

Rule 11. Pretrial Conferences; Pretrial Status Conferences; Scheduling; Management

(a) **APPLICABILITY.** Unless otherwise ordered by the judge to whom the case is assigned, the provisions of this rule apply to all Tax actions.

(b) **INITIAL SCHEDULING AND SETTLEMENT CONFERENCE.**

(1) *In General.* In every case assigned to a specific calendar or a specific judge, the court must hold an initial scheduling and settlement conference as soon as practicable after the complaint is filed.

(2) *Praeceptum in Lieu of Appearance.* Except in cases to which Civil Rule 40-III applies, no attorney need appear in person for the scheduling conference if a praecipe conforming to the format of Civil Action Form 113 (Praecipe Requesting Scheduling Order) signed by all attorneys is filed no later than 7 calendar days prior to the scheduling conference date.

(A) *Praecipe Requirements.* The praecipe must certify that:

- (i) the case is at issue;
- (ii) all parties are represented by counsel;
- (iii) there are no pending motions; and
- (iv) all counsel have discussed the provisions of Rule 11(b)(4)(B) and (C) and do not foresee any issue requiring court intervention.

(B) *Filing the Praecipe; Courtesy Copy.* The praecipe must be accompanied by an addressed envelope or mailing label for each attorney and a courtesy copy must be delivered to the assigned judge's chambers. Neither addressed envelopes nor mailing labels need be provided for documents filed under the court's electronic filing program.

(3) *Scheduling Order; In General.* At the conference, the judge will ascertain the status of the case, explore the possibilities for early resolution through settlement or alternative dispute resolution techniques, and determine a reasonable time frame for bringing the case to conclusion. After consulting with the attorneys for the parties and with any unrepresented parties, the judge will enter a scheduling conference order which will set dates for future events in the case.

(4) *Contents of the Order.* The scheduling order may:

- (A) modify the extent of discovery;
- (B) provide for discovery or preservation of electronically stored information;
- (C) include any agreements the parties reach for asserting claims of privilege or of protection as trial-preparation material after information is produced, including agreements on the effects of disclosure reached under Civil Rule 26(b)(5)(C);
- (D) direct that before moving for an order relating to discovery, the movant must request a conference with the court;
- (E) set dates for pretrial conferences and for trial; and
- (F) include other appropriate matters.

(5) *Scheduling Order; Deadlines.* Where applicable, the order will specify dates for the following events:

(A) *Discovery Requests; Depositions.*

(i) No interrogatories, requests for admission, requests for production or inspection, or motions for physical or mental examinations may be served less than 30 days before the date set for the end of discovery.

(ii) Party depositions ad testificandum and nonparty depositions duces tecum or ad testificandum must be noticed not less than 5 days before the date scheduled for the

deposition and no deposition may be noticed to take place after the date set for the conclusion of discovery.

(B) *Exchange Lists of Fact Witnesses*. On or before this date, each party must file and serve a listing, by name and address, of all fact witnesses known to that party, including experts who participated in, and will testify about, pertinent events. No witness may be called at trial, except for rebuttal or impeachment purposes, unless he or she was named on the list filed by one of the parties on or before this date or the calling party can establish that it did not learn of the witness until after this date.

(C) *Proponent's Civil Rule 26(a)(2)(B) Report*. By this date, a report required by Civil Rule 26(a)(2)(B) must be filed and served by any proponent of an issue who will offer an expert opinion on such an issue.

(D) *Opponent's Civil Rule 26(a)(2)(B) Report*. By this date, a report required by Civil Rule 26(a)(2)(B) must be filed and served by any opponent who will offer an expert opinion on such an issue.

(E) *Close of Discovery*. After this date, no deposition or other discovery may be had, nor motion relating to discovery filed, except by leave of court on a showing of good cause.

(F) *Filing Motions*. All motions must be filed by this date, except as provided in Rule 11(b)(5)(E) and (d). The order will also specify a date by which dispositive motions will be decided.

(G) *Alternative Dispute Resolution*. If not already held, the order will set out a time period in which mediation or other alternative dispute resolution proceedings will be held.

(H) *Final Pretrial and Settlement Conference*. The order will specify a time period in which the final pretrial and settlement conference will be held.

(I) *Optional Deadlines*. The scheduling conference order may also set dates for the joinder of other parties and amendment of pleadings, the completion of certain discovery, the filing of particular motions and legal memoranda, and any other matters appropriate in the circumstances of the case.

(6) *Obligations of Parties*. All counsel and all parties must take the necessary steps to complete discovery and prepare for trial within the time limits established by the scheduling order.

(7) *Modification*.

(A) *By Leave of Court*. The scheduling order may not be modified except by leave of court on a showing of good cause. A party seeking a modification of the scheduling order must provide the court with a copy of the existing scheduling order and a detailed discovery plan, which lists the specific methods of discovery to be conducted, the persons or materials to be examined, and the date or dates within which all further discovery must be completed.

(B) *By Stipulation*. Stipulations between counsel will not be effective to change any deadlines in the order without court approval, provided, however, that any date in the scheduling order except for the date of court proceedings (e.g., status hearings, ex parte proofs, ADR sessions, pretrials and trials) may be extended once for up to 14 days on the filing and delivery to the assigned judge of a praecipe showing that all parties who have appeared in the action consent to the extension. Any motion to further modify a date so extended must recite that the date in question was previously extended by consent and must specify the length of that extension.

(c) MEETING 5 WEEKS PRIOR TO PRETRIAL CONFERENCE.

(1) *Attendance*. Not less than 5 weeks prior to the pretrial conference, at least one of the attorneys who will conduct the trial for each of the parties, and any unrepresented parties, must meet in person. If such persons are unable to agree on a date, time, and place for the meeting, the parties must notify the judge by phone in advance that they will meet at 9:00 a.m. in the judge's courtroom or such other place to be designated by the judge on the day which is 5 weeks prior to the date of the pretrial conference.

(2) *Matters for Consideration*. The participants in the meeting must spend sufficient time together to discuss the case thoroughly and must make a good faith effort to reach agreement on the following matters:

- (A) formulating and simplifying the issues, and eliminating frivolous claims or defenses;
- (B) amending the pleadings if necessary or desirable;
- (C) obtaining admissions and stipulations about facts and documents to avoid unnecessary proof, and ruling in advance on the admissibility of evidence;
- (D) avoiding unnecessary proof and cumulative evidence;
- (E) identifying witnesses and documents;
- (F) referring matters to a magistrate judge or master;
- (G) settling the case or using alternative dispute resolution procedures to resolve the dispute;
- (H) determining the form and content of the pretrial order;
- (I) disposing of pending motions;
- (J) adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems; and
- (K) facilitating in other ways the just, speedy, and inexpensive disposition of the action.

(3) *Exhibits*.

(A) *Documentary Exhibits*. At this meeting, each party must provide to all other parties copies of all documentary exhibits which that party may offer at trial; affixed to each exhibit must be a numbered exhibit sticker and the exhibits must be identified, by exhibit number, on an index provided with the exhibits.

(B) *Non-Documentary Exhibits*. Each party also must make all non-documentary exhibits available for examination by other parties at or before this meeting.

(d) 4 WEEKS PRIOR TO PRETRIAL CONFERENCE. Four weeks prior to the pretrial conference, each party must file with the court, serve on all other parties, and deliver to the assigned judge in accordance with the provisions of Civil Rule 5(d) any motion in limine, motion to bifurcate, or other motion respecting the conduct of the trial, which a party wishes to have the court consider.

(e) ONE WEEK PRIOR TO PRETRIAL CONFERENCE.

(1) *Joint Pretrial Statement*. One week prior to the pretrial conference, the parties must file with the court and deliver to the assigned judge in accordance with the provisions of Civil Rule 5(d) a joint pretrial statement, which must include a certification of the date and place of the meeting held pursuant to Rule 11(c) and must be in a form prescribed by the court.

(2) *Objections to Exhibits*. Objections, if any, by a party to the exhibits submitted by any other party also must be made at this time as part of the joint pretrial statement. A party raising an objection to an exhibit of another party must attach to the statement of objection a copy of the exhibit to which the objection is made. The court will not consider any

objection or alternative language that is filed beyond the time frames prescribed by this rule unless the party making the objection or suggestion can establish that the objection or suggestion could not, for reasons beyond that party's control, be timely filed.

(3) *Unlisted Witnesses or Exhibits*. Except for plaintiff's rebuttal case or for impeachment purposes, no party may offer at trial the testimony of any witness not listed in the pretrial statement of the parties, nor any exhibit not served as required by this rule, without leave of court.

(f) PRETRIAL CONFERENCE.

(1) *Attendance*. The lead counsel who will conduct the trial for each of the represented parties, and, unless excused by the judge for good cause, all parties must attend the pretrial conference.

(2) *Exhibits*. All counsel and unrepresented parties must bring to the conference their trial exhibits, copies of which were served on other parties pursuant to Rule 11(c)(3). If any party proposes to offer more than 15 exhibits at trial, that party's exhibits must be arranged as follows: the original exhibits, with numbered exhibit stickers affixed, must be placed in a looseleaf, three-ring notebook with tabbed divider pages. At the front of the notebook there must be an Exhibit Summary Form (copies of which are available in the clerk's office) describing each exhibit by number.

(3) *Conference Details*. The conference will generally be held by the judge who will preside at trial. The judge will discuss with those attending the conference the pretrial filings of the parties as may be pertinent and will set a trial date for the case.

(g) PRETRIAL ORDER.

(1) *Content of the Order*. After the pretrial conference, the court must issue an order reciting the action taken. Insofar as possible, the court will resolve all pending disputes in the pretrial order. With respect to some matters, it may be necessary to reserve ruling until the time of trial or to require additional briefing by the parties prior to trial. Exhibits, the authenticity of which is not genuinely in dispute, will be deemed authentic and the offering party will not be required to authenticate these exhibits at trial. The pretrial order may set limits with respect to the time for opening statement, examination of witnesses, and closing argument and may also limit the number of lay and expert witnesses who can be called by each party. The pretrial order controls the course of the action unless the court modifies it.

(2) *Modification*. The pretrial order may be modified at the discretion of the court for good cause and must be modified if necessary to prevent manifest injustice.

(h) COMMENCEMENT OF TRIAL. On any date for which the case has been set for trial, the parties and their counsel must be prepared to commence the trial on that date or on any of the 2 succeeding court days in the event that their case must trail another trial on the judge's calendar.

(i) OTHER SCHEDULING OR STATUS CONFERENCES. In addition to the initial scheduling and settlement conference and the pretrial and settlement conference, the court may in its discretion order the attorneys for the parties and any unrepresented parties to appear before it for other conferences for such purposes as:

- (1) expediting the disposition of the action;
- (2) establishing continuing control so that the case will not be protracted because of lack of management;
- (3) discouraging wasteful pretrial activities;
- (4) improving the quality of the trial through more thorough preparation;

(5) facilitating the settlement of the case; and

(6) addressing any other matters appropriate in the circumstances of the case.

(j) **AUTHORITY OF COUNSEL; ATTENDANCE OF PARTIES, PRINCIPALS, AND PERSONS WITH SETTLEMENT AUTHORITY.** At least one of the attorneys for each party participating in any conference before trial, or in the meeting described in Rule 11(c), must have authority to enter into stipulations, to make admissions regarding all matters that the participants may reasonably anticipate may be discussed, and to participate fully in all settlement discussions. Unless excused by the judge for good cause, all parties and any person not a party whose authority may be needed to settle the case must attend any pretrial conference conducted pursuant to Rule 11(f) and any alternative dispute resolution session ordered by the court.

(k) **CONTINUANCES.**

(1) *By Court Order.* No trial or conference provided for in this rule may be continued except by order of the judge on a showing of specific and sufficient reasons why the applicant cannot attend or proceed with the trial or conference as scheduled or, for a conference, will not be able by the scheduled date to report to the court the information required by this rule. An application to continue the trial must include a certificate or affidavit by the party or party's attorney indicating that all other parties were given reasonable notice of the applicant's intent to make the application.

(2) *Timing of Application.* Except for applications based on circumstances arising later, application for a continuance must be made to the judge not less than 30 days before the trial or conference sought to be continued.

(3) *When Effective.* Until an order granting a continuance is docketed, the case will remain set for the trial or conference on the original date.

(l) **SANCTIONS.**

(1) *In General.* On motion or on its own, the court may issue any just orders, including those authorized by Civil Rule 37(b)(2)(A)(ii)-(vii), if a party or a party's attorney:

(A) fails to appear at a scheduling or pretrial conference;

(B) is substantially unprepared to participate—or does not participate in good faith—in the conference; or

(C) fails to obey a scheduling or other pretrial order.

(2) *Imposing Fees and Costs.* Instead of or in addition to any other sanction, the court must order the party, its attorney, or both, to pay the reasonable expenses—including attorney's fees—incurred because of any noncompliance with this rule unless the noncompliance was substantially justified or other circumstances make an award of expenses unjust.

COMMENT TO 2025 AMENDMENTS

This rule has been amended to conform substantially to Civil Rule 16 and complements the 2025 amendments to Tax Rule 3.