

PRACTICES AND PROCEDURES OF CHIEF JUDGE GARY L. LANCASTER

(effective 3/31/11)

I. GENERAL MATTERS

A. **Applicability of Local Rules**

Unless otherwise stated herein, or by order, Judge Lancaster follows all Local Rules of Court in civil, criminal, patent, bankruptcy, and admiralty cases.

B. **Communications with the Court**

Judge Lancaster does not wish to receive correspondence from attorneys, except where specifically requested or approved. Judge Lancaster specifically does not want to be copied on correspondence between counsel.

C. **Communications with Law Clerks**

Counsel are not to discuss the status of a matter, scheduling issues, or appropriate procedures with Judge Lancaster's law clerks. Should counsel need to discuss these matters, they are to speak with Judge Lancaster's courtroom deputy, unless specifically instructed otherwise.

D. **Telephone Conferences**

Judge Lancaster will consider requests to participate in conferences by telephone. However, typically, the court will require counsel to appear in person for the Post-Discovery Status Conference. Counsel are always required to appear in person for the Pre-Trial Conference. Under no circumstances are ex parte telephone conferences permitted.

E. **Pro Hac Vice Admissions**

Judge Lancaster routinely grants motions for pro hac vice admissions that comply with all legal and procedural requirements.

F. **Comments to the Media**

Counsel are expected to adhere to the Rules of Professional Conduct and the Local Rules in all matters, including regarding contact with the media relating to a pending matter.

II. MOTIONS PRACTICE

A. Oral Argument

Generally speaking, Judge Lancaster does not routinely schedule oral argument for any particular type or class of motion. Rather, should the Court find, after reviewing all briefs, that oral argument would be of assistance in resolving a matter, Judge Lancaster will issue an order scheduling oral argument. Motions requesting oral argument are not prohibited, however, counsel should be aware that the need for argument is the exception, rather than the rule. Judge Lancaster does not set aside a specific day for oral arguments, but instead will schedule them so as not to interrupt trials, criminal matters, or other previously scheduled business.

B. Briefs

Judge Lancaster's Initial Scheduling Order sets forth those motions that may be filed without an accompanying brief. All other motions must be accompanied by a brief. A proposed order must be attached to each motion, as a separate document. Judge Lancaster does not impose any page limitations as a matter of practice, but may do so on a case by case basis where necessary. A party may seek permission to file a reply brief if none has been ordered. Counsel may, but are not required to, attach the proposed reply brief to the motion. Judge Lancaster rarely grants permission to file a sur-reply and will do so only for good cause shown.

C. Proposed Orders

Every motion must be accompanied by a proposed order, regardless of whether a brief is required. The proposed order shall be attached as a separate document and shall include language detailing the specific relief sought, and may not simply state that "the motion is granted."

D. Courtesy Copies

Judge Lancaster does not wish to receive courtesy copies of materials filed through CM/ECF. However, counsel must contact chambers to inquire as to the need for a courtesy copy of any filing whose exhibits, attachments, or appendices exceed one hundred (100) pages in length.

E. Briefing Schedule

Unless previously established by rule, or prior order of Court, upon the filing of a motion the Court will issue a notice setting forth the due dates of any responsive briefs.

F. Summary Judgment Motions

At the Post-Discovery Status Conference, the Court will discuss with the parties the filing of dispositive motions. Any party wishing to file a dispositive motion shall be prepared to discuss its position in detail at the Post-Discovery Status Conference, including those claims that would be

disposed of were the motion granted and any applicable legal authority. Following this discussion, should any party still desire to file such a motion, the Court will address a briefing schedule. Counsel should be aware that, typically, such motions are due within thirty (30) days of the Post-Discovery Status Conference.

Once a briefing schedule has been issued, counsel are directed to Local Rule 56 for procedural requirements. Specifically, counsel are alerted to the requirements imposed by Local Rule 56(B)(1), and paragraph (B)(2) of this Court's Final Scheduling Order, and the consequences of failing to adhere to those requirements.

G. Motions In Limine

Judge Lancaster's Final Scheduling Order will set forth the dates by which motions in limine must be filed, and the deadline for the filing of oppositions thereto. That order will also set forth specific requirements that counsel must meet when filing such motions, including the need to file a certificate of counsel's attempts to resolve the dispute prior to filing each motion in limine. Typically, Judge Lancaster will address motions in limine at the Pre-Trial Conference, where he will either rule on the motion or defer his decision until trial commences. Counsel are encouraged to consult with each other prior to the Pre-Trial Conference and file a notice withdrawing those motions that are no longer in dispute.

III. CIVIL CASES

A. Scheduling Conferences and Orders

Judge Lancaster follows the two-phase pretrial scheduling procedure set forth in Local Rule 16.1. In accordance with Local Rule 16.1(A)(2), Judge Lancaster will enter an order setting the date for an Initial Scheduling Conference, and a deadline for the filing of the Rule 26(f) Report and the Stipulation Selecting ADR Process. See Attachment A. Judge Lancaster enters a standard form Initial Scheduling Order following the Initial Scheduling Conference and a standard form Final Scheduling Order following the Post-Discovery Status Conference. See Attachment B and Attachment C.

Should the Court find it necessary to schedule additional conferences prior to trial, the Court will so inform the parties. Except in special circumstances, and for good cause shown, the Court will not schedule additional conferences at the request of a party.

Judge Lancaster does not postpone the Initial Scheduling Conference solely because a motion, rather than an answer, is filed in response to the

complaint. Additionally, such motions do not affect the parties' obligations under this Court's mandatory Alternative Dispute Resolution procedures.

Counsel are advised to appear at any conference prepared to address both the substance of the case, as well as any outstanding procedural matters. Counsel should always consult with their client prior to any conference in order to obtain settlement authority.

B. Pre-Trial Conference

In the Final Scheduling Order the Court will set a date for the Pre-Trial Conference, which will typically be held a week or two before the trial is scheduled to begin. The parties are expected to have their client accompany them to this conference, or have their client readily available by telephone while the conference is being held. Counsel are not permitted to attend telephonically. In all jury trials, settlement will be discussed. The Court will also address any motions in limine and will give counsel detailed information regarding daily trial procedures.

C. Extensions and Continuances

Judge Lancaster will consider granting extensions of any deadlines and continuances if there is good cause. However, Judge Lancaster will not typically grant further extensions where the Court has previously granted such extensions, where he has specifically informed the parties that no extensions will be granted, or where a trial date has been set. Judge Lancaster will not extend the discovery cut-off date due to the parties' participation in the ADR Process. Counsel must seek the consent of all parties before filing any motion seeking to extend a deadline or continue a matter, and must notify the Court in its motion of each party's position.

D. Discovery

1. Length of Discovery Period

The Court will discuss the appropriate amount of time for discovery, including expert discovery, at the Initial Scheduling Conference. Typically, Judge Lancaster allows between ninety (90) and one hundred twenty (120) days for discovery. Extensions of the discovery period will be granted only upon a showing of specific need and good cause. If counsel believes that this typical discovery period is inappropriate for a case, then counsel should be prepared to explain its position at the Initial Scheduling Conference.

2. Discovery Disputes

For discovery disputes that arise during the course of a deposition, counsel may contact chambers together by telephone to determine whether Judge Lancaster is available to resolve the dispute at that

time. The parties should bring any other discovery disputes to the attention of the Court by motion.

Counsel are specifically advised of Judge Lancaster's practice to require each party to submit a proposed order that resolves the pending discovery dispute in its entirety, and to sign the order that the Court determines is the most reasonable resolution of the dispute.

E. Temporary Restraining Orders

Any party seeking a temporary restraining order must meet the requirements of Federal Rule of Civil Procedures 65(b) in order to proceed ex parte. Counsel should be aware that Judge Lancaster rarely proceeds ex parte.

F. Injunctions

Should any party request a preliminary injunction, Judge Lancaster will contact counsel within thirty (30) days to discuss scheduling, discovery, the length of any anticipated hearing, and the propriety of consolidating the preliminary injunction proceedings with the merits of the case.

G. Trial Procedures

1. Scheduling of Cases

The Court will set a trial date in the Final Scheduling Order. Counsel should be prepared to notify the Court at the Post-Discovery Status Conference of any significant scheduling conflicts, which the Court will make every effort to accommodate in selecting a trial date. Counsel should also be prepared to notify the Court of the estimated time needed to try the case. The Court will set a trial schedule based on the estimates given at the Post-Discovery Status Conference, and where necessary, will place the parties "on the clock" during trial. If the Court notifies the parties that it intends to impose time limits on the trial, counsel will be informed of the total amount of time allocated for trial, which will be split evenly between parties. Such time will include opening and closing statements, direct and cross examinations, side bars, and objections. Time spent in the 9:00 a.m. conference each morning (see III.G.3.) is not included. Judge Lancaster's courtroom deputy will keep track of the time used by each party each day and a running tally will be available to the parties at the end of each trial day upon request. Judge Lancaster recommends that the parties also keep track of the time used each day.

2. Trial Hours and Days

Judge Lancaster typically conducts trial between 9:30 a.m. and 4:45 p.m., with a morning break, an afternoon break, and an hour for lunch, usually beginning around 12:30 p.m. Judge Lancaster typically does not conduct trial on Fridays, however, where a jury is deliberating, or where special circumstances apply, counsel and the parties may be required to appear on a Friday.

3. The 9:00 a.m. Conference

Unless instructed otherwise, counsel shall appear in chambers each morning of trial at 9:00 a.m. At this time, the Court will address any evidentiary matters that are anticipated to arise that day and will ask counsel for offers of proof where necessary. Counsel may also place their position regarding any rulings made the previous day on the record. The Court may convene additional meetings of counsel during the trial day as it deems appropriate.

4. Voir Dire

In accordance with Local Rule, Judge Lancaster does not conduct voir dire in civil cases. Rather the courtroom deputy performs this task, with Judge Lancaster available if the situation requires his involvement. A deadline for submission of counsel's proposed voir dire will be established in the Final Scheduling Order.

5. Notetaking by Jurors

Judge Lancaster allows jurors to take notes during trial, and provides notebooks and pens to jurors for that purpose. These notebooks are kept in the jury deliberation room throughout trial and are destroyed thereafter.

6. Side Bars

Side bars are discouraged because they waste the jurors' time and extend the length of trial. Counsel are expected to anticipate matters that must be discussed outside the presence of the jury, and raise them at the 9:00 a.m. conference. However, where exceptional circumstances exist, counsel may request a side bar during the course of trial. Judge Lancaster's courtroom is equipped with technology that plays white noise through the audio system to ensure that the jury is unable to overhear the proceedings conducted at side bar.

7. Examination of Witnesses

a. Out of Sequence

Judge Lancaster allows counsel to examine witnesses out of sequence for logistical purposes. Judge Lancaster expects counsel to make such a request at the 9:00 a.m. conference and to have previously informed opposing counsel of the request. Judge Lancaster will make a short statement to the jury when a witness is called out of sequence explaining that this practice is common during trial and is not to alarm or concern the jury.

b. By More than One Attorney

Judge Lancaster permits one attorney for each party to examine or protect a witness. The attorney who examines the witness will be the same attorney to protect the witness on cross examination.

c. Beyond Direct and Cross

Judge Lancaster permits some redirect and recross examination, so long as such examination is limited to the scope of the prior questioning.

d. To be Conducted from Podium

Judge Lancaster requires counsel to question witnesses from the podium. Counsel must seek the Court's permission before approaching a witness to provide him or her with a document. However, Judge Lancaster encourages counsel to use the technology available in the courtroom to display exhibits electronically to the witness, and the other trial participants, whenever possible, thus making it unnecessary for counsel to approach the witness.

e. Courtroom Technology

Counsel are encouraged to contact Judge Lancaster's courtroom deputy prior to trial to arrange a time during which counsel may practice using the courtroom technology, and make necessary technical arrangements for any equipment that counsel will need during the trial. Counsel are directed to the court's website, www.pawd.uscourts.gov, for further information about courtroom technology, including technical specifications.

f. Recorded Testimony

Judge Lancaster permits testimony recorded by video to be played for the jury. He urges counsel to test its equipment, and to contact the Court's Information Technology department well

in advance of trial to do so. The Court will briefly explain the procedure to the jury prior to the testimony being played.

g. Reading of Material into the Record

Judge Lancaster allows testimony to be read into the record. Counsel may utilize whatever individual it deems appropriate to read the testimony into the record. The Court will briefly explain the procedure to the jury prior to the testimony being read.

8. Objections

Counsel must stand when making an objection, and must succinctly state the legal basis of the objection. Judge Lancaster does not permit counsel to make speaking objections in open court. Should counsel not follow this procedure, Judge Lancaster will deny the objection on that basis alone.

9. Opening and Closing Statements

Judge Lancaster imposes no limits or requirements on counsel's opening or closing statements, except in those cases in which he has imposed time limits on the trial. A temporary podium is set up directly in front of the jury for counsel to use during these statements. Counsel may use whatever visual aids they desire during these statements, and are encouraged to use courtroom technology to facilitate the statements.

10. Exhibits

All exhibits shall be listed in the Pre-Trial Statement. Plaintiff's exhibits should be identified by number and defendant's exhibits should be identified by letter. Exhibits must be marked and exchanged prior to trial. The court will rule on objections to exhibits and admit exhibits into evidence during the 9:00 a.m. conference. Counsel are encouraged to meet and confer regarding any objections that remain outstanding prior to presenting them to the court. Judge Lancaster does not allow counsel to use jury time to engage in such procedural formalities.

Visual aides are permissible, but must be marked and introduced into evidence if they are to be given to the jury.

At the conclusion of trial, Judge Lancaster's deputy clerk will meet with counsel to assemble those exhibits that will be made available to the jury during deliberations.

11. Directed Verdict Motions

The Court will provide counsel an opportunity to make any necessary motions in chambers at appropriate times during trial. Briefing is not required.

12. Jury Instructions and Verdict Forms

Judge Lancaster uses the Model Jury Instructions adopted by the Court of Appeals for the Third Circuit whenever they are applicable. Deadlines for the submission of proposed instructions will be set forth in the Final Scheduling Order. If a proposed instruction is not adopted in the Court's final jury instructions, then counsel should be assured that their objection thereto is preserved for the record.

During trial, Judge Lancaster will provide counsel with a draft of the final jury instructions and verdict form. Counsel will be given an opportunity to review the drafts prior to commencement of the charge conference. The charge conference is typically held after all testimony is completed.

H. Jury Deliberations

1. Written Jury Instructions

Each juror is provided a written copy of the final jury instructions prior to deliberations. Judge Lancaster notifies the jury of this fact before he begins to read the final jury instructions, and for that reason, forbids jurors from taking notes while he reads the final jury instructions.

2. Exhibits in the Jury Room

Generally, the jury is given all admitted exhibits for their use in deliberations.

3. Jury Questions

Judge Lancaster instructs the jury that all communications with the Court, including jury questions, must be in writing. If Judge Lancaster is informed that a jury question has been submitted, he will promptly notify counsel and convene a telephone conference. On the record, Judge Lancaster will read the question to counsel and discuss the appropriate response. Judge Lancaster's response will then be submitted to the jury in writing. The question and the answer will be filed on the docket.

4. Jury Requests to Read Back Testimony

Judge Lancaster informs the jury that he will not permit testimony to be read back during jury deliberations. If Judge Lancaster receives such a request from the jury during deliberations, he will so inform

counsel by telephone, but will, in almost all cases, simply notify the jury that he must deny their request and remind the jury of its duty to rely on their collective memory in considering the evidence.

5. Availability of Counsel During Jury Deliberations

Counsel need not remain in the courtroom after the jury has retired to deliberate. However, before leaving the courtroom, counsel must provide contact information to Judge Lancaster's law clerk so that the Court can reach counsel promptly should counsel need to return to the courtroom.

6. Interviewing the Jury

Judge Lancaster will meet privately with the jurors, in the jury deliberation room, after they have returned their verdict. Among other things, Judge Lancaster will inform the jurors of their right to speak with counsel for either party, both parties, or neither party upon leaving the jury deliberation room. Judge Lancaster directs the jurors to notify him immediately if any counsel persists in questioning them after they have refused a request to discuss the case.

IV. CRIMINAL CASES

A. Motions

Judge Lancaster does not have any practice or position with regard to granting extensions of time to file pretrial motions, and will grant such motions where to do so will advance resolution of the case. However, Judge Lancaster specifically notes the applicability of the Speedy Trial Act, and urges counsel to consider the propriety of repeatedly seeking such extensions when the defendant is incarcerated prior to trial.

Where counsel seeks such extensions, Judge Lancaster requires that proposed orders include language excluding such extension under the Speedy Trial Act where appropriate.

B. Hearings

Judge Lancaster will schedule hearings on motions filed in criminal cases as he deems necessary. Counsel are specifically advised that Judge Lancaster does not permit law enforcement officers testifying at any such hearing to appear on the witness stand in uniform.

C. Pre-Trial Conferences

Judge Lancaster holds a single Pre-Trial Conference in all criminal cases.

D. Guilty Pleas

Judge Lancaster sets no limits on when he will accept a guilty plea, including on the day of trial. Judge Lancaster has an extensive plea colloquy. See Attachment D. Following entry of a guilty plea, the Court typically enters a form order governing the preparation of a pre-sentence investigation report and addendum, and the submission of positions with respect to sentencing factors, letters from family and friends, victim impact statements, and other writings. See Attachment E.

E. Voir Dire

Judge Lancaster presides over voir dire in criminal cases. His courtroom deputy conducts the questioning of the venirepersons.

F. Trial

1. Witnesses

Where there are multiple defendants, each defendant's attorney may question a given witness.

Counsel should make a specific request to sequester witnesses prior to the first witness being questioned.

2. Jencks Material

Judge Lancaster requires that Jencks material be provided before cross examination, and prefers that it be provided before jury selection.

3. Other Matters

Judge Lancaster does not limit the number of government agents who may sit at counsel table.

Judge Lancaster prepares his own special interrogatories.

Judge Lancaster has no particular policy with respect to the waiver of defendant's rights.

G. Sentencings

1. Sentencing Memoranda

Counsel may submit memoranda in aid of sentencing, but are not required to do so. If they chose to submit such memoranda, counsel are encouraged to do so at least twenty four (24) hours before the scheduled sentencing hearing in order to allow Judge Lancaster ample opportunity to review and consider their position.

2. Sentencing Conferences

Judge Lancaster does not hold a conference prior to a sentencing hearing. Counsel are encouraged to bring any and all arguments to the Court's attention prior to the hearing in writing.

3. Sentencing Recommendations

Judge Lancaster is not authorized to assign a defendant to a particular prison, but will make a recommendation that a defendant be placed in a specific prison upon request, assuming such requested placement is deemed appropriate by the Bureau of Prisons.

ATTACHMENT A

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

Plaintiff,)
)
v.) Civil Action No. _____
)

Defendant.)

ORDER

AND NOW, this ____ day of _____, _____, IT IS HEREBY ORDERED
that the parties shall comply with the following dates in the
above-captioned matter:

1. Initial Rule 16 Scheduling Conference

Pursuant to Local Rule 16.1.1, an initial Rule 16 Scheduling
Conference shall be held before the undersigned on _____
_____.m. in Suite 3250, 3rd floor, U.S. Courthouse. All
counsel shall bring their calendars to the conference for
scheduling purposes. The parties should be prepared to discuss
settlement.

2. Rule 26(f) Conference

Pursuant to Rule 26(f) and notwithstanding the pendency of any outstanding motion, the parties **MUST** confer to consider the nature and basis of their claims and defenses, the possibilities for a prompt settlement or resolution of the case, the ADR Process, and to make arrangements for the disclosures required by Rule 26(a) on or before _____, 201_. Plaintiff shall initiate this conference. However, the court will hold both parties responsible for ensuring that this conference is held in a timely manner.

3. Rule 26(f) Report

The parties **MUST** confer as necessary and **MUST** file with the Clerk of Court a Rule 26(f) report on or about _____, 201_. The Rule 26(f) Report **SHALL** comply, in form and content, with the "Federal Rule of Civil Procedure 26(f) Report of the Parties" that is available on the Court's website, www.pawd.uscourts.gov, where it can be downloaded and used as a word processing document. The parties may decide who will prepare and file the Rule 26(f) Report. However, the court will hold both parties responsible for ensuring that the Report is filed in the correct form and in a timely manner.

4. Selection of ADR Process

During the Rule 26(f) Conference, the parties MUST discuss the Alternate Dispute Resolution (ADR) Process. The parties **MUST** provide the Court with specific information regarding the ADR Process that they have selected in **BOTH** the Rule 26(f) Report and the Stipulation Selecting ADR Process.

Specifically, the Rule 26(f) Report must include (1) the specific ADR process that has been selected and (2) the time frame in which the ADR process will be completed. The Stipulation must include (1) the specific ADR process that has been selected, (2) how the parties have agreed to share the cost of ADR, (3) the name of the individual who will conduct the ADR, (4) the date the ADR process will occur, and (5) the names of the individuals who will attend the ADR.

The parties **MUST** file with the Clerk of Court the Stipulation Selecting ADR Process concurrently with their Rule 26(f) Report. The Stipulation Selecting ADR Process **SHALL** comply, in form and content, with the "Stipulation Selecting ADR Process" that is available on the Court's website, www.pawd.uscourts.gov, where it can be downloaded and used as a word processing document. For the parties' convenience, the Court has also attached a copy of the Stipulation to this Order.

The parties may decide who will prepare and file the Stipulation Selecting ADR Process. However, the court will hold both parties responsible for ensuring that the Stipulation is filed in the correct form and in a timely manner.

5. Rule 26(a) Disclosures

The parties are excused from the requirement of making the disclosures required by Rule 26(a)(1) within fourteen (14) days after the Rule 26(f) Conference. The parties may agree to make the required disclosures at any time following the Rule 26(f) Conference, and are encouraged to do so promptly. The parties are reminded that under the rule a party shall make its initial disclosures based on the information then reasonably available to it and is not excused from making its disclosures because it has not fully completed its investigation of the case, or because it challenges the sufficiency of another party's disclosures, or because another party has not made its disclosures. If the required disclosures have not been made as of the date of the initial Rule 16 Scheduling Conference, the court shall set a date by which such disclosures must be made at that Conference.

BY THE COURT:

_____, C.J.
Gary L. Lancaster,
Chief United States District Judge

ATTACHMENT

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

)	
Plaintiff(s),)	
)	
v.)	Civil Action No.
)	
)	
Defendant(s).)	

STIPULATION SELECTING ADR PROCESS

Counsel report that they have met and conferred regarding Alternative Dispute Resolution (ADR) and have reached the following stipulation pursuant to L.R. 16.2 and the Court’s ADR Policies and Procedures.

I. PROCESS

Select one of the following processes:

- Mediation
- Early Neutral Evaluation (ENE)
- Court sponsored Binding¹ Arbitration
- Court sponsored Non-binding Arbitration
- Private ADR (please identify process and provider) _____
- Other (please identify process and provider) _____

***If you are utilizing a private process, be advised that the case is still governed by the Court’s ADR Policies and Procedures. It is the responsibility of counsel to ensure that all of the proper forms are timely submitted and filed, as required by Polices and Procedures.**

II. COSTS

The parties have agreed to share the ADR costs as follows (do not complete percentages for court sponsored arbitration. For that process costs are paid by the court in accordance with 28 USC §658.):

- _____ % by Plaintiff
- _____ % by Defendant

If a dispute arises as to compensation and costs for the mediator/neutral evaluator/private arbitrator, the Court will set reasonable compensation and costs.

III. NEUTRAL

¹For binding arbitration, please complete form “Stipulation to Binding Arbitration” located on the Court’s website at www.pawd.uscourts.gov

The parties hereby designate by agreement the following individual to serve as a Neutral in the above-styled action:

Name of Neutral: _____
Address of Neutral: _____
Telephone & FAX Numbers: _____
Email address of Neutral: _____
Date of ADR Session: _____

The parties represent that they have contacted the selected prospective neutral and have determined that the neutral is available to conduct the ADR session within the time prescribed by the Court's Policies and Procedures and that the neutral does not have a conflict.

IV. PARTICIPANTS

Name of the individual(s) who will be attending the mediation or early neutral evaluation session in accordance with Sections 3.8A and 4.10A of the Court's ADR Policies and Procedures:

For Plaintiff(s): _____
Name and title
For Defendant _____
Name and title
For Defendant _____
Name and title
For 3d party Deft _____
Name and title

If there is insufficient space to list all parties who will be attending the session, please add additional sheets as necessary.

Each party certifies that the representative(s) attending the ADR session on its behalf has full and complete settlement authority.

V. ACKNOWLEDGMENT

We, the undersigned parties to this action, declare that this stipulation is both consensual and mutual.

Dated: _____
Attorney for Plaintiff

Dated: _____
Attorney for Defendant

ATTACHMENT B

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

_____,)
Plaintiff,)
)
v.) Civil Action No. _____
)
_____,)
Defendant.)

INITIAL SCHEDULING ORDER

AND NOW, this ____ day of _____, 201_, IT IS HEREBY ORDERED that the above captioned civil action is placed under Rule 16.1 of the Local Rules of the United States District Court for the Western District of Pennsylvania for pretrial proceedings and all provisions of the Rule will be strictly enforced.

IT IS FURTHER ORDERED that counsel shall confer with their clients prior to the Post-Discovery Status Conference, or any other status conference, in order to obtain authority for the purpose of participating in settlement negotiations to be conducted by the court. Counsel are encouraged to appear with their principals at all such conferences, or instruct the principals to be available by telephone to facilitate the amicable resolution of all litigation.

IT IS FURTHER ORDERED that compliance with the provisions of Local Rule 16.1.2.A. shall be completed as follows:

A. Initial Case Management Plan

1) The parties, having selected _____ as their Alternative Dispute Resolution process, shall complete their selected Alternative Dispute Resolution process on _____, 201_. The parties, and their selected neutral, shall comply fully with this court's policies and procedures regarding Alternate Dispute Resolution relative to their selected process.

2) The parties shall complete all fact discovery by _____, 201_. All interrogatories, depositions, requests for admissions and requests for production shall be served within sufficient time to allow responses to be complete and filed prior to the close of discovery. **The Court WILL NOT routinely grant extensions of the discovery period. The Court will extend the discovery cut off date only in exceptional circumstances.**

PENDENCY OF THE ADR PROCESS DOES NOT QUALIFY AS AN EXCEPTIONAL CIRCUMSTANCE.

3) A Post-Discovery Status Conference is scheduled for _____, 201_ at _____ .m.. The parties shall be prepared to discuss settlement at this Conference. The parties are also advised that the court will schedule the following at this Conference: (1) deadlines for completion of expert discovery, if applicable; (2) dates by which dispositive motions should be filed and responded to; (2) dates by which the parties' pre-trial statements should be filed; (3) dates by which motions in limine

should be filed and responded to; (4) dates by which Daubert motions should be filed and responded to; (5) dates on which argument on Daubert motions and motions in limine shall be heard; (6) date for the final pre-trial conference; and (7) trial dates.

B. Procedures Following Inadvertent Disclosure

Except as otherwise provided in Section D, *infra*, pursuant to Local Rule 16.1.D(1-3) and in order to aid the implementation of Fed.R.Evid. 502, the parties shall adhere to the following procedures:

1. The producing party shall promptly notify all receiving parties of the inadvertent production of any privileged or trial preparation material. Any receiving party who has reasonable cause to believe that it has received privileged or trial preparation material shall promptly notify the producing party.

2. Upon receiving notice of inadvertent production, any receiving party shall immediately retrieve all copies of the inadvertently disclosed material and sequester such material pending a resolution of the producing party's claim either by the Court or by agreement of the parties.

3. If the parties cannot agree as to the claim of privilege, the producing party shall move the Court for a resolution within 30 days of the notice set forth in subparagraph (a). Nothing herein shall be construed to prevent a receiving party from moving the Court for a resolution, but such motion must be made within the 30-day period.

C. Motion Practice

1) Motions Not Requiring Briefs

No brief is required by either movant or respondent unless otherwise directed by the court with respect to the following motions:

- (a) For extension of time for the performance of an act required or allowed to be done;
- (b) To continue a Post-Discovery Status Conference;
- (c) To amend pleadings;
- (d) To file supplemental pleadings;
- (e) For a substitution of parties; and
- (f) To compel discovery.

Any of the above motions not requiring briefs shall be accompanied by a proposed order stating the relief requested by said motion. All other motions and responses thereto, must be accompanied by a brief. The Clerk shall not accept for filing any motion, application or objection requiring a brief not accompanied by such brief without permission of the court.

D. Procedure Governing Discovery Disputes

The Federal Rules of Civil Procedure allow for liberal discovery. Except as otherwise set provided in Section B, supra, in the absence of a privilege, relevancy is the test for determining whether material is discoverable. Fed.R.Civ.P. 26(b)(1). This rule is construed broadly and includes "any matter that bears on, or that reasonably could lead to other matters that could bear on, any issue that is or may be in the case." Oppenheimer Fund, Inc. v. Sanders, 437 U.S. 340, 351 (1978).

Discovery is not limited to the issues raised only in the pleadings, but rather is designed to define and clarify the issues. Id. at 351. Nor is discovery objectionable on the ground that the information sought would be inadmissible at trial, so long as the information sought appears reasonably calculated to lead to the discovery of admissible evidence. Additionally, should it be determined that, given the needs of the case, compliance with a discovery request would be burdensome or expensive, this will not necessarily be grounds for non-production, but it will impact on the court's decision as to who must bear the cost of production.

In accordance with Local Rule 7.1.C., in the event a dispute arises over a discovery request, all counsel are required to confer in good faith in an effort to resolve the issue without court intervention. It shall be the obligation of the attorney for the party seeking court intervention to initiate such conferences and to do so promptly. Refusal to confer in good faith may subject counsel to sanctions, such as the imposition of costs, including the attorney's fees of opposing counsel, under Fed.R.Civ.P. 37(a) (4).

In the event, however, that the parties to this action are unable to informally resolve a discovery dispute and court intervention is sought, the movant shall file a Motion to Compel Discovery (or Protective Order if such is the case). Attached to the Motion shall be a proposed Order of Court in which the moving party shall set forth, in specific detail, its proposal for completely resolving the discovery dispute. Within five (5) working days after receipt of the motion, the respondent, either singularly or in conjunction, shall file a written response. Attached to the response shall be respondent's proposed Order of Court.

The court will sign, without modification, the one proposed Order of Court which, in the judgment of the court, is most reasonable under the circumstances.

BY THE COURT:

_____, C.J.
Gary L. Lancaster,
Chief United States District Judge

cc: All Counsel of Record

ATTACHMENT C

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

_____,)
Plaintiff,)
)
v.) Civil Action No. _____
)
_____,)
Defendant.)

FINAL SCHEDULING ORDER

AND NOW, this ____ day of _____, 201_, IT IS HEREBY ORDERED that compliance with the provisions of Local Rule 16.1.2.B. shall be completed as follows:

A. Final Case Management Plan

1) Any motion for summary judgment motion, and brief in support, shall be filed on or before _____, 201_.

2) Any response to a motion for summary judgment and brief shall be due on or before _____, 201_.

3) Any reply to a response to a motion for summary judgment shall be due on or before _____, 201_. THERE SHALL BE NO OTHER BRIEFING UNLESS ORDERED BY THE COURT.

4) Plaintiff's pretrial narrative statement shall comply with Local Rule 16.1.4.A. and shall be filed by _____, 201_. Defendant's pretrial narrative statement shall comply with Local Rule 16.1.4.B. and shall be filed _____, 201_. Counsel shall specify the material facts to be proved at trial. Proof of material facts not specified, may be excluded at trial upon

objection or by the court sua sponte. **THE PENDENCY OF ANY OUTSTANDING MOTION FOR SUMMARY JUDGMENT DOES NOT EXCUSE THE FAILURE OF A PARTY TO FILE THEIR PRETRIAL STATEMENT.** ANY EXHIBIT WHICH HAS NOT BEEN IDENTIFIED BY COUNSEL IN THE PRETRIAL NARRATIVE STATEMENT, EXCEPT AN EXHIBIT TO BE USED SOLELY FOR IMPEACHMENT PURPOSES, SHALL NOT BE ADMITTED AS EVIDENCE, UNLESS THE PARTIES OTHERWISE AGREE OR THE COURT ORDERS OTHERWISE. The parties shall not amend or supplement their pretrial statements without leave of court.

5) The parties shall file any motions in limine, proposed voir dire and points for charge by _____, 201_. NO MOTIONS IN LIMINE WILL BE ENTERTAINED BY THE COURT PRIOR TO _____, 201_.

6) The nonmoving party's response to any motion in limine shall be due no later than _____, 201_.

7) The court will conduct a pretrial conference on _____, 201 at _____ .m.. IMPORTANT INFORMATION REGARDING ATTORNEYS' RESPONSIBILITIES AT THE PRETRIAL CONFERENCE APPEARS IN SECTION C OF THIS ORDER.

8) The case shall presumptively be called for jury selection and trial on _____, 201 at 9:30 a.m.. THE ABSENCE OF ANY WITNESS SHALL NOT BE SUFFICIENT CAUSE TO DELAY THE TRIAL.

B. Motion Practice

1) Motions Not Requiring Briefs

No brief is required by either movant or respondent unless otherwise directed by the court with respect to the following motions:

(a) For extension of time for the performance of an act required or allowed to be done;

(b) To continue a pretrial conference, hearing, or the trial of an action;

(c) To amend pleadings;

(d) To file supplemental pleadings; and

(e) For a substitution of parties.

Any of the above motions not requiring briefs shall be accompanied by a proposed order stating the relief requested by said motion. All other motions and responses thereto, must be accompanied by a brief. The Clerk shall not accept for filing any motion, application or objection requiring a brief not accompanied by such brief without permission of the court.

2) Summary Judgment Motions

The motion for summary judgment must set forth succinctly, but without argument, the specific grounds upon which the judgment is sought and must be accompanied by:

(a) A separately filed concise statement setting forth the facts essential for the court to decide the motion, which the moving party contends are **undisputed and material**, including any facts which for purposes of the motion only are assumed to be true. The facts set forth in any party's Concise Statement shall be stated in separately numbered paragraphs in a form similar to a plaintiff's complaint. At the conclusion of each fact, a party must cite to a particular pleading, deposition, answer to interrogatory, admission on file or other part of the record supporting the party's statement, acceptance, or denial of that fact;

(b) A supporting memorandum addressing applicable law and explaining why there are no genuine issues of material fact to be tried and why the moving party is entitled to judgment as a matter of law; and

(c) An appendix including documents referenced in the Concise Statement. Such documents need not be filed in their entirety. Instead, the filing party may extract and highlight the relevant portions of each referenced document. Photocopies of extracted pages, with appropriate identification and highlighting, will be adequate.

The response in opposition to a motion for summary judgment shall consist of the following:

(d) A separately filed concise statement, which responds to each numbered paragraph in the moving party's Concise Statement of Material Facts by:

(1) admitting or denying each fact contained in the moving party's Concise Statement of Material Facts, and where appropriate, indicating whether a fact is immaterial.

(2) If disputed or not admitted in its entirety, the respondent shall state a concise counter statement of the matter. At the conclusion of each counter statement, respondent shall refer, with particularity, to those portions of the record upon which respondent relies. For example,

"5) Admitted.

6) Disputed. On the contrary . . . (See plaintiff's deposition of November 1, 2007, at Page 7, lines 12-14)"; and

(3) setting forth in separately numbered paragraphs any other material facts that are allegedly at issue, and/or that the opposing party asserts are necessary for the court to determine the motion for summary judgment;

(e) A memorandum of law in opposition to the motion addressing applicable law and explaining why there are genuine issues of material fact to be tried and/or why the moving party is not entitled to judgment as a matter of law; and

(f) An appendix including documents referenced in the Responsive Concise Statement. Such documents need not be filed in their entirety. Instead, the filing party may extract and highlight the relevant portions of each referenced document. Photocopies of extracted pages, with appropriate identification and highlighting, will be adequate.

Any reply to a response in opposition to the motion for summary judgment shall be made in the same manner as set forth in LR 56.1C, and the instructions immediately above.

Alleged material facts set forth in the moving party's Concise Statement of Material Facts or in the opposing party's Responsive Concise Statement will for the purpose of deciding the motion for summary judgment be deemed admitted unless specifically denied or otherwise controverted by a separate concise statement, with specific citation to the record, of the opposing party.

3) Procedures Following Inadvertent Disclosure

In order to aid the implementation of Fed.R.Evid. 502, the parties shall adhere to the following procedures:

a. The producing party shall promptly notify all receiving parties of the inadvertent production of any privileged or trial preparation material. Any receiving party who has reasonable cause to believe that it has received privileged or trial preparation material shall promptly notify the producing party.

b. Upon receiving notice of inadvertent production, any receiving party shall immediately retrieve all copies of the inadvertently disclosed material and sequester such material pending a resolution of the producing party's claim either by the Court or by agreement of the parties.

c. If the parties cannot agree as to the claim of privilege, the producing party shall move the Court for a resolution within 30 days of the notice set forth in subparagraph (a). Nothing herein shall be construed to prevent a receiving party from moving the Court for a resolution, but such motion must be made within the 30-day period.

4) Motions in Limine

Prior to filing a motion in limine, counsel shall confer and consult so as to ensure that a genuine dispute exists with respect to the subject matter of the motion in limine.

A motion in limine must be accompanied by a certificate from the moving counsel of record certifying that he has conferred and consulted with adverse counsel with respect to each matter set forth in the motion and that the parties are unable to resolve their differences. The certificate shall set forth the exact time and place of the conference and consultation. If the required certificate cannot be furnished, counsel for movant shall furnish an alternative certificate stating that opposing counsel has refused to so meet and confer, or to sign the required certificate, or stating such other facts and circumstances supporting the absence of the required certificate and movant's efforts to obtain compliance by opposing counsel.

C. Pretrial Conference

At the pretrial conference, ATTORNEYS MUST BE PREPARED TO DO EACH OF THE FOLLOWING:

1) INDICATE on the record whether the exhibits of any other party are agreed to or objected to, and offer the reason(s) for any such objection.

2) If any legal issues remain undecided, PRESENT the proper motions, along with a brief.

3) ESTIMATE the number of days required for trial.

4) IDENTIFY the witnesses that are to testify at trial.

5) IDENTIFY any depositions or any portion thereof to be read into evidence. A party intending to use a discovery deposition in its case-in-chief shall: (a) identify the deposition by the name of the deponent and date of his or her deposition; and (b) designate to the court and to the opposing party the pages and lines that will be offered at trial.

Opposing counsel shall counter-designate those lines and pages of the same deposition that will be offered at trial.

Objections to the admissibility of any portion thereof to be read into evidence shall be identified at the pretrial

conference. Objections to the admissibility of any portion shall be submitted to the court at the conference. This order does not include video taped qualifications of experts.

6) IDENTIFY known or anticipated evidentiary issues.

7) INQUIRE of their authority to settle and have their clients present or available by telephone. The judge shall inquire whether counsel have discussed settlement.

Such record shall be made of the conference as the court orders. Failure to fully disclose in the pretrial narrative statement, or at the pretrial conference, the substance of evidence proposed to be offered at trial will result in the exclusion of that evidence at trial, unless the parties otherwise agree or the court orders otherwise. The only exception shall be evidence used for impeachment purposes.

BY THE COURT:

_____, C.J.
Hon. Gary L. Lancaster,
Chief United States District Judge

cc: All Counsel of Record

ATTACHMENT D

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

UNITED STATES OF AMERICA,)
)
 v.) Criminal No. _____
)
 _____,)
 Defendant.)

PLEA

AND NOW, the defendant,
_____, in the above
entitled case hereby
withdraws his plea of
NOT GUILTY, entered _____
_____, and now pleads GUILTY
to count(s) _____ in open
court, this _____ day of _____,
20__.

Defendant

Attorney

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

UNITED STATES OF AMERICA)
)
 vs.) Criminal No. _____
)
_____)

COUNSEL FOR THE PARTIES

For Government - _____, AUSA
For Defendant - _____, AFPD

COLLOQUY FOR CHANGE OF PLEA

(JUDGE ASKS DEFENDANT AND COUNSEL TO STEP TO LECTERN)

1. I'm informed that you want to change your plea in the plea in this case from not guilty to guilty. Is that correct?

2. Before accepting your guilty plea, there are a number of questions I will ask you to assure myself that your plea is valid. You must answer these questions in the courtroom. If you do not understand any question, tell me, and I will explain the question to you. If at any time you want to talk to your attorney, tell me and I will provide you with a time and a place to consult with your attorney. I give you these instructions because it is essential to a valid plea that you understand each question before you answer. The Clerk will place the defendant under oath.

3. Do you understand that having been sworn, your answers to my questions are subject to the penalties of perjury or of making a false statement, if you do not answer truthfully?

4. Please state your full name.

5. How old are you?

6. How far did you go in school?

7. Are you able to read, write and understand the English language?

8. Have you taken any drugs or medication or drank any alcoholic beverages in the past 24 hours that might affect your judgment here today?

9. Are you now, or have you recently been, under the care of a physician or a psychiatrist?

10. Are you now, or have you recently been, hospitalized or treated for narcotic addiction?

11. Do you understand what is happening today?

(JUDGE TO DEFENDANT'S COUNSEL)

12. Have you been able to communicate with your client in English?

(JUDGE TO COUNSEL)

13. Do you have any doubt as to the defendant's competence to plead at this time?

(JUDGE TO DEFENDANT)

14. Do you have your attorney here with you today?

15. What is your attorney's name?

16. Have you had ample opportunity to discuss your case with your counsel?
17. Are you satisfied with the job your attorney has done for you so far?
18. Do you understand that if you continue to plead not guilty, you have a right to be assisted by an attorney at the trial of these charges?
19. Do you understand that if you qualify financially you are entitled to be assisted by an attorney at no cost to you?
20. Do you understand that under the Constitution and the laws of the United States, you are entitled to a speedy trial by a judge and jury on the charges?
21. Do you understand that at a trial, you are presumed to be innocent?
22. Do you understand that at a trial, the government is required to prove your guilt by competent evidence and beyond a reasonable doubt before you can be found guilty?
23. Do you understand that at a trial, you will not have to prove that you were innocent?
24. Do you understand that at a trial, the jury must be unanimous in order to find you guilty of the charges against you? That is that all 12 jurors would have to agree that you are guilty before you can be found guilty. Do you understand this?
25. Do you understand that you have the right to participate in the selection of the jury and that you have the right to eliminate any prospective juror if it was demonstrated that juror was unable to render a fair and impartial verdict. In addition, you would have the right to eliminate ten jurors, and one alternate juror, without assigning any reason at all?
26. Do you understand that in a trial, the witnesses for the government have to come to court and testify in your presence?

27. Do you understand that in a trial, your counsel can cross-examine the witnesses for the government, object to evidence offered by the government and offer evidence on your behalf?
28. Do you understand that in a trial, if you are unable to pay witness fees to witnesses you want to call on your behalf, the government will pay those witness fees for you?
29. Do you understand also that at a trial, you have the right to testify if you want to?
30. Do you understand that at a trial, you have the right not to testify and I will instruct the jury that no inference of guilt can be drawn from the fact that you did not testify?
31. Do you understand that if you plead guilty and I accept your plea, you will waive your right to a trial and the other rights I have just discussed, there will be no trial, and I will enter a judgment of guilty and sentence you on the basis of your guilty plea after I consider a pre-sentence report?
32. Do you understand that you will also have to waive the right not to incriminate yourself, because I will ask you questions about what you did in order to satisfy myself that you are guilty as charged and you will have to acknowledge your guilt here in the courtroom?
33. Having discussed your rights with you, do you still want to plead guilty?
34. Have you received a copy of the indictment against you? Have you discussed with your counsel the charges in the indictment to which you intend to plead guilty?

35. You should understand that you are charged with

_____, in violation of Title __, United
States Code, Section

_____.

Do you understand the charge(s) against you?

(JUDGE TO GOVERNMENT COUNSEL)

36. M _____, what are the elements of the charges
the government would prove against the defendant?

(JUDGE TO DEFENDANT)

37. Do you understand that the government would have
to prove beyond a reasonable doubt these elements
against you?

38. You should understand that the maximum penalties
that may be imposed are as follows:

_____.

39. Has anyone made a threat to you, or to anyone
else, that has forced you in any way to plead
guilty?

40. You should understand that I may approve a plea agreement. You have a duty to disclose any such agreement. If you do not disclose that agreement now, you may not later assert the existence of any plea agreement. Is there a plea agreement in this case?

40(a). Do you understand the plea agreement?

40(b). Counsel read the portion of the plea agreement which states that you are waiving your right to a direct appeal of this sentence, subject to three exceptions: (1) the U.S. appeals this sentence, (2) the sentence exceeds the applicable statutory limits set forth in the U.S. Code, or (3) the sentence unreasonably exceeds the Guideline range determined by the Court under the Sentencing Guidelines. Do you understand this?

40(c). Counsel also read the portion of the plea agreement which states that you are waiving your right to collaterally attack this sentence. Do you understand this?

40(d). Counsel also read the portion of the plea agreement which states that you are waiving your right to assert that counsel was ineffective. Do you understand this?

41. Do you understand that the offense(s) to which you are pleading guilty is/are felony offense(s), and if your guilty plea is accepted, you will be adjudged guilty of that/those offense(s) and that such adjudication may deprive you of valuable civil rights such as the right to vote, the right to hold public office, the right to serve on a jury, and the right to possess any kind of firearm?

42. Has anyone made any prediction or promise to you as to what your actual sentence will be?

43. If so, what was it and who made it?

44. Has anything I said here today suggested to you what your actual sentence will be?

45. Have you been instructed by your counsel, government counsel or anyone else to respond untruthfully to any question concerning a promised sentence?

46. Did you, as charged in count ____ of the indictment, _____

_____, on or about _____, 20__?

(JUDGE TO GOVERNMENT COUNSEL)

47. M _____, what in summary would be the government's evidence as to the defendant?

(JUDGE TO DEFENDANT)

49. Do you agree with the prosecution's summary of what you did?

50. Is there anything you disagree with?

51. Do you still wish to plead guilty?

(JUDGE TO DEFENSE COUNSEL)

52. M _____, is this consistent with your advice?

Since the defendant has acknowledged that he is in fact guilty as charged at count(s) _____ of the indictment, because he knows his right to a trial, the maximum possible penalties, and because he is voluntarily pleading guilty, I will his guilty plea(s) and enter a judgment of guilt on his plea(s).

It is the finding of the court in the case of United States v. _____, that defendant is competent and capable of entering informed plea(s), and that his plea(s) of guilty is/are knowingly and voluntarily made, supported by an independent basis in fact containing each of the essential elements of the offense(s).

His plea(s) is/are, therefore, accepted and defendant, _____, is adjudged guilty of count(s)____ at Criminal No. _____. The defendant, having been adjudicated guilty at count(s) _____of Criminal No. _____, is indebted to the government the special assessment of \$100.00 at each count. **This amount shall be paid immediately.** After adjournment of these proceedings, defendant and his counsel/defendant's counsel will report to Suite 3100 to make arrangements for payment.

HAVE THE DEFENDANT AND COUNSEL SIGN THE PLEA FORM.

I will order a pre-sentence investigation report. It is in your best interests to cooperate with the probation officer in furnishing information for that report because the report will be important in my decision as to what your sentence will be. You and your counsel have a right, and will have an opportunity, to examine the report and comment on it at the time of sentence. At the conclusion of this proceeding, the parties will be provided an order regarding the procedures for making such comment.

The disposition of sentencing is set for _____ at _____ .m. in this courtroom.

The court is required to detain a defendant after conviction, unless the court finds by clear and convincing evidence that the defendant is not likely to flee or pose a danger to the safety of any other person or the community. The defendant has the burden of proof.

(JUDGE TO DEFENDANT)

M _____, do you understand that you will be sentenced on _____ at _____.m.. You must be in this courtroom for sentencing on that date, or you will be guilty of a violation of the Bail Reform Act, 18 U.S.C. §3146, for which there is a maximum penalty of five (5) years incarceration, or a fine of \$250,000.00, or both.

(JUDGE TO DEFENSE COUNSEL & PROSECUTOR):

Are counsel aware of any other matters to be brought to the attention of the court?

ATTACHMENT E

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

UNITED STATES OF AMERICA,)
)
 v.)
 Criminal No. _____
_____,)
 Defendant.)

ORDER

AND NOW, this __ day of _____, 20__, following defendant's entry of a guilty plea, IT IS HEREBY ORDERED THAT the probation office will prepare a pre-sentence investigation report. At least 35 days before sentencing, the probation office must forward a copy of that report to defense counsel to review with his client prior to sentencing. The probation office will also forward a copy of the report to the Assistant United States Attorney.

If either party disputes facts contained in the report that are material to sentencing, it will be that party's obligation to seek administrative resolution of that matter through a pre-sentence conference with opposing counsel and the probation officer. Within 14 days after receipt of the report, the parties will each file with the clerk of court, and serve upon opposing counsel and the probation office, their positions with respect to sentencing factors. This pleading will be accompanied by a written statement certifying that filing counsel has conferred with opposing counsel and the probation office in an attempt to resolve any disputed matter.

After receipt of the parties' positions, the reporting probation officer will make any necessary investigation and revisions to the report. In any event, and at least seven (7) days before sentencing, the reporting probation officer will prepare an addendum to the report that sets forth any objection to the report that has been made by counsel but not resolved, together with the probation officer's comments. The probation officer will certify that the report, any revisions thereto, and the addendum have been disclosed to the defendant and all counsel and that the addendum fairly sets forth all remaining objections.

Finally, any written letters from family, friends or supporters of the defendant, any written victim impact statements, or any other writings the defendant or the government wants the court to consider in fashioning a sentence shall be attached as exhibits to that party's "Memorandum In Aid Of Sentencing" and shall be electronically filed, accordingly. Counsel are to discourage individuals from sending such material directly to the court and any such material sent directly to the court will be forwarded to the appropriate counsel of record for electronic filing.

BY THE COURT:

_____, C.J.
Gary L. Lancaster,
Chief United States District Judge

cc: United States Attorney
Defense Counsel
United States Probation Office