

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
300 ALA MOANA BLVD.
HONOLULU, HAWAII 96850

WES REBER PORTER
UNITED STATES MAGISTRATE JUDGE

WRP CHAMBERS (3rd floor)
COURTROOM 7 (2nd floor)

**PRETRIAL PROCEDURES BEFORE
MAGISTRATE JUDGE WES REBER PORTER (WRP)**

For questions about procedures and scheduling in civil cases, contact the chambers staff or courtroom manager:

WRP Chambers	(808) 541-1433	
Courtroom Manager Mary Feria	(808) 541-3087	mary_feria@hid.uscourts.gov

For additional numbers and information, consult the court's website (www.hid.uscourts.gov).

The purpose of this memorandum is to provide general information about the pretrial procedures for cases before Magistrate Judge Porter (generally, cases with **WRP** in the case number). The court also expects counsel and parties proceeding pro se to know and comply with the Federal Rules of Civil Procedure (FRCP), the Federal Rules of Evidence (FRE), and the Local Rules of Practice for the U.S. District Court for the District of Hawaii (Local Rules *or* L.R.). These pretrial procedures and other forms can be found under [Judges' Requirements](#) on the U.S. District Court for the District of Hawaii website.

1. **Rule 16 Conferences:** The court holds a Rule 16 scheduling conference within 90 days after the initial filing for assigned civil cases (WRP cases). See FRCP 16. At the conference, counsel or parties proceeding pro se must be prepared to discuss, among other things: (1) the prospects of (early) settlement; (2) any discovery problems; (3) pending or anticipated motions; and (4) alternative dispute resolution.
 - a. **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. See FRCP 26(f).
 - b. **Scheduling Conference Statement:** The parties must file with the court and serve on all parties a Scheduling Conference Statement at least **7 days before** the conference. See L.R. 16.2. This statement

includes a brief statement of the case, statement of jurisdiction, list of related cases, whether jury trial has been demanded, discovery (completed and anticipated) and motions pending with hearing dates.

c. Discovery Plan: 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.

d. Rule 16 Scheduling Conference Order: Following the conference, the court issues an Order that sets forth dates and deadlines for:

(1) trial; (2) final pretrial conference; (3) motions to join or add parties or amend pleadings; (4) other nondispositive motions; (5) dispositive motions; (6) motions in limine; (7) expert disclosures; (8) discovery; (9) settlement conference; (10) settlement conference statements; (11) voir dire questions, special verdict form, concise statement of case and jury instructions (if jury trial); (12) final witness list; (13) exhibit and demonstrative aids; (14) stipulations about proposed exhibits; (15) deposition designations and counter-designations; (16) trial briefs; and (17) findings of fact and conclusions of law (if non-jury trial).

2. **Discovery**: The court presides over discovery disputes in assigned civil cases (WRP cases). The court will **NOT** entertain a discovery motion nor hold a discovery conference unless counsel or pro se parties have met and conferred in a good faith effort to limit all disputed issues. See L.R. 37.1(b). If a party files a discovery motion, then they also must certify compliance with this requirement with a declaration from counsel or pro se party.

a. Expedited Discovery Assistance: The court encourages counsel to take advantage of the expedited discovery assistance available under Local Rule 37.1(c). Local Rule 37.1 is intended to afford a swift but full opportunity for parties to present their positions through simultaneous, abbreviated letter briefing (*five pages or less of written materials including exhibits*). See Local Rule 37.1(c). Counsel seeking the court's expedited assistance in resolving discovery issues should select an agreed-upon deadline for the simultaneous submission of letter briefs and inform chambers' staff of the deadline. Id. After reviewing the letter briefs, the court will determine whether a conference or hearing is necessary to decide the matter expeditiously.

- b. Stipulated Protective Order: Where practicable, counsel or pro se parties should seek agreement for production of confidential documents pursuant to a stipulated protective order. A form of a stipulated protective order can be found under [Judges' Requirements](#) on the court's website. Generally, the court will **NOT** permit entire court files consisting of pleadings and documents to be sealed, even if the parties agree to it. The court, however, recognizes that it may be necessary sometimes to submit to the court a limited number of documents or specific portions of pleadings under seal.
3. **Settlement Conferences**: The court schedules a settlement conference in assigned cases (WRP cases) at the Rule 16 Scheduling Conference. The court also facilitates settlement discussions in other cases from time to time. During the conference, the court will ask counsel and pro se parties whether an early settlement conference may be productive in a given case.
 - a. Because reaching a settlement may involve more than one conference with the court, the court can be available to facilitate settlement discussions whenever the parties believe it is productive. Counsel and pro se parties should contact chambers' staff or the courtroom manager about scheduling additional (earlier) settlement conferences.
 - b. The court issues an Order describing the procedures for the settlement conference including who must be present and confidential settlement statements.
 - c. Parties shall submit confidential settlement conference statements at least **7 days before** the conference to chambers and follow the requirements set forth in Local Rule 16.5. See L.R. 16.5.
4. **Stipulations and Proposed Orders**: In accordance with Local Rules 100.8.1 and 100.8.2, a copy of any stipulation and proposed order must be submitted by e-mail to porter_orders@hid.uscourts.gov in a format compatible with Word. All stipulations seeking a continuance or extension of any Rule 16 Scheduling Order deadlines must include the reasons for the requested extension of time so that the Court can make the necessary good cause determination required by FRCP 16(b)(4). Pursuant to Local Rule 100.8.3, this email address shall only be used for submitting proposed orders and stipulations. Please contact chambers or the courtroom manager with all other inquiries.

5. **Telephonic Appearances:** Counsel and parties may request to appear by telephone by contacting the courtroom manager at least seven days before the scheduled conference or hearing.
6. **Status Conferences:** In accordance with Local Rule 16.10, the court may hold status conferences only as necessary to facilitate the progress of the case. See L.R. 16.10. Status conferences may be requested by a party and, if necessary, the court may request letter submissions from the parties in advance.
7. **Final Pretrial Conferences:** The court sets the final pretrial conference and all trial related deadlines 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) status of settlement discussions; (2) estimated number of trial days; (3) number and scheduling of witnesses; (4) special needs such as interpreters or audiovisual equipment; and (5) exhibits and motions in limine.
8. **Magistrate Judge Consent Trials (and Other Proceedings):** If the parties consent, magistrate judges are available to conduct *all proceedings* in a civil case, including: (1) jury trial; (2) non-jury trial; (3) dispositive motions, such as a motion to dismiss or for summary judgment; (4) entering a final judgment; and (5) post-judgment proceedings. See 28 U.S.C. § 636(c); FRCP 73; L.R. 73.1, 73.2. The parties must weigh several factors when making the decision to consent to magistrate judge including trial calendars. See [Choosing to Consent to a Magistrate Judge](#), *Federal Lawyer* (2014).
 - a. **Trial Calendars:** Because district judges also handle felony criminal trials and criminal defendants have constitutional and statutory speedy trial rights, district judges have busier court calendars than magistrate judges. Magistrate judges are responsible for handling criminal matters on a monthly rotational basis and consent trials will not be scheduled during a magistrate judge's criminal duty month.
 - b. **Consent Form:** To consent to a magistrate judge for trial or nondispositive motion, the parties must sign and file a consent form from the Clerk's office, a courtroom manager, or the [forms](#) tab on the court's website: [trial](#), [motion](#).

- c. Appeals: 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. See L.R. 73.3.
9. **Forms**: The court advises counsel and parties to review the forms that may be found under [Judges' Requirements](#) on the court's website when submitting pleadings or other documents.

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.