

Proposed Change to LR99.16.2

LR99.16.2. Pretrial Scheduling Orders in Prisoner Actions.

After an opposing party has entered an appearance by filing an answer to a complaint or other responsive pleading, responding to a petition, or removing an action from the state court, pretrial scheduling conferences shall be held in *pro se* prisoner actions as set forth in LR16.2. *Pro se* prisoners shall attend such conferences by telephone pursuant to LR99.16.1.

At the conclusion of the scheduling conference, the judge shall enter a scheduling order as set forth in LR16.3. The *pro se* prisoner scheduling order is substantially identical to that in represented cases as set forth in LR16.3, with the following exceptions.

(a) All motions filed in *pro se* prisoner actions shall be designated as non-hearing motions unless otherwise designated by the court.

(b) The parties shall serve and file an opposition or reply to all prisoner motions according to the schedule set forth in LR7.4, except that the following *pro se* prisoner motions require no opposition unless otherwise directed by the court: motions to proceed *in forma pauperis*, motions for appointment of counsel, motions for copies, motions for extension or enlargement of time, and general requests that would not normally require input from an opposing party.

(c) When an answer sets forth the affirmative defense of failure to exhaust prison administrative remedies, pursuant to 42 U.S.C. § 1997e(a), the party asserting that defense shall file a dispositive motion to that effect within seventy (70) days (ten weeks) after entry of the scheduling order.

(d) Pursuant to LR5.4, any party that has consented in writing to electronic service and who has waived the right to personal service shall be deemed served with a *pro se* prisoner's documents and pleadings, other than service of process, when the documents or pleadings are entered on the court's docket through the court's transmission facilities in accordance with the administrative procedures adopted by a general order of this court. Receipt of the Notice of Electronic Filing ("NEF") generated by the court's Electronic Case Files ("ECF") shall constitute the equivalent of service of the *pro se* prisoner's pleading or other paper.