

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
Electronic Case Opening

All civil cases filed in the Western District of North Carolina are assigned to an Article III U.S. District Judge upon the initial filing. You will receive an electronic notice of the judge assignment.

Attached to this notice you will find the following forms:

- Joint Stipulation of Consent to the Exercise of Jurisdiction by a U.S. Magistrate Judge
- Disclosure by Non-Governmental Corporate Party or Proposed Intervenor or Corporate Affiliations and other Entities with a direct Financial Interest in Litigation
- Disclosure by Party or Intervenor in a Diversity Case
- Certification and Report of F.R.C.P. 26(f) Conference and Discovery Plan

Counsel/Parties may consent to the jurisdiction of a U.S. Magistrate Judge by filing a **Joint Consent to the Exercise of Jurisdiction by a United States Magistrate Judge**. Counsel/Parties may consent to magistrate judge jurisdiction any time after service of the contents of this packet on the parties and are now **REQUIRED** to discuss the issue of consent to the jurisdiction of a magistrate judge at the Rule 26 (Initial Attorney's Conference) and if consent of **ALL** parties is granted, file a **JOINT STIPULATION OF CONSENT**. These forms are included in this packet.

The Plaintiff is required to serve this Notice and the attached forms on all defendants with service of the complaint. In removal actions, the removing party shall be responsible for the service of this Notice and the attached forms.

The Local Rules and Court Forms are available on the Court's website
at www.ncwd.uscourts.gov

NOTICE OF AVAILABILITY OF MAGISTRATE JUDGE TO EXERCISE JURISDICTION

In accordance with the provisions of Title 28, United States Code, Section 636(c), you are hereby notified that a United States magistrate judge of this District Court is available to exercise the Court's jurisdiction and to conduct any or all proceedings in this case including a jury or nonjury trial, and entry of a final judgment. Exercise of this jurisdiction by a magistrate judge is, however, permitted ***only if all parties voluntarily consent.***

You may, without adverse substantive consequences, withhold your consent. If any party withholds consent, the identity of the parties consenting or withholding consent will not be communicated to any magistrate judge or to the district judge to whom the case has been assigned. Failure to file the Joint Stipulation of Consent constitutes the withholding of consent; no declination of consent is to be filed.

An appeal from a judgment entered by a magistrate judge may be taken directly to the United States Court of Appeals for this judicial circuit in the same manner as an appeal from any other judgment of a district court.

Consent to the jurisdiction of a magistrate judge is exercised in this district by the filing of a Joint Stipulation of Consent which is to be executed by the parties any time after service of this Notice but not later than immediately after the Initial Attorney's Conference. To withhold consent to the jurisdiction of a magistrate judge the parties are NOT to file anything; the case will remain with the Article III judge already assigned to the case. Parties are reminded that each Article III judge may and regularly do refer civil matters to the magistrates in this district in accordance with their own Order of Reference. Orders of Reference for each Article III judge are available on the court's web site at www.ncwd.uscourts.gov.

Local Rule 16.1(A) requires that "as soon as practicable, and in any event not later than fourteen (14) days from joinder of the issues, the parties or their counsel shall confer as provided by the Fed. R. Civ. P. 26(f), and conduct an "Initial Attorney's Conference." The parties are directed to discuss the issue of consent to the jurisdiction of a magistrate judge at this conference, and if ALL parties agree, execute a Joint Stipulation of Consent and file this stipulation with the Certification and Report of Initial Attorneys Conference as required by the above local rule.

Local Rule 16.1(B) defines joinder of issues for the limited purpose of the local rules as occurring "when the last responsive pleading other than a Motion to Dismiss is filed. Where a briefed Motion to Dismiss is filed, either as a separate pleading or is included in the Answer and accompanied by a brief, joinder of the issues does not occur until that motion is resolved and the Answer to the Complaint, Reply to a Counterclaim, or a Crossclaim is filed. Motions to dismiss contained in an Answer, but not supported by a brief, simply preserve the motion and do not prevent joinder of the issues."

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA**

**Joint Stipulation of Consent to Exercise Jurisdiction
by a United States Magistrate Judge**

Case No.

Plaintiff,

v.

Defendant.

In accordance with the provisions of Title 28, United States Code, Section 636(c) and Fed. R. Civ. P. 73, the parties in this case consent to have a United States magistrate judge conduct any and all proceedings in the case, including trial, order the entry of a final judgment and conduct all post-judgment proceedings.

Counsel's Signature

Party

Date

Counsel's Signature

Party

Date

Counsel's Signature

Party

Date

Counsel's Signature

Party

Date

Counsel's Signature

Party

Date

Counsel's Signature

Party

Date

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CASE NO.

_____)
_____)
Plaintiff(s),)
v.)
_____)
_____)
Defendant(s).)

DISCLOSURE BY NON-GOVERNMENTAL CORPORATE PARTY
OR PROPOSED INTERVENOR OF CORPORATE
AFFILIATIONS AND OTHER ENTITIES WITH A DIRECT
FINANCIAL INTEREST IN LITIGATION

This disclosure must be filed on behalf of each nongovernmental corporate entity that is a party or proposed intervenor to the action. Counsel has a continuing duty to update this information. An executed form should be electronically filed. The disclosing party must serve this form on the other parties to this action.

_____ who is _____
(Name of Party) *(Plaintiff / Defendant/Movant/Intervenor)*
makes the following disclosure:

1. Is the party a publicly held corporation or other publicly-held entity?
 Yes No

2. Does the party have any parent corporations?
 Yes No

If yes, identify all parent corporations, including grandparent and great-grandparent corporations:

3. Is 10% or more of the stock of a party owned by a publicly-held corporation or other publicly-held entity?
 Yes No

If yes, identify all such owners:

4. Is there any other publicly-held corporation or other publicly-held entity that has a direct financial interest in the outcome of the litigation?

Yes

No

If yes, identify the entity and the nature of its interest:

5. Is the party a trade association?

Yes

No

If yes, identify all members of the association, their parent corporations, and any publicly held companies that own 10% or more of a member's stock:

6. If the case arises out of a bankruptcy proceeding, identify any trustee and the members of any creditors' committee:

s/

Signature of Attorney

Date

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CASE NO.

_____)
_____)
Plaintiff(s),)
v.)
_____)
_____)
Defendant(s).)

DISCLOSURE BY PARTY OR INTERVENOR
IN A DIVERSITY CASE

This disclosure must be filed on behalf of each party or intervenor to an action in which jurisdiction is based on diversity under 28 U.S.C. § 1332(a). Counsel has a continuing duty to update this information. An executed form should be electronically filed. The disclosing party must file this disclosure at the time of the party's first appearance, pleading, petition, motion, response, or other request addressed to the Court. The disclosing party also must serve this form on the other parties to the action.

_____ who is _____
(Name of Party) *(Plaintiff / Defendant/Movant/Intervenor)*

makes the following disclosures:

1. Is the party identified above an individual?

___ YES ___ NO

If the answer is "YES," identify the State citizenship of that individual:

If the answer is "NO," proceed to question No. 2 below.

2. Identify the name and State citizenship of every individual or entity whose citizenship is attributable¹ to the party identified above:

Name of Individual/Entity	Citizenship
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

s/ _____
Signature of Attorney

Date

¹ “For purposes of diversity jurisdiction, the citizenship of a limited liability company . . . is determined by the citizenship of all of its members.” Cent. W. Va. Energy Co., Inc. v. Mountain State Carbon, LLC, 636 F.3d 101, 103 (4th Cir. 2011). When members are LLCs themselves, the citizenship issues must be traced through until one reaches only individuals and/or corporations. See Jennings v. HCR ManorCare, Inc., 901 F.Supp.2d 649, 651 (D.S.C. 2012) (“an LLC’s members’ citizenship must be traced through however many layers of members there may be”).

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CIVIL NO. _____

)	
)	
)	
)	
Plaintiff(s),)	CERTIFICATION AND REPORT
)	OF FED. R. CIV. P. 26(F)
vs.)	CONFERENCE AND
)	DISCOVERY PLAN
)	
)	
Defendant(s).)	

Please fill in or check the appropriate blanks (print legibly) to certify completion of the Rule 26(f) Attorneys' Conference and provide the required information to the Court. Where the parties were unable to agree on a specific provision or item, please so note and attach any necessary explanation. Please note that this information will be used as a guideline by the judge conducting the Initial Pretrial Conference or issuing the Initial Pretrial Order.

1. Certification of Conference. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held on _____ (date) [] at _____ (place) or [] by telephone and was conducted by the undersigned counsel for the designated parties in the above captioned case.

2. Pre-Discovery Disclosures. The information required by Fed. R. Civ. P. 26(a)(1) (check one) [] has been exchanged [] will be exchanged by _____ (date).

3. Discovery Plan. The parties jointly propose to the court the following discovery plan:

[Use separate paragraphs or subparagraphs as necessary if parties disagree.]

 - a) All discovery shall be commenced in time to be completed by _____ (date). [If needed] Discovery on _____ (identify any issues requiring early discovery) will be completed by _____ (date).

- b) Discovery Limits:
- 1) Maximum of _____ (*ordinarily 20*) interrogatories by each party to any other party.
 - 2) Maximum of _____ (*ordinarily 20*) requests for admission by each party to any other party.
 - 3) Maximum of _____ depositions by plaintiff(s) and _____ by defendant(s) (*ordinarily 6 each*) [or ____ by *each* plaintiff and ____ by *each* defendant].

- c) Reports from retained experts under Rule 26(a)(2) will be due:
 -from plaintiff(s) by _____ (*date*)
 -from defendant(s) by _____ (*date*)
 Supplementations under Rule 26(e) due _____ (*list times(s) or interval(s)*)

4. Other Items. [*Attach separate paragraphs as necessary if parties disagree.*]

- a) The parties [] request [] do not request a conference with the court before entry of the scheduling order.

- b) All potentially dispositive motions should be filed by _____ (*date, ordinarily one month after the close of discovery*).

- c) Settlement:
 [] is likely
 [] is unlikely
 [] cannot be evaluated prior to _____ (*date*)
 [] may be enhanced by use of the following ADR procedure:
 [] mediated settlement conference
 [] binding arbitration
 [] other _____

The parties agree that the above selected ADR procedure would be most useful if conducted:

- [] after resolution of any outstanding dispositive motions, but prior to further discovery;
- [] after an initial round of preliminary discovery to be completed by _____ (*date*);
- [] after the completion of discovery;
- [] after resolution of summary judgment motions, if any;
- [] not applicable.

- d) Final lists of witnesses and exhibits under Rule 26(a)(3) are due:
 from plaintiff(s) by _____ (*date*)
 from defendant(s) by _____ (*date*)

e) If the case is ultimately tried, trial is expected to take approximately _____ days.

f) [] The parties have discussed the issue of consent to the jurisdiction of a U.S. Magistrate Judge, and [] there is [] there is not unanimous consent. [If the parties unanimously consent to Magistrate Judge jurisdiction, the parties shall also file with the Court a Notice, Consent, and Reference of a Civil Action to a Magistrate Judge (AO 85)].

5. Please identify any other matters regarding discovery or case management which may require the Court's attention (e.g., concerns re: confidentiality, protective orders, preservation of ESI materials, unmovable scheduling conflicts, etc.):

Plaintiff's Counsel *Party* *Date*

Defendant's Counsel *Party* *Date*

Plaintiff's Counsel *Party* *Date*

Defendant's Counsel *Party* *Date*

Plaintiff's Counsel *Party* *Date*

Defendant's Counsel *Party* *Date*

Plaintiff's Counsel *Party* *Date*

Defendant's Counsel *Party* *Date*