

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABRAHAM FLAXMAN et al.

CASE NO.
2:23-cv-01581-KKE

Plaintiff(s),

BOB FERGUSON et al.,

ORDER REGARDING INITIAL DISCLOSURES, JOINT STATUS REPORT, AND EARLY SETTLEMENT

Defendant(s).

I. INITIAL SCHEDULING DATES

The Court sets the following dates for the initial disclosure and submission of the Joint Status Report and Discovery Plan:

Deadline for FRCP 26(f) Conference: 11/20/2023

Initial Disclosures¹ Pursuant to FRCP 26(a)(1): 12/4/2023

Combined Joint Status Report and Discovery
Plan as Required by FRCP 26(f)
and Local Civil Rule 26(f): 12/11/2023

The deadlines above may be extended only by the Court. Any request for an extension should be made by email to Diyana Staples, Courtroom Deputy, at Diyana_Staples@wawd.uscourts.gov. If Defendants have appeared, the parties are directed to meet and confer before contacting the Court to request an extension.

If this case involves claims which are exempt from the requirements of Federal

¹Initial Disclosures are not to be filed.

1 Rules of Civil Procedure ("FRCP") 26(a) and 26(f), please notify Diyana Staples,
2 Courtroom Deputy, at Diyana_Staples@wawd.uscourts.gov.

3 **II. PLAINTIFF'S RESPONSIBILITY**

4 This Order is issued at the beginning of the case, and a copy is delivered by the
5 clerk to counsel for plaintiff (or Plaintiff, if pro se) and any defendants who have
6 appeared. Plaintiff's counsel (or Plaintiff, if pro se) must serve copies of this Order on
7 all parties who appear after this Order is filed. Service must occur within 10 days after
8 each appearance. Plaintiff's counsel (or Plaintiff, if pro se), is responsible for starting
9 the communications needed to comply with this Order.

10 **III. PROCEDURAL INFORMATION**

11 All counsel and unrepresented parties must review and abide by the applicable
12 Local Rules, Electronic Filing Procedures for Civil and Criminal Cases, court forms,
13 instruction sheets, and General Orders, which can be found on the Court's website at
14 <https://www.wawd.uscourts.gov>. Failure to follow the Local Rules and General Orders
15 may result in sanctions.

16 **IV. JOINT STATUS REPORT & DISCOVERY PLAN**

17 All counsel and any pro se parties are directed to confer and provide the Court with
18 a combined Joint Status Report and Discovery Plan (the "Report") by December 11,
19 2023. This conference shall be by direct and personal communication, whether that be
20 an in-person or virtual face-to-face meeting or a telephonic conference. Conferring by
21 email is not sufficient. The Report will be used to set a schedule for the prompt
22 completion of the case. It must contain the following information by corresponding
23 paragraph numbers:

- 24 1. A statement of the nature and complexity of the case.
- 25 2. A proposed deadline for joining additional parties.
- 26 3. The parties have the right to consent to assignment of this case to a full time

1 United States Magistrate Judge, pursuant to 28 U.S.C. §636(c) and Local Rule MJR 13
2 to conduct all proceedings. The Western District of Washington assigns a wide range of
3 cases to Magistrate Judges. The Magistrate Judges of this district thus have significant
4 experience in all types of civil matters filed in our court. Additional information about
5 our district's Magistrate Judges can be found at <https://www.wawd.uscourts.gov>.
6 The parties should indicate whether they agree that the Honorable S. Kate Vaughan
7 may conduct all proceedings including trial and the entry of judgment. When responding
8 to this question, the parties should only respond "yes" or "no." Individual party responses
9 should not be provided. A "yes" response should be indicated only if all parties consent.
10 Otherwise, a "no" response should be provided.

11 4. For class action cases only: A proposed deadline for filing a Motion for Class
12 Certification. The parties shall propose an agreed-upon briefing schedule for the class
13 certification motion. Non-class action cases shall simply state "N/A."

14 5. A discovery plan that states, by corresponding paragraph letters (A, B, etc.),
15 the parties' views and proposals on all items set forth in FRCP 26(f)(3), which includes
16 the following topics:

- 17 (A) initial disclosures;
- 18 (B) subjects, timing, and potential phasing of discovery;
- 19 (C) electronically stored information;
- 20 (D) privilege issues;
- 21 (E) proposed limitations on discovery; and
- 22 (F) the need for any discovery related orders.

23 6. The parties' views, proposals, and agreements, by corresponding paragraph
24 letters (A, B, etc.), on all items set forth in Local Civil Rule 26(f)(1), which includes
25 the following topics:

- 26 (A) prompt case resolution;

- 1 (B) alternative dispute resolution;
- 2 (C) related cases;
- 3 (D) discovery management;
- 4 (E) anticipated discovery sought;
- 5 (F) phasing motions;
- 6 (G) preservation of discoverable information;
- 7 (H) privilege issues;
- 8 (I) Model Protocol for Discovery of ESI; and
- 9 (J) alternatives to Model Protocol.

10 7. For patent cases only: The case name, case number, and court or other tribunal
11 for any pending or prior action challenging the patent(s) at issue in the case.

12 8. The date by which discovery can be completed.

13 9. Whether the case should be bifurcated; e.g., by trying the liability issues before
14 the damages issues; or bifurcated in any other way.

15 10. Whether the pretrial statements and pretrial order called for by Local Civil
16 Rules 16(e), (h), (i), and (k), and 16.1 should be dispensed with in whole or in part for
17 the sake of economy.

18 11. Whether the parties intend to utilize the Individualized Trial Program set forth
19 in Local Civil Rule 39.2 or any ADR options set forth in Local Civil Rule 39.1.

20 12. Any other suggestions for shortening or simplifying the case.

21 13. The date the case will be ready for trial. The Court expects that most civil
22 cases will be ready for trial within a year after filing the Joint Status Report and
23 Discovery Plan.

24 14. Whether the trial will be jury or non-jury.

25 15. The number of trial days required.

26 16. The names, addresses, and telephone numbers of all trial counsel.

1 17. The dates on which trial counsel may have complications to be considered in
2 setting a trial date.

3 18. If, on the due date of the Report, all defendant(s) or respondent(s) have not
4 been served, counsel for plaintiff shall advise the Court when service will be effected,
5 why it was not made earlier, and shall provide a proposed schedule for the required
6 FRCP 26(f) conference and FRCP 26(a) initial disclosures.

7 19. Whether any party wishes a conference with the Court before the entry of any
8 order pursuant to Rule 16 or setting of a schedule for this case.

9 20. The date(s) that each nongovernmental corporate party filed its disclosure
10 statement pursuant to FRCP 7.1 and Local Civil Rule 7.1.

11 21. A certification that all counsel and any pro se parties have reviewed the Civil
12 Rules, the Local Rules, and the applicable Electronic Filing Procedures.

13 22. A certification that all counsel and any pro se parties have reviewed and
14 complied with Judge Evanson's Standing Order Regarding 28 U.S.C. § 455(b)(2) and
15 Canon 3(C)(1)(b) of the Code of Conduct for United States Judges.

16 If the parties are unable to agree on any part of the Report, they may answer in
17 separate paragraphs. No separate reports are to be filed. If the parties wish to have a
18 status conference with the Court at any time during the pendency of this action, they
19 should notify Diyana Staples, Courtroom Deputy, at
20 Diyana_Staples@wawd.uscourts.gov.

21 **V. PROCEDURE FOR DISCOVERY DISPUTES**

22 As required by LCR 37(a), all discovery matters are to be resolved by agreement if
23 possible. If agreement is not possible, prior to the filing of any discovery motions, the
24 Court directs the parties to request a conference with the Court. *See Fed. R. Civ. P.*
25 16(b)(3)(B)(v). The movant must submit a joint statement to the Court briefly identifying
26 the issue(s) in dispute. The joint statement shall be no more than three pages and shall be

1 filed via CM/ECF. Thereafter, the movant should contact Diyana Staples at
2 Diyana_Staples@wawd.uscourts.gov to schedule a conference.

3 **VI. EARLY SETTLEMENT CONSIDERATION AND NOTIFICATION**

4 If settlement is achieved, counsel shall immediately notify Diyana Staples,
5 Courtroom Deputy, at Diyana_Staples@wawd.uscourts.gov.

6 The parties are responsible for complying with the terms of this Order. The Court
7 may impose sanctions on any party who fails to comply fully with this Order.

8 Dated this 30th day of October 2023.

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12 Honorable Kymberly K. Evanson
13 United States District Judge
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