

Notice To All Counsel of Record

Hon. G. Patrick Murphy, Chief Judge

In order to streamline matters, I will not require a final pretrial order for this litigation.

I direct everyone's attention to the requirements of F.R.C.P. 26, which will be, as always, strictly enforced. Keep in mind the following:

- F.R.C.P. 26(a)(1) specifies initial disclosures, and these must be supplemented pursuant to Rule 26(e)(1).
- F.R.C.P. 26(a)(2)(A) refers to all expert disclosures and, again, these must be supplemented pursuant to Rule 26(e)(1).
- F.R.C.P. 26(a)(2)(B) doesn't seem to present much of a problem because everyone is aware of the problems occasioned by retained or specially employed experts. Again, Rule 26(e)(1) requires supplementation.
- F.R.C.P. 26(a)(3) – pretrial disclosures, for some reason, do not receive the required attention. Here, we are not really dealing with discovery at all. The specified witness list, the designated deposition testimony, and the exhibit list are mandatory. Moreover, the deadlines and the consequences of failing to comply are mandatory and draconian.

Thirty days prior to the presumptive trial month, file your Rule 26(a)(3) disclosures; your opponents should file their objections, if any, fourteen days thereafter. Bring your Rule 26(a)(3) disclosures to the final pretrial conference. Your opponent(s) should have their objections, if any, in hand. The only requirement I have in addition to the provisions of Rule 26 is the format of the exhibit list itself. Check with Linda Cook for the template that we use for this purpose. What will happen is that all of the exhibits will be numbered so they are consecutive, without regard to who sponsored the exhibit. In other words, if Plaintiff's exhibits are numbered 1 through 22, Defendant's exhibits should begin with the number 23. No duplicate exhibits are permitted. That is, if an exhibit is offered by Plaintiff, Defendant should not offer the same exhibit. The goal is to have ONE set of exhibits. This assists the Court of Appeals, as well as the District Court and the Clerk.

Finally, if there are some exhibits to which there are legitimate objections, they should and will receive the attention of the Court. The idea behind the Federal Rules of Evidence is to facilitate the admissibility of relevant evidence, and the threshold for relevance is low indeed. Therefore, I can't imagine there should be too many objections when your respective exhibit lists are presented to the Court.