

MODEL DISCOVERY PLAN¹
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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_____ ,

Plaintiff(s),
-against-

___ CIV. _____ (KMW)

DISCOVERY PLAN

_____ ,

Defendant(s).

-----X

Pursuant to Federal Rule of Civil Procedure 26(f), during a conference on _____
between counsel for plaintiff _____ (*plaintiff's name*) and counsel
for defendant _____ (*defendant's name*), counsel for the parties
discussed and agreed to the following discovery plan:

- (1) The parties shall exchange the initial disclosures required under Federal Rule of Civil Procedure 26(a)(1) no later than _____.²
- (2) Both plaintiff and defendant shall serve their first request for production of documents, pursuant to Federal Rule of Civil Procedure 34, no later than _____.
- (3) Both plaintiff and defendant shall serve their notices of deposition, pursuant to Federal Rule of Civil Procedure 30, no later than _____. Plaintiff anticipates deposing: (a) _____; (b) _____; and (c) _____ . Defendant anticipates deposing: (a) _____; (b) _____; and (c) _____.
- (4) Depositions of the parties shall commence after _____, at mutually convenient dates and times, without prejudice to either party conducting a non-party deposition beforehand at a mutually convenient date, time and place.
- (5) Both plaintiff and defendant shall serve subpoenas upon any third-party witnesses no _____

¹ The Court recognizes that discovery plans will vary in accordance with the needs of the parties. This Model Discovery Plan is intended only to guide the parties in developing more individualized plans.

² Fed. R. Civ. P. 26 provides that “[a] party must make the initial disclosures at or within 14 days after the parties’ Rule 26(f) conference unless a different time is set by stipulation or court order, or unless a party objects during the conference that initial disclosures are not appropriate in the circumstances of the action and states the objection in the proposed discovery plan.” Fed. R. Civ. P. 26(a)(1)(C).

later than _____, seeking the production of documents and/or depositions.

- (6) Plaintiff shall serve its expert's report upon defendants, pursuant to Federal Rule of Civil Procedure 26(a)(2), no later than _____.³ The report shall set forth a complete statement of all opinions the witness will express, the facts on which the witness relies, and the process of reasoning by which the witness's conclusions are reached, and must otherwise comply with the requirements of Federal Rule of Civil Procedure 26(a)(2)(B).
- (7) Defendant shall serve its expert's rebuttal report upon plaintiff, pursuant to Federal Rule of Civil Procedure 26(a)(2), no later than _____.⁴
- (8) Depositions of the experts shall begin in time to be completed no later than _____ for plaintiff's expert and _____ for defendant's expert.
- (9) All discovery shall be completed by _____.
- (10) The parties may seek to schedule additional discovery as necessary, so long as it is completed by _____ (*same date as appears in (9) above*).

Signed:

Plaintiff: _____
[Plaintiff's Name]

Defendant: _____
[Defendant's Name]

[Attorney's Printed Name]

[Attorney's Printed Name]

[Attorney's Signature]

[Attorney's Signature]

SO ORDERED.

Dated: New York, New York

KIMBA M. WOOD
United States District Judge

³ "Absent a stipulation or court order, the [expert] disclosures must be made at least 90 days before the date set for trial or for the case to be ready for trial." Fed. R. Civ. P. 26(a)(2)(D).

⁴ "[I]f the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under Rule 26(a)(2)(B) or (C), [such rebuttal shall be made] within 30 days after the other party's disclosure." Fed. R. Civ. P. 26(a)(2)(D).