ordinarily be listed for trial thirty to sixty days after the completion of fact and expert discovery. If the parties believe there are compelling reasons for a longer period of discovery, state them.

#### **IV. Electronic Discovery**

The parties shall be prepared to address e-discovery at the Rule 16 scheduling conference with the Court. At the Rule 26(f) conference, they must discuss the parameters of their anticipated e-discovery. They are required to address procedures to preserve electronically stored information, to avoid inadvertent privilege waivers, and to determine the form in which electronic information will be produced. The cost of producing the information must be discussed. For additional guidance, the parties should refer to the Court's Checklist for Rule 26(f) Meet and Confer Regarding Electronically Stored Information, available on the Eastern District of Pennsylvania website with Judge Kenney's Policies & Procedures.

It is expected that the parties will reach an agreement on how to conduct electronic discovery. In the event the parties cannot reach such an agreement before the Rule 16 scheduling conference, the court will enter an order incorporating default standards. The default order is available on the Eastern District of Pennsylvania website with Judge Kenney's Policies & Procedures.

#### **V. Expert Witness Disclosures**

Indicate agreement on timing and sequence of disclosure of the identity and anticipated

testimony of expert witnesses, *including whether depositions of experts will be needed.*

## **VI. Early Settlement or Resolution**

The parties must familiarize themselves with Local Rule 53.3 before responding. Recite the parties' discussion about early resolution through ADR, motion or otherwise explain what steps were taken by counsel to advise the client of alternative dispute resolution options. Explain any decision not to seek early resolution and what mediation options the parties may consider and when mediation would be appropriate.

## **VII. Trial**

A date for trial will be determined at the initial Rule 16 conference. The parties should propose a date when they expect to be ready for trial. They should state how long each party expects for presentation of its case and an estimate for the length of the entire trial. Parties should also state whether the complexity of their case (in terms of the number of witnesses or some other case-specific considerations) warrants the necessity of a Final Pretrial Conference & Order and explain why. Counsel must thoroughly review [Local Rule of Civil Procedure 16.1\(d\)\(2\)](#) before drawing any conclusion about the necessity of a Final Pretrial Conference & Order.

## **VII. Other Matters**

Indicate discussion and any agreement on matters not addressed above.

## **VIII. Discovery and Objections**

All counsel must certify that they have read Judge Kenney's guidelines as to discovery and objections. [https://www.paed.uscourts.gov/judges-info/district-court-judges/chad\\_f\\_kenney](https://www.paed.uscourts.gov/judges-info/district-court-judges/chad_f_kenney)

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(Attorney Signature)

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