

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

IN RE:)
)
Amendments to)
Local Civil Rule 4.01 and)
Local Civil Rule 16.02(C).)
_____)

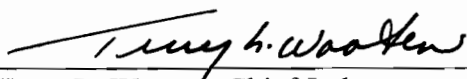
ORDER

Upon due consideration by the Court, Local Civil Rules 4.01 and 16.02(C) of the United States District Court for the District of South Carolina, in the form appended hereto, are hereby amended. Local Civil Rules 4.01 and 16.02(C) are amended to conform with the pending amendments to Federal Rule of Civil Procedure 4(m), which reduces the period for effecting service, and Federal Rule of Civil Procedure 16(b)(2), which shortens the time for issuing a scheduling order. These amendments are effective December 1, 2015, and apply to all cases filed on or after December 1, 2015, to the extent practicable, unless otherwise ordered by the presiding judge.

Pursuant to Title 28 U.S.C. § 2701(e) and Rule 83 of the Federal Rules of Civil Procedure, proper public notice of these amended Local Rules and opportunity for comment is hereby given. The Court will consider all public comments submitted via email to Local_Rule_Public_Comment@scd.uscourts.gov and any modification to these local rules necessary as a result of public comment will be considered after January 4, 2016, the expiration date for receiving said comments.

DONE AND ORDERED by the Court this 23rd day of November, 2015.

FOR THE COURT:



Terry L. Wooten, Chief Judge
United States District Court
District of South Carolina

Columbia, South Carolina

LOCAL CIVIL RULE 4.01

Current Local Civil Rule 4.01 with redline -

4.01: *Timely Service of Summons and Complaint.* If a pleading asserting a claim is not served on each party against whom a claim is asserted within ~~120~~ 90 days after the pleading is filed, the party filing the pleading shall, within the same period, file a status report advising the court of the identity of the party not served and why service has not been effected. This report shall be served on all previously served parties.

Local Civil Rule 4.01 effective December 1, 2015 -

4.01: *Timely Service of Summons and Complaint.* If a pleading asserting a claim is not served on each party against whom a claim is asserted within 90 days after the pleading is filed, the party filing the pleading shall, within the same period, file a status report advising the court of the identity of the party not served and why service has not been effected. This report shall be served on all previously served parties.

LOCAL CIVIL RULE 16.02

Only section (C) of Local Civil Rule 16.02 is being amended.

Current Local Civil Rule 16.02(C) with redline -

16.02: *Scheduling Conference and Scheduling Order Content.*

- (C) *Content of Scheduling Order.* “[A]s soon as practicable, but in any event within the earlier of ~~120~~ 90 days after any defendant has been served with the complaint or ~~90~~ 60 days after any defendant has appeared” (Fed. R. Civ. P. 16(b)(2)), the court shall issue a scheduling order setting deadlines for the following:
- (1) Completion of Fed. R. Civ. P. 26(f) conference of the parties (to be held no later than forty-five (45) days after the appearance of a defendant).
 - (2) Exchange of Fed. R. Civ. P. 26(a)(1) required initial disclosures (to be made no later than fourteen (14) days after the Fed. R. Civ. P. 26(f) conference).
 - (3) Filing Fed. R. Civ. P. 26(f) report to the court (to be filed no later than fourteen (14) days after the Fed. R. Civ. P. 26(f) conference).
 - (4) Filing motions to join parties and to amend pleadings (Fed. R. Civ. P. 16(b)(3)).
 - (5) Exchange of Fed. R. Civ. P. 26(a)(2) expert witness disclosures and filing any related disclosure and certification required by the scheduling order.¹⁰
 - (6) Service of affidavits of records custodian witnesses proposed to be presented by affidavit at trial (*See* Fed. R. Evid. 803(6), 902(11), or 902(12) and Local Civ. Rule 16.02(D)(3) (D.S.C.)).

¹⁰ Most of the judges in this district require that parties file a document identifying the expert witnesses and certifying that the required disclosures have been made. This is intended to preclude disputes at trial as to whether disclosures were made. The disclosures themselves should not be filed absent order to the contrary.

- (7) Completion of discovery (Fed. R. Civ. P. 16(b)(3)) and filing certification of consultation with client and opposing counsel as to the use of alternative dispute resolution as required by Local Civ. Rule 16.03 (D.S.C.).
- (8) Conclusion of alternative dispute resolution conference, if any.
- (9) Filing dispositive motions (Fed. R. Civ. P. 16(b)(3)).
- (10) Filing and exchanging Fed. R. Civ. P. 26(a)(3) pretrial disclosures.
- (11) Filing and exchanging Fed. R. Civ. P. 26(a)(3) objections, any objections to use of a deposition designated by another party, and any deposition counter-designations under Fed. R. Civ. P. 32(a)(4).
- (12) Meeting, marking, and exchanging exhibits and completing a final exhibit list with objections noted. *See* Local Civ. Rule 26.07 (D.S.C.) (instructions relating to exhibits).
- (13) Submission of Local Civ. Rule 26.05 (D.S.C.) pretrial brief to the court.
- (14) Jury selection.¹¹

All disclosures shall be supplemented in a timely manner. In the event an action is carried over to a later trial term after pretrial disclosures are made and pretrial briefs are filed, the parties should file and serve any supplementation in a like period of time prior to the new trial term, but need not file and serve disclosures or briefs that are merely duplicative.

Local Civil Rule 16.02(C) effective December 1, 2015 -

16.02: *Scheduling Conference and Scheduling Order Content.*

- (C) *Content of Scheduling Order.* “[A]s soon as practicable, but in any event within the earlier of 90 days after any defendant has been served with the complaint or 60 days after any defendant has appeared” (Fed. R. Civ. P.

¹¹ The trial term commences on the date of jury selection whether the action is to be tried with or without a jury. Trial terms may last from one to two months. Absent a contrary instruction from the court, an action should be ready for trial on the date set for jury selection.

16(b)(2)), the court shall issue a scheduling order setting deadlines for the following:

- (1) Completion of Fed. R. Civ. P. 26(f) conference of the parties (to be held no later than forty-five (45) days after the appearance of a defendant).
- (2) Exchange of Fed. R. Civ. P. 26(a)(1) required initial disclosures (to be made no later than fourteen (14) days after the Fed. R. Civ. P. 26(f) conference).
- (3) Filing Fed. R. Civ. P. 26(f) report to the court (to be filed no later than fourteen (14) days after the Fed. R. Civ. P. 26(f) conference).
- (4) Filing motions to join parties and to amend pleadings (Fed. R. Civ. P. 16(b)(3)).
- (5) Exchange of Fed. R. Civ. P. 26(a)(2) expert witness disclosures and filing any related disclosure and certification required by the scheduling order.¹⁰
- (6) Service of affidavits of records custodian witnesses proposed to be presented by affidavit at trial (*See* Fed. R. Evid. 803(6), 902(11), or 902(12) and Local Civ. Rule 16.02(D)(3) (D.S.C.)).
- (7) Completion of discovery (Fed. R. Civ. P. 16(b)(3)) and filing certification of consultation with client and opposing counsel as to the use of alternative dispute resolution as required by Local Civ. Rule 16.03 (D.S.C.).
- (8) Conclusion of alternative dispute resolution conference, if any.
- (9) Filing dispositive motions (Fed. R. Civ. P. 16(b)(3)).
- (10) Filing and exchanging Fed. R. Civ. P. 26(a)(3) pretrial disclosures.
- (11) Filing and exchanging Fed. R. Civ. P. 26(a)(3) objections, any objections to use of a deposition designated by another party, and any deposition counter-designations under Fed. R. Civ. P. 32(a)(4).

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- (12) Meeting, marking, and exchanging exhibits and completing a final exhibit list with objections noted. *See* Local Civ. Rule 26.07 (D.S.C.) (instructions relating to exhibits).
- (13) Submission of Local Civ. Rule 26.05 (D.S.C.) pretrial brief to the court.
- (14) Jury selection.¹¹

All disclosures shall be supplemented in a timely manner. In the event an action is carried over to a later trial term after pretrial disclosures are made and pretrial briefs are filed, the parties should file and serve any supplementation in a like period of time prior to the new trial term, but need not file and serve disclosures or briefs that are merely duplicative.

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