

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

BIG INSURANCE CO.,
Plaintiff,

v.

CIVIL ACTION
NO. 1:16-cv-00000-DLC

BIG GAS AND OIL, INC. et al,
Defendants.

SCHEDULING AND INSTRUCTION ORDER

CABELL, M.J.

This Scheduling and Instruction Order is intended to provide a reasonable timetable for discovery and motion practice, provide instructions to the parties regarding their discovery obligations, and to institute case management practices to help ensure a fair and just resolution of this matter without undue expense or delay.

Timetable for Discovery and Motion Practice

1. **Initial Disclosures.** Initial disclosures required by Fed. R. Civ. P. 26(a)(1) must be completed by October 1, 2016.
2. **Amendments to Pleadings.** Except for good cause shown, no motions seeking leave to add new parties or to amend the pleadings to assert new claims or defenses may be filed after December 1, 2016.
3. **Fact Discovery – Interim Deadlines**
 - a. All requests for production of documents and interrogatories will be served by November 1, 2016.
 - b. All requests for admission will be served by March 1, 2017.
 - c. All depositions, other than expert depositions, must be completed by March 1, 2017.
 - d. Non-expert depositions will be limited to (4) per party absent agreement of counsel which shall not be unreasonably withheld upon application to the court.

All discovery other than expert shall be completed by March 1, 2017.

4. **Expert Discovery.**

- a. Plaintiff's Designation of experts and the information contemplated by Fed. R. Civ. P. 26(a)(2) must be disclosed by April 1, 2017.
- b. Defendant's Designation of experts and the information contemplated by Fed. R. Civ. P. 26(a)(2) must be disclosed by May 1, 2017.
- c. Rebuttal expert reports will be served by no later than June 1, 2017
- d. All expert discovery complete by June 14, 2017.

5. **Dispositive Motions.**

- a. Summary Judgment Motions must be filed by September 1, 2017.
- b. Oppositions must be filed by the time allowed in the Local Rule.

Procedure Regarding Resolution of Discovery Disputes

It is hereby ORDERED that the following steps be undertaken by all parties prior to the filing of any discovery motions including, but not limited to, a motion to compel, motion to quash, motion for a protective order, or motion for sanctions.

1. The parties are strongly encouraged to informally resolve all discovery issues and disputes without the necessity of Court intervention. In that regard, the parties are first required to confer and fully comply with Rules 26(c)(1) and 37(a)(2) of the Federal Rules of Civil Procedure, by undertaking a sincere, good faith effort to try to resolve all differences without Court action or intervention. See also Local Rule 7.1.
2. In the event that reasonable, good faith efforts have been made by all parties to confer and attempt to resolve any differences, without success, the parties are then required to schedule a telephonic conference with the Magistrate Judge in an effort to try to resolve the discovery dispute **prior to** the filing of any motions.¹ The parties shall exhaust the first two steps of the process before any motions, briefs, memoranda of law, exhibits, deposition transcripts, or any other discovery materials are filed with the Court.
3. If the dispute still cannot be resolved following a telephonic conference with the Magistrate Judge, then the Court will entertain a discovery motion. In connection with the filing of any such motions, the moving party shall submit the appropriate certifications to the Court as required by Federal Rules of Civil Procedure Rules 26(c)(1); 37(a)(2) and Local Rule 7.1.

¹The parties may schedule such a conference by emailing the Magistrate Judge's Courtroom Deputy Clerk – Noreen Russo at Noreen_Russo@mad.uscourts.gov with a short summary of the discovery dispute and dates and times where all parties are available.

4. The Court will not be disposed to hear any discovery motion unless the parties have made a sincere, good faith effort to resolve the dispute and all of the above-identified steps have been complied with. A failure to fully comply with all of the prerequisite steps may result in a denial of any motion and may result in an award of costs and reasonable attorney's fees.

Procedural Provisions

- A. **Extension of Deadlines.** Pursuant to Local Rule 16.1(G), motions to extend or modify scheduling order deadlines will be granted only for good cause shown. All motions to extend shall contain a brief statement of the reasons for the request; a summary of the discovery, if any, that remains to be taken; and a specific date when the requesting party expects to complete the additional discovery, join other parties, amend the pleadings, or file a motion.
- B. **Reply Memoranda.** Parties should refer to Local Rule 7.1(B)(3) unless otherwise directed by the Court.
- C. **Case Management Conferences.** Any party who reasonably believes that a case management conference will assist in the management or resolution of the case may request one from the court upon reasonable notice to opposing counsel.
- D. **Additional Conferences.** Upon request of counsel, or at the court's own initiative, additional case management conferences may be scheduled. Parties may request telephonic conferences where appropriate to avoid undue inconvenience or expense.
- E. **Early Resolution of Issues.** The court recognizes that, in some cases, resolution of one or more preliminary issues may remove a significant impediment to settlement or otherwise expedite resolution of the case. Counsel are encouraged to identify any such issues and to make appropriate motions at an early stage in the litigation.
- F. **Court Sponsored Alternative Dispute Resolution.** The parties may, at any time, request a confidential mediation session. The mediator selected will be assigned from the court's senior district judges and magistrate judges who have volunteered to handle alternative dispute resolution matters. The court encourages the parties to participate especially if the parties believe there is a meaningful chance of reaching an early, amicable resolution of their dispute. Please see Local Rule 16.4 for further information.

By the Court,

January 4, 2017
Date

/s/ Noreen A. Russo
Deputy Clerk