

FEB 19 2016

at 8 o'clock and 0 min. A M.
SUE BEITIA, CLERK SB

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

IN THE MATTER OF) ORDER REGARDING AMENDMENT OF
The Local Rules of Practice) CIVIL LOCAL RULES 1.3, 16.2,
for the United States District) 16.3 and 37.1 OF THE LOCAL RULES
Court for the District of) OF PRACTICE FOR THE UNITED
Hawaii) STATES DISTRICT COURT FOR THE
DISTRICT OF HAWAII)
_____)

ORDER REGARDING AMENDMENT OF CIVIL LOCAL RULES 1.3, 16.2,
16.3 AND 37.1 OF THE LOCAL RULES OF PRACTICE FOR THE UNITED
STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII

Having published a proposed amendment for public
comment and having received no comments, this court hereby orders
that the following Civil Local Rules be amended:

LR1.3 Scope of Rules; Construction
LR16.2 Scheduling Conference
LR16.3 Scheduling Conference Order
LR37.1 Abuse of or Failure to Make Discovery;
Sanctions

These amendments reflect the changes made to the
Federal Rules of Civil Procedure effective December 1, 2015 and
are attached hereto. These amendments are effective February 19,
2016.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii; February 19, 2016.

/s/ J.Michael Seabright
J. Michael Seabright
CHIEF UNITED STATES DISTRICT JUDGE

/s/ Leslie E. Kobayashi
Leslie E. Kobayashi
UNITED STATES DISTRICT JUDGE

/s/ Derrick K. Watson
Derrick K. Watson
UNITED STATES DISTRICT JUDGE

IN THE MATTER OF The Local Rules of Practice for the United
States District Court for the District of Hawaii
ORDER REGARDING AMENDMENT OF LOCAL RULES 1.3, 16.2, 16.3 AND
37.1 OF THE LOCAL RULES OF PRACTICE FOR THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF HAWAII

LR1.3. Scope of the Rules; Construction.

These rules supplement the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure, and shall be construed, administered, and employed by the court and parties so as to be consistent with those rules and to promote the just, efficient, and economical determination of every action and proceeding. If any local rule is or becomes in conflict with a federal statutory provision or a federal rule, the federal statutory provision or federal rule shall govern and apply. For example, if a local rule provides a party with a ten-day period to take certain actions consistent with a current federal rule, and the federal rule is subsequently changed to provide a fourteen-day period, the fourteen-day period shall apply. The provisions of the General and Civil Rules shall apply to all actions and proceedings, including criminal, admiralty, and actions and proceedings before magistrate judges, except if inconsistent with rules or provisions of law specifically applicable thereto or varied by order of one or more judges with respect to one or more cases assigned to that judge or judges. All parties, including those proceeding *pro se*, are obligated to follow these local rules. From time to time, this court may post proposed changes and/or changes to these local rules on the court's website, www.hid.uscourts.gov.

LR16.2. Scheduling Conference.

(a) The court shall issue a scheduling order within the earlier of ninety (90) days after any defendant has been served with the complaint or sixty (60) days after any defendant has appeared, unless the court finds good cause for the delay. All parties receiving notice of the scheduling conference shall attend in person or by counsel and shall be prepared to discuss the following subjects:

- (1) Service of process on parties not yet served;
- (2) Jurisdiction and venue;
- (3) Anticipated motions, and deadlines as to the filing and hearing of motions;
- (4) Appropriateness and timing of motions for dismissal or for summary judgment under Fed. R. Civ. P. 12 or 56;
- (5) Deadlines to join other parties and to amend pleadings;
- (6) Anticipated or remaining discovery, including discovery cut-off;
- (7) The control and scheduling of discovery, including orders affecting disclosures and discovery pursuant to Fed. R. Civ. P. 26 and 29 through 37 and LR26.1;
- (8) Further proceedings, including setting dates for pretrial and trial, and compliance with LR16.6, 16.8 and 16.9;
- (9) Appropriateness of special procedures such as consolidation of actions for discovery or pretrial, reference to a master or magistrate judge or to the Judicial Panel on Multidistrict Litigation, alternative dispute procedures, or application of the Manual for Complex Litigation;
- (10) Modification of the standard pretrial procedures specified by this rule on account of the relative simplicity or complexity of the action or proceeding;
- (11) Prospects for settlement, including participation in the court's mediation program or any other alternative dispute resolution process;

(12) Any other matters that may be conducive to the just, efficient, and economical determination of the action or proceeding, including the definition or limitation of issues, or any of the other matters specified in Fed. R. Civ. P. 16(c);

(b) Each party shall file with the court and serve on all parties a Scheduling Conference Statement no later than seven (7) days prior to the scheduling conference. The Scheduling Conference Statement shall include the following:

(1) A short statement of the nature of the case;

(2) A statement of jurisdiction with cited authority for jurisdiction and a short description of the facts conferring venue;

(3) Whether jury trial has been demanded;

(4) A statement addressing the appropriateness, extent, and timing of disclosures pursuant to Fed. R. Civ. P. 26 and LR26.1 that are not covered by the report(s) filed pursuant to Fed. R. Civ. P. 26(f);

(5) A list of discovery completed, discovery in progress, motions pending, and hearing dates;

(6) A statement addressing the appropriateness of any of the special procedures or other matters specified in Fed. R. Civ. P. 16(c) and LR16.2 that are not covered by the joint report filed pursuant to Fed. R. Civ. P. 26(f);

(7) A statement identifying any related case, including pending cases as well cases that have been adjudicated or have otherwise been terminated, in any state or federal court;

(8) Additional matters at the option of counsel.

(c) Continuances of scheduling conferences shall be governed by LR40.4, unless otherwise ordered.

LR16.3. Scheduling Conference Order.

At the conclusion of the scheduling conference, the judge shall enter an order governing disclosures under Fed. R. Civ. P. 26(a) and LR26.1, the extent of discovery to be permitted, the discovery completion date, deadlines for motions to be filed and heard, deadlines to join other parties, and deadlines to amend pleadings. Unless otherwise ordered, all discovery must be completed no later than thirty-five (35) days (five weeks) prior to the scheduled trial date. The order may include other matters that the judge deems appropriate, including: (1) provisions for the disclosure, discovery or preservation of electronically stored information; (2) agreements reached by the parties for asserting claims of privilege or of protection as trial-preparation materials after information is produced, including agreements reached under Federal Rule of Evidence 502; (3) a directive that prior to moving for an order relating to discovery, the movant must request a conference with the court; (4) provisions for the initiation of pretrial proceedings and trial settings; and (5) reference of the case to the court mediation program or other ADR process pursuant to LR88.1.

LR37.1. Abuse of or Failure to Make Discovery; Sanctions.

(a) Conference Required. The court will not entertain any motion pursuant to Fed. R. Civ. P. 26 through 37, including any request for expedited discovery assistance pursuant to LR37.1(c), unless counsel have previously conferred, either in person or by telephone, concerning all disputed issues (including the requirement that discovery be proportional to the needs of the case), in a good faith effort to limit the disputed issues and, if possible, eliminate the necessity for a motion or expedited discovery assistance.

The court may also direct that before moving for an order relating to discovery, the movant must request a conference with the court pursuant to Fed. R. Civ. P. 16(b)(3)(B)(v) and LR16.3

(b) Certificate of Compliance. When filing any motion with respect to Fed. R. Civ. P. 26 through 37, or a letter brief in accordance with LR37.1(c), counsel for the moving party shall certify compliance with this rule.

(c) Expedited Discovery Assistance.

(1) Counsel may seek resolution of disputed discovery issues expeditiously and economically. This expedited procedure is intended to afford a swift but full opportunity for the parties to present their positions through abbreviated, simultaneous briefing and, when appropriate, a conference. Counsel desiring such assistance shall contact opposing counsel to arrange a mutually agreeable deadline for the submission of letter briefs. Should counsel be unable to agree upon a deadline, counsel may contact the courtroom manager of the assigned magistrate judge, who will assign a deadline for letter briefs. Counsel who obtains a deadline from the courtroom manager shall notify opposing counsel of the assigned deadline.

(2) Letter briefs by all parties shall be submitted to chambers and served on opposing counsel by the deadline. The letter brief shall contain all relevant information, including: confirmation of the deadline for submission of letter briefs; dates of discovery cut-off and trial; and a discussion of the dispute. If a party opposes the use of this expedited procedure, such opposition should be included in the letter brief. Unless otherwise ordered by the court, the letter briefs shall be five pages or less, inclusive of all exhibits.

(3) Upon receipt of the letter briefs, the magistrate judge shall determine a procedure for resolving the dispute. Should a conference be required, the courtroom manager of the assigned magistrate judge shall schedule such a conference and shall specify whether counsel must attend in person or by telephone.

(4) Any discovery order issued by a magistrate judge pursuant to such expedited procedure may be appealed to the assigned district judge, unless the case has been assigned on consent of the parties to the magistrate judge to act as the trial judge in the case.