

D.N.J. LBR 7016-1. Pretrial Procedure

(a) Duty to confer. The parties must confer on the dates to be included in Local Form *Joint Order Scheduling Pretrial Proceedings and Trial*. Based on those dates, the court will set a trial date.

(b) Appearance at pretrial conference. If the parties agree on dates and submit Local Form *Joint Order Scheduling Pretrial Proceedings and Trial* and, when required under Local Bankruptcy Rule 9019-2(a)(4), Local Form *Mediation Order* not later than 3 days before the scheduled pretrial conference, they do not need to appear at the pretrial conference.

(c) Initial disclosures. The parties must exchange the initial disclosures required by Federal Rule 26(a)(1)(A) not later than 7 days before the scheduled pretrial conference. Any modification of the Federal Rule 26 disclosure requirements must be included in the *Joint Order Scheduling Pretrial Proceedings and Trial*.

(d) Additional terms. By agreement, the parties may add terms to the joint order, including:

- (i) the scope of discovery;
- (ii) protocol concerning preservation, storage, and production of discoverable information, including electronically stored information; or

~~(iii) deadlines for joining other parties and amending the pleadings.~~

(e) Consent to Adjudication. By default, the parties are deemed to have consented to the Bankruptcy Court's adjudication and entry of final judgment on all claims and defenses raised in the proceeding. To the extent any party does not so consent, that party must comply with Federal Rules of Bankruptcy Procedure 7008 and 7012, as well as file a motion within 30 days of entry of the *Joint Order Scheduling Pretrial Proceedings and Trial* seeking a determination as to whether the bankruptcy court may adjudicate to final judgment any or all claims and defenses.

2015 Comment

This Rule is new. It codifies the existing practice of allowing parties to confer and submit a consensual proposed *Joint Order Scheduling Pretrial Proceedings and Trial* in lieu of appearance at a pretrial conference.

The date for the pretrial conference is set in the summons issued by the clerk when the adversary proceeding is initiated.

Subdivision (c) modifies the deadline in Federal Rule 26(a)(1)(C) for the exchange of initial disclosures to reflect the timing of events in an adversary proceeding.

Local Bankruptcy Rule 9019-2 addresses mediation procedures.

2017 Comment

This Rule was amended to delete a provision which allowed for permissive addition of deadlines for joining parties and amending pleading to the joint order, because Federal Rule of Civil Procedure 16(b)(3)(A) provides that inclusion of those terms is mandatory.

This Rule was further amended as a result of changes to Bankruptcy Rules 7008 and 7012; specifically, the removal of the requirement that the pleader state whether the proceeding is core or non-core. Subdivision (e) was added to reflect the court's adoption of a presumption of consent to adjudication in the bankruptcy court.