

# UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII  
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HONOLULU, HAWAII 96850

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## PRETRIAL PROCEDURES IN CIVIL CASES BEFORE MAGISTRATE JUDGES KEVIN S.C. CHANG AND KENNETH J. MANSFIELD

*(Last Revised: 02/21/2017)*

The purpose of this memorandum is to provide general information regarding pretrial procedures before Magistrate Judges Chang and Mansfield. This information supplements, and does not replace, counsel and the parties' review and knowledge of the Local Rules of Practice for the U.S. District Court for the District of Hawai'i ("Local Rules"), the Federal Rules of Evidence ("FRE"), and the Federal Rules of Civil Procedure ("FRCP"). Counsel and any parties proceeding pro se are expected and required to be familiar with and comply with the aforementioned rules.

1. **Rule 16 Conferences:** Within 90 days after the filing of a matter, a scheduling conference is typically held. The parties must file with the court and serve on all parties a Scheduling Conference Statement. Counsel or parties proceeding pro se must be prepared to discuss, among other things, the following at the conference: (1) alternative dispute resolution procedures; (2) any discovery problems, anticipated or current; (3) pending or anticipated motions; and (4) prospects for settlement. Initial disclosures of witnesses and documents are required in most cases to be made prior to the conference. See Fed. R. Civ. P. 26.
  - a. **Scheduling Conference Statement:** This statement must be filed no later than (7) calendar days before the conference in accordance with Local Rule 16.2 and contain, among other things, a brief statement of the case, statement of jurisdiction, whether jury trial has been demanded, list of discovery completed and a list of in progress, motions pending and hearing dates, and a list of any related cases.
  - b. **Report of Meeting of the Parties:** At least 21 days before the Scheduling Conference, the parties must meet to discuss the nature and basis of their claims

and defenses and the possibilities for settlement or other resolution as required by FRCP 26(f). Counsel and parties appearing pro se must submit to the court within 14 days after the meeting a written report outlining the plan for discovery.

- c. **Rule 16 Scheduling Conference Order:** An Order will be mailed to counsel and parties proceeding pro se who appeared at the Scheduling Conference. This Order will set forth deadlines for (1) trial date; (2) final pretrial conference; (3) filing motions to join or add parties or amend pleadings; (4) filing other non-dispositive motions; (5) filing dispositive motions; (6) filing motions in limine; (7) expert disclosures; (8) discovery deadline; (9) settlement conference; (10) submitting settlement conference statements; (11) submitting voir dire questions, special verdict form, concise statement or case and jury instructions (if jury trial); (12) filing final witness list; (13) exchanging exhibit and demonstrative aids; (14) filing stipulations regarding proposed exhibits; (15) filing deposition designations and counter-designations; (16) filing trial briefs; (17) filing findings of fact and conclusions of law (if non-jury trial).
2. **Discovery Conferences:** No motion or discovery conference will be entertained unless and until counsel or parties proceeding pro se have met and conferred, in person or by telephone, concerning all disputed issues, in a good faith effort to limit the disputed issues and, if possible, to eliminate the need for any motion or conference. If a motion is filed, then the moving party must certify compliance with this requirement. See Local Rule 37.1(b).
    - a. **Discovery Letter Briefs:** Discovery assistance on an expedited basis is available and is intended to afford a swift but full opportunity for parties to present their positions through abbreviated, simultaneous briefing and, when appropriate, a conference. ***Counsel desiring court assistance in resolving discovery issues on an expedited basis shall contact opposing counsel in an effort to reach an agreement on a deadline for the submission of letter briefs, and then shall inform the courtroom manager or chambers staff of the assigned magistrate judge of the agreed upon deadline.*** See Local Rule 37.1. After reviewing the letter briefs, the court will determine whether this expedited procedure will entail only the submission of letter briefs (consisting of five pages or less of written materials, **including exhibits**) submitted, or involve both the submission of letter briefs and a discovery conference or hearing.
    - b. **Confidentiality Order:** Where practicable, counsel or parties proceeding pro se should seek agreement for production of confidential documents pursuant to a stipulated protective order. An acceptable form of a stipulated protective order can be found under the Judges' Requirements tab on the U.S. District Court for the District of Hawaii website (www.hid.uscourts.gov). Generally, the court will not permit ***entire*** court files consisting of pleadings and documents to be sealed, even if the parties wish to stipulate to such measures. ***The court, however, does recognize that it may be necessary sometimes to submit to the court a limited***

*number of documents or specific portions of pleadings under seal. See, e.g., Form Stipulated Protective Order.*

3. **Courtroom Managers:** For questions regarding scheduling in civil cases, the courtroom managers may be contacted by telephone. The courtroom managers for each of the Magistrate Judges and their telephone numbers are:

Magistrate Judge Kevin S.C. Chang: Leslie Sai – 541-3089

Magistrate Judge Kenneth J. Mansfield: Bernie Aurio – 541-1298

For additional telephone numbers and other information, please consult the court's website.

4. **Magistrate Judge Consent Trials:** In accordance with the provisions of 28 U.S.C. § 636(c), FRCP 73, and Local Rules 73.1 and 73.2, a magistrate judge is available to conduct all proceedings in a civil case including a jury or non-jury trial, deciding dispositive motions (such as a motion to dismiss or for summary judgment), entering a final judgment, and all post-judgment proceedings where all parties voluntarily consent. An appeal from a judgment entered by a magistrate judge shall be taken directly to the appropriate United States court of appeals in the same manner as an appeal from any other judgment of this district court. To obtain a consent trial, the parties must sign and file a consent form. The form may be obtained from the Clerk's office, a courtroom manager, or the court's website.

The magistrate judges are responsible for handling criminal matters on a monthly rotational basis. Consent trials will not be scheduled during a magistrate judge's criminal duty month.

5. **Settlement Conferences:** Settlement conferences are scheduled at the Rule 16 Scheduling Conference. If the parties agree, counsel or the parties may request an earlier settlement conference date by contacting the courtroom manager for the magistrate judge assigned to handle the settlement conference. Parties shall submit confidential settlement conference statements at least seven (7) days before the conference and follow the requirements set forth in Local Rule 16.5.
6. **Status Conferences:** In accordance with Local Rule 16.10, status conferences may from time to time be scheduled in any proceeding. Such conferences may be requested by any party and shall be called only as necessary to facilitate the progress of the case and shall not be held as a matter of routine. No pleading need be filed.
7. **Final Pretrial Conferences:** The date for the final pretrial conference and all trial related deadlines (such as deposition designations, submission of jury instructions or proposed findings of fact and conclusions of law, motions in limine filing deadline) are assigned at the Rule 16 Scheduling Conference. At the final pretrial conference, counsel or parties should be prepared to discuss, among other things, the following: (1) number

of witnesses and scheduling; (2) status of settlement discussions; (3) special needs such as interpreters or audiovisual equipment; and (4) exhibits and motions in limine.

8. **Forms:** Counsel and parties are strongly advised to review and consider the following forms that may be found under the Judges' Requirements tab on the court's website when submitting pleadings or other documents relevant to the forms. These forms are not a substitute for reviewing and complying with the Local Rules, the FRCP, or the FRE.
- a. Stipulated Protective Order
  - b. Local Rule 37.1(b) Certificate of Compliance (for discovery dispute)

Please consult the Clerk's office or the Forms tab on the court's website for the following forms, among others: Bill of Costs, Witness and Exhibit Lists, Application to Proceed In Forma Pauperis, Waiver of Service of Summons, Summons in a Civil Action, Third Party Summons in a Civil Action, Motion to Appear Pro Hac Vice, Subpoena in a Civil Case, and Civil Cover Sheet.