

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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IN RE: CHANGE HEALTHCARE, INC.  
CUSTOMER DATA SECURITY BREACH  
LITIGATION

Case No. 24-md-3108 (DWF/DJF)

**CASE MANAGEMENT ORDER**

**MDL PRETRIAL  
ORDER NO. 24**

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Pursuant to Rule 16 of the Federal Rules of Civil Procedure and the Local Rules of this Court, and in order to secure the just, speedy and inexpensive determination of this action, the following schedule and limits shall govern these proceedings. This Order may be modified only upon a showing of good cause as required by Rule 16(b)(4) of the Federal Rules of Civil Procedure and Local Rule 16.3 or *sua sponte* by the Court.

**DISCOVERY DEADLINES**

Discovery must be completed according to the following deadlines:

1. Rule 7.1 disclosures shall be made for all parties in the Consolidated Amended Complaints on or before **February 27, 2026**.
2. Deadline for initial disclosures required by Fed. R. Civ. P. 26(a)(1): **February 27, 2026**.
3. Interim deadline for substantial completion of document production: **July 1, 2026**.
4. Pursuant to the Court's Protective Order and Qualified HIPAA Protective Order (ECF No. 271 at 9), privilege logs pursuant to Fed. R. Civ. P. 26(b)(5)(A) must be served within **45 days** after each document production from which any privileged materials are withheld.
5. Lead counsel shall meet and confer regarding procedures and timing for noticing depositions or serving subpoenas under Fed. R. Civ. P. 30(b)(6) and file a stipulation setting forth any agreements regarding the same by **February 18, 2026**.
6. Deadline for completion of mental or physical examinations under Fed. R. Civ. P. 35: **July 31, 2026**.

7. Deadline for completion of all fact discovery: **November 2, 2026**. Parties must serve their discovery requests far enough in advance of this deadline to allow time to respond, as provided by the Federal Rules of Civil Procedure, on or before this date. Fact discovery will not be further extended because a party learns something new at a deposition taken late in the fact discovery period. Accordingly, counsel and the parties must take this into account when scheduling any fact depositions.

## **EXPERT DISCOVERY DEADLINES**

### **Class Certification Experts:**

1. Deadline for disclosure and service of Plaintiffs' class certification expert identities and reports: **January 5, 2027**.
2. Deadline for disclosure and service of Defendants' class certification expert identities and reports: **March 5, 2027**.
3. Deadline for completion of all class certification expert discovery: **April 5, 2027**.

In the event that Plaintiffs seek to file an early class certification motion in either MDL Track, the parties first must meet and confer regarding the impact on timing of Defendants' class certification expert disclosures, reports and responsive briefing. The parties shall file a stipulation on these issues if an agreement can be reached and may bring them to the Court if an agreement cannot be reached after a good faith effort to resolve them.

### **Merits Experts:**

1. **Joint Letters:** The parties request uncertain deadlines for merits expert discovery and dispositive motions that are triggered from the date of the District Judge's decision regarding Plaintiffs' anticipated motion for class certification. Deadlines that do not consist of dates certain are generally disfavored because they cannot be calendared and often lead to date calculation disputes. To address this concern, the Court hereby Orders the parties to file a joint letter in each MDL Track within **7 days** following the resolution of Plaintiffs' anticipated motion for class certification in that Track, stating the parties' positions regarding the exact dates applicable to the deadlines for merits expert discovery and dispositive motions based on the timelines set forth below.
2. Deadline to disclose the identity of initial experts and serve initial expert reports (including any expert on which a party has the burden of persuasion and any other expert on which a party seeks to rely in its primary case, irrespective of burden): The deadline as to each MDL Track shall be **30 days following resolution of the class certification motion** in that Track.
3. Deadline to disclose the identity of rebuttal experts and serve rebuttal expert reports for each MDL Track: **60 days following resolution of the class certification motion** in that Track. Rebuttal expert reports shall be limited in scope to the topics addressed in initial expert reports.

4. Deadline to serve reply expert reports for each MDL Track: **90 days following resolution of the class certification motion** in that Track. Reply expert reports shall be limited in scope to the topics addressed in rebuttal expert reports.
5. Deadline for completion of all expert discovery, including depositions, for each MDL Track: **120 days following resolution of the class certification motion** in that Track.

## **DISCOVERY LIMITS**

**Fact discovery** shall be limited per side to:

1. 20 consolidated interrogatories to be served jointly by Plaintiffs in both MDL Tracks, and 30 additional interrogatories to be served separately by Plaintiffs in each MDL Track (**80 total interrogatories for Plaintiffs**), to be answered by each Defendant separately.<sup>1</sup>
2. 30 interrogatories to be served by Defendants in each MDL Track (**60 total interrogatories for Defendants**), to be answered separately by each named Plaintiff in the respective MDL Track.
3. 30 consolidated document requests to be served jointly by Plaintiffs in both MDL Tracks, and 30 additional document requests to be served separately by Plaintiffs in each MDL Track (**90 total document requests for Plaintiffs**), to be answered by each Defendant separately.<sup>2</sup>
4. 45 document requests to be served by Defendants in each MDL Track (**90 total document requests for Defendants**), to be answered separately by each named Plaintiff in the respective MDL Track;
5. 50 requests for admissions to be served jointly by Plaintiffs in both MDL Tracks, and 25 additional requests for admission to be served by Plaintiffs in each MDL Track (**100 total requests for admission for Plaintiffs**), to be answered separately by each Defendant.<sup>3</sup> This limit does not include requests for admissions as to the authenticity or admissibility of documents, as to which the parties shall meet and confer.
6. 50 requests for admissions to be served by Defendants in each MDL Track (**100 total requests for admission for Defendants**), to be answered separately by each named Plaintiff in the respective MDL Track. This limit does not include requests for

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<sup>1</sup> Defendants may issue joint answers if appropriate. Defendants must clearly identify in their answers when they are answering jointly for all Defendants or only for specific Defendants.

<sup>2</sup> Defendants may issue joint responses if appropriate. Defendants must clearly identify in their responses when they are responding jointly for all Defendants or only for specific Defendants.

<sup>3</sup> Defendants may issue joint responses if appropriate. Defendants must clearly identify in their responses when they are responding jointly for all Defendants or only for specific Defendants.

admissions as to the authenticity or admissibility of documents, as to which the parties shall meet and confer.

7. Plaintiffs' Depositions: **280 hours** of fact depositions for both MDL Tracks combined, including Fed. R. Civ. P. 30(b)(6) depositions and third-party depositions, with a total limit of **55 depositions** inclusive of any 30(b)(6) depositions.
8. Defendants' Depositions: Defendants shall be entitled to take **one deposition** (either 30(b)(1) or 30(b)(6)) **of each named plaintiff** in each of the Provider and Individual MDL Track Consolidated Complaints. Defendants shall also be entitled to **100 additional hours** of deposition time for both MDL Tracks and third-party depositions, with a total limit of **20 additional depositions**.
9. Depositions shall count as depositions (or the hours of a deposition) only for the party that first issued a deposition notice and not for any cross-notices of depositions.

**Expert discovery** shall be limited per side to:

1. **12** plaintiffs' experts in each MDL Track under Fed. R. Civ. P. 26(a)(2)(B);
2. **12** defense experts in each MDL Track under Fed. R. Civ. P. 26(a)(2)(B); and
3. Each side may take one deposition per expert report.

## **OTHER DISCOVERY ISSUES:**

### Electronically Stored Information (ESI)

The Court's ESI Order ([ECF No. 243](#)) shall govern the exchange of documents in this action.

### Protective Order:

The Court's Protective Order and Qualified HIPAA Protective Order ([ECF No. 271](#)) shall apply to information exchanged in discovery in this case.

### Claims of Privilege or Protection:

The Court's Protective Order and Qualified HIPAA Protective Order ([ECF No. 271](#)) shall apply to claims of privilege or protection asserted in this case.

## **NON-DISPOSITIVE MOTION FILING DEADLINES**

Non-dispositive motions, memoranda and supporting documents must be filed and served according to the following deadlines:

1. Motions to join or add parties: **April 1, 2026.**
2. Motions to amend the pleadings: **April 1, 2026.**
3. Non-dispositive motions related to class certification expert discovery: **April 19, 2027.**
4. Non-dispositive motions related to merits expert discovery: **14 days** after merits expert discovery completion.
5. All other non-dispositive motions, including motions related to fact discovery: **November 6, 2026.**
6. Motions for Class Certification:
  - a. Motions filed and served: **January 5, 2027**
  - b. Opposition briefing filed and served: **March 5, 2027**
  - c. Reply briefing: **April 5, 2027.**
7. Daubert motions for class certification experts: **April 19, 2027.**

## **NON-DISPOSITIVE MOTION GUIDELINES**

### Meet and Confer Requirement

Except as otherwise specified in Local Rule 7.1(a), the parties must comply with the meet and confer requirement before calling for a hearing date, filing any motion, or engaging in Informal Dispute Resolution (IDR). Parties must make a good faith attempt to confer through personal contact, rather than solely through written correspondence, email or voice messages. “Personal contact” includes in-person meetings, videoconferences and contemporaneous telephone calls. Whether parties raise non-dispositive disputes informally or through traditional motions, the parties must engage in a focused meet and confer process in a sincere effort to resolve or narrow their disagreements before seeking the Court’s involvement.

### Unopposed Motions and Stipulations

Whenever a party seeks relief from the Court, that party should file a motion—as opposed to a stipulation—even if the parties agree regarding the requested relief. The party requesting relief may bring an unopposed motion; if both parties seek the relief, the parties may bring a joint motion. In filing such a motion, the filing party must file: (1) the motion, including a statement regarding the opposing party’s non-opposition or joinder; (2) a proposed order (which shall also be submitted in Word form to Judge Foster’s chambers); and (3) supporting affidavits or exhibits, if any. The filing party does not need to contact Chambers for a hearing date and file a notice of hearing unless a hearing is requested and does not need to file a memorandum or separate meet-and-confer statement. The Court may, at its discretion, schedule a hearing on any such motion upon reviewing the moving party’s submissions.

### Informal Dispute Resolution

Whenever possible, the parties should bring discovery disputes to the Court using the Court’s IDR process. IDR is only available when all parties with a stake in the disputed issue agree to use it. If the parties agree to use IDR, they must jointly contact Chambers by telephone or email at 612-664-5540 or [Foster\\_Chambers@mnd.uscourts.gov](mailto:Foster_Chambers@mnd.uscourts.gov) to schedule a Zoom videoconference, which in this case will be recorded. Each party will then submit a short letter setting forth the issue(s) to be resolved, stating that party’s position with respect to each issue, and confirming that the party has agreed to resolve the dispute through IDR. Charts and bullet-point summaries of the issue(s) are encouraged. Unless otherwise specified by the Court, letter submissions shall be no more than three (3) pages long and must be emailed to Chambers. The requesting party’s letter shall be due five (5) business days before the Zoom videoconference is scheduled to take place, and the responding party’s letter shall be due at least two (2) business days

before the Zoom videoconference is scheduled to take place. The requesting party must submit a proposed order as a separate attachment to the requesting party's letter. The responding party may submit a responsive proposed order if appropriate.

Given the absence of formal briefing and the fact that the Court's minute entry will not discuss the reasoning underlying the Court's decision, the decision on an issue submitted through the IDR process is final and cannot be appealed to the District Judge or preserved for the Court of Appeals, nor can a party revive the issue by filing a formal motion. By agreeing to submit a dispute to IDR, the parties agree to live with the decision rendered on that dispute at the conclusion of the IDR process.

#### Formal Non-Dispositive Motions

Formal non-dispositive motions must comply with the Electronic Case Filing Procedures for the District of Minnesota, Local Rules 7.1 and 37.1, the Federal Rules of Civil Procedure and all other applicable rules. Unless the motion is unopposed, the moving party must contact Chambers to schedule a hearing before filing the motion. When calling for a hearing date, counsel for the moving party must be prepared to provide a high-level overview of the dispute and describe prior communications with opposing counsel regarding IDR and the meet-and-confer process. **If the Court authorizes the moving party to file its motion with a hearing date to be determined ("TBD"), the moving party must file the motion with its motion papers within fourteen days of receiving such authorization. Otherwise, the moving party must call Chambers again before filing the motion.**

Before scheduling a motions hearing the Court may, at its discretion, require the parties to participate in an informal status conference to discuss the dispute and determine whether the issues can be resolved or narrowed without motion practice.

Unless the motion is unopposed, pursuant to Local Rule 7.1(b) **a hearing date (or permission to file TBD) must be obtained before any non-dispositive motion is filed, even if the parties agree that no hearing is necessary.** If the parties agree that a hearing is not necessary, the moving party should include a statement to that effect in the Notice of Hearing. The Court will determine whether to cancel the hearing after briefing is complete. Parties are advised not to notice additional motions for hearing on an already existing hearing date without first contacting the Court and obtaining permission to do so.

**Do not send paper courtesy copies of filings to Chambers.** If the motions contain or refer to documents that are not filed on ECF, those documents should be emailed to Chambers at [Foster\\_Chambers@mnd.uscourts.gov](mailto:Foster_Chambers@mnd.uscourts.gov). Parties should email courtesy copies of proposed orders in Word format to Chambers.

**If the dispute is related to written discovery or the contents of depositions,** the parties must jointly fill out a chart (see template below) that describes each disputed discovery request and response and each party's position and last offer of compromise. This chart must be in Word format and emailed to Chambers at [Foster\\_Chambers@mnd.uscourts.gov](mailto:Foster_Chambers@mnd.uscourts.gov) at least **five business days** before the hearing. Failure to provide this chart to the Court may result in the cancellation of the hearing.

### **Case Name and Number**

To assist the Court in more efficiently resolving the parties' discovery dispute, the parties shall meet and confer, and jointly complete the following chart. The purpose of this chart is not to repeat, or cut and paste, the arguments present in the parties' memoranda, but to identify succinctly each party's position and the compromise last offered at the meet and confer. Please attach additional sheets as necessary. At least five business days before the hearing, the fully completed chart shall be e-mailed to chambers at [Foster\\_Chambers@mnd.uscourts.gov](mailto:Foster_Chambers@mnd.uscourts.gov).

Discovery Request at issue (Verbatim)	Movant's Position	Respondent's Position	Movant's Last Offered Compromise	Respondent's Last Offered Compromise	Notes

Counsel for Moving Party: \_\_\_\_\_

Counsel for Responding Party: \_\_\_\_\_

Date: \_\_\_\_\_

### **FILING DOCUMENTS UNDER SEAL**

Counsel must be familiar with Local Rule 5.6 on filing documents under seal in civil cases and must comply with the Rule when seeking to file documents under seal. The designation of material as confidential or protected by any party pursuant to a protective order during the course of discovery is not a sufficient justification for continued sealing.

Unless the parties agree or the Court orders otherwise, the joint motion regarding continued sealing required under Local Rule 5.6(d)(2) should be filed by the party who filed the first document under temporary seal in connection with the underlying motion(s). The joint motion must be filed within 21 days after the district judge issues an order<sup>4</sup> resolving the underlying motion(s), or within 21 days after the magistrate judge issues an order if the underlying motion(s) will not be presented to a district judge. The joint motion must be filed using the Joint Motion

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<sup>4</sup> This deadline is later than the deadline set forth under LR 5.6(d)(2), to allow the parties to address “the role of the material at issue in the exercise of Article III judicial power”. *See IDT Corp. v. eBay*, 709 F.3d 1220, 1224 (8th Cir. 2013).

Regarding Continued Sealing Form, which is available on the Court's website at:  
<https://www.mnd.uscourts.gov/forms/joint-motion-regarding-continued-sealing>.

### **DISPOSITIVE MOTION GUIDELINES AND DEADLINES**

Dispositive motions as to each MDL Track shall be filed, served, and scheduled on or before **150 days** following a ruling on the class certification motion in that Track. All dispositive motions shall be filed and served in compliance with the Electronic Case Filing Procedures for the District of Minnesota and in compliance with Local Rule 7.1. Counsel shall schedule the hearing by calling the Courtroom Deputy for District Judge Donovan W. Frank, at 651-848-1296. When a motion, response, or reply brief is filed on CM/ECF, **two** paper courtesy copies of the pleading and all supporting documents shall be mailed or delivered to the Courtroom Deputy, at the same time as the documents are posted on CM/ECF.

### **SETTLEMENT**

Judge Foster will schedule an informal conference with Lead Counsel from each side in her chambers to discuss settlement. Lead Counsel are directed to jointly reach out to Judge Foster's Courtroom Deputy regarding proposed dates for the conference by **February 11, 2026**. Each party shall submit a 1-2 confidential *ex parte* letter to Judge Foster by email at [Foster\\_Chambers@mnd.uscourts.gov](mailto:Foster_Chambers@mnd.uscourts.gov) outlining the topics that party believes should be addressed during the conference to facilitate the parties' settlement negotiations. The letters shall be due **7 days** before the scheduled conference date.

The Court may *sua sponte* schedule status conferences or settlement conferences to explore options for alternative dispute resolution. In addition, the Court will in its discretion consider joint or *ex parte* requests that the Court schedule a settlement conference or otherwise assist in settlement negotiations, provided that the content of any *ex parte* request shall be strictly limited

to the topic of settlement and shall not comment on any matter that may come before the Court for a ruling. Such requests shall be submitted to Chambers at [Foster\\_Chambers@mnd.uscourts.gov](mailto:Foster_Chambers@mnd.uscourts.gov).

The Court will treat *ex parte* requests as confidential unless otherwise advised.

**BELLWETHER TRIALS**

The Parties must meet and confer as to whether Bellwether merits motions practice and trials, including Bellwethers or other measures to resolve specific issues in the litigation, would be useful to the Parties and the Court, and raise this issue after they have tried to work together to resolve any disputes.

Date: February 4, 2026

*s/ Dulce J. Foster*  
DULCE J. FOSTER  
United States Magistrate Judge

## E-DISCOVERY CHECKLIST

In order to ensure that civil litigation is “just, speedy, and inexpensive” as required by Fed. R. Civ. P. 1, attorneys and parties must collaborate in the discovery process. To that end, the Court requires attorneys and *pro se* litigants to meet and confer regarding the topics set forth in this checklist and present any disputes to the Court by the date set forth in the Pretrial Scheduling Order, if not discussed prior to the Pretrial Conference.

- **ESI Protocol:** The parties must discuss whether the case warrants the joint submission of a proposed ESI Protocol for the Court’s approval. **The parties must include language in any proposed ESI Protocol that recognizes the Court’s authority to modify the terms of the Protocol for good cause at later stages of the litigation.**
- **Preservation of Information:** All parties must confirm that they are preserving relevant evidence and that appropriate litigation holds are in place. If requested, parties must disclose the scope of any litigation holds with respect to custodians, information sources and time periods.
- **Categories of Data Outside Discovery:** The parties should discuss the extent to which certain time periods or categories of ESI need not be preserved or produced because they are inaccessible, burdensome, or unlikely to yield relevant information.
- **Sources of Information:** The parties must discuss the sources of relevant information to be exchanged (email accounts, text messages, file servers, computers, databases, etc.), including corporate and personal accounts.
- **Collection Methods:** The parties must discuss methods of ESI collection and any anticipated forensic imaging necessary to preserve and collect data from each identified source.
- **Search Methodologies:** The parties must discuss the ESI search methodologies to be used, including, e.g., search term and custodian searches, any use of technology assisted review (“TAR”), and whether producing parties will conduct a relevance review prior to production.
- **Production Methods:** The parties should discuss how ESI will be produced, including format (e.g., native, PDF or TIFF files), production of load files, metadata, threading and de-duping, production of document families, and redaction methods.
- **Production Timing:** The parties must discuss whether rolling productions are anticipated and the timing for such productions.
- **Privilege Logs:** If applicable, the parties should discuss whether an alternative form of privilege logs, such as a categorical log, metadata log, or sample log would be more efficient than a traditional privilege log.

**Magistrate Judge Dulce J. Foster**

**Practice Pointers and Preferences**

**Contact with Chambers**

- If you have questions about Magistrate Judge Foster's Practice Pointers and Preferences, please contact Chambers at 612-664-5540, or email at [Foster\\_Chambers@mnd.uscourts.gov](mailto:Foster_Chambers@mnd.uscourts.gov).
- Neither Magistrate Judge Foster nor any member of her Chambers staff will provide answers to substantive or procedural legal questions. Please refer to the Federal Rules of Civil Procedure, the Local Rules for the District of Minnesota, any applicable statutes and any applicable orders in the case.
- Neither Magistrate Judge Foster nor any member of her Chambers staff will communicate with members of the media about any matter before the Court.
- Requests for relief must be brought by motion or stipulation, or by using Magistrate Judge Foster's informal dispute resolution ("IDR") process, as described below. Email messages and telephone calls to Judge Foster's Chambers are not proper means for requesting relief from the Court. **Letters to the Court requesting relief will not be considered unless the parties have jointly requested a resolution through the IDR process.**
- If you have a question or seek clarification regarding an order Magistrate Judge Foster previously entered, please do not call Chambers seeking an answer or clarification. Instead, file a letter on CM/ECF containing your question or request for clarification. If your clarification letter includes a request for relief, that portion of the letter will not be considered unless you bring your request by motion, stipulation or IDR.
- When calling Chambers with a question about a specific case, first identify yourself and the party you represent, and be ready to provide the case name and number. When emailing Chambers with a question about a specific case, include the case name and number in the subject line of the email and identify yourself and the party you represent in the body of the email.
- If you have a question about how to file or access a document on CM/ECF, please contact the ECF Help Desk in the Clerk's Office at 612-664-5155, 866-325-4975 (toll free) or [ecfhelpdesk@mnd.uscourts.gov](mailto:ecfhelpdesk@mnd.uscourts.gov). Helpful ECF reference guides, procedures and other resources are available on the Court's Electronic Filing Tools webpage, which can be found here: <https://www.mnd.uscourts.gov/electronic-filing-tools>.

## **Resources for Pro Se Litigants**

- People who represent themselves without a lawyer's help are called "pro se litigants." Magistrate Judge Foster expects pro se litigants to be familiar with and follow the Federal Rules of Civil Procedure and the Local Rules for the District of Minnesota. A free copy of the Federal Rules of Civil Procedure is available here: <https://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure>, and the Local Rules can be found here: <https://www.mnd.uscourts.gov/court-info/local-rules-and-orders>. A guidebook and other useful resources for pro se litigants are available on the District Court's web site, which you can find here: <https://www.mnd.uscourts.gov/representing-yourself>.

## **First Pretrial Conference and Rule 26(f) Report**

- If the Order Setting Pretrial Conference in a case sets the Rule 16 conference for an in-person proceeding, Magistrate Judge Foster will consider a request to hold the Rule 16 conference remotely by videoconference (Zoom for Government) or telephone. Requests should be made by emailing Chambers at [Foster\\_Chambers@mnd.uscourts.gov](mailto:Foster_Chambers@mnd.uscourts.gov) before the Rule 26(f) report is due. Copy all counsel of record and state the reason for the request and whether all counsel agree to a remote Rule 16 conference.
- When you file the Rule 26(f) report, please email a courtesy copy in Word format to [Foster\\_Chambers@mnd.uscourts.gov](mailto:Foster_Chambers@mnd.uscourts.gov).

## **Informal Dispute Resolution (IDR) and Civil Motion Practice**

### **Meet and Confer**

- Except as otherwise specified in Local Rule 7.1(a), the parties must comply with the meet-and-confer requirement before calling to request a hearing date, filing any motion, or requesting Informal Dispute Resolution (IDR). This requirement is intended to lead to a meaningful, good faith exchange of views, and if possible, a full or partial resolution of the issue(s) in dispute. To satisfy Rule 7.1(a), parties must diligently attempt to resolve their dispute(s) in person, by videoconference or by telephone. Cursory conversation or exchanges of emails, letters or voice messages will be considered insufficient.
- If the moving party is unable to meet and confer before filing a motion because the opposing party was unavailable before the motion due date, the moving party should file a meet-and-confer statement with the initial motion explaining that the moving party was not able to meet with the opposing party before filing the motion and the reasons why. The moving party must promptly meet and confer with the opposing party as soon as possible after filing the motion and file an amended meet-and-confer statement pursuant to Local Rule 7.1(a)(1)(B).

## Unopposed Motions and Stipulations

- Whenever a party seeks relief from the Court, that party should file a motion—as opposed to a stipulation—even if the parties agree regarding the requested relief. The party requesting relief may bring an unopposed motion; if both parties seek the relief, the parties may bring a joint motion. In filing such a motion, the filing party must file: (1) the motion, including a statement regarding the opposing party’s non-opposition or joinder; (2) a proposed order; and (3) supporting affidavits or exhibits, if any. The filing party does not need to contact Chambers for a hearing date and file a notice of hearing unless a hearing is requested and does not need to file a memorandum or separate meet-and-confer statement. The Court may, at its discretion, schedule a hearing on any such motion upon reviewing the moving party’s submissions.

## Informal Dispute Resolution

- During the meet-and-confer, the parties must discuss whether to resolve the dispute through Magistrate Judge Foster’s IDR process. The IDR process is available to resolve non-dispositive disputes. Typically, when the parties use the IDR process, they do not brief the matter and do not file declarations or sworn affidavits. IDR offers an efficient means to promptly resolve issues, but because it is relatively informal, a decision through IDR is not appealable to the District Judge or the Eighth Circuit. For this reason, all parties with a stake in the disputed issue must agree to use the IDR process.

If the parties agree to use the IDR process, they must jointly contact Chambers to schedule a Zoom video conference. Each party will then submit a short letter confirming that the party has agreed to resolve the dispute through IDR, setting forth the issue(s) to be resolved, and stating that party’s position. Charts and bullet-point summaries of the issue(s) are encouraged. Unless otherwise specified by the Court, letter submissions shall be no more than three (3) pages long and must be emailed to Chambers and all parties at least two (2) business days before the Zoom video conference.

## Obtaining a Motions Hearing or Informal Conference Date

- Unless a motion is unopposed, the moving party must contact Magistrate Judge Foster’s Chambers at 612-664-5540 to schedule a motions hearing. Counsel for the moving party must be prepared to describe prior communications with opposing counsel regarding IDR when calling for a hearing date, unless the moving party was unable to meet-and-confer due to the opposing party’s unavailability before the motion due date. **A hearing date must be requested before the motion is filed, even if the parties agree that no hearing is necessary.** If the parties agree that a hearing is not necessary, the moving party should include a statement to that effect in the Notice of Hearing. Judge Foster will determine whether to cancel the hearing at her discretion or may authorize the moving party to file a Notice of Hearing indicating a hearing date “to be determined.”

Before scheduling a motions hearing date, the Court, at its discretion, may require the parties to participate in an informal conference to discuss the dispute and determine whether the issues can be resolved or narrowed without motion practice.

Before calling Chambers for a hearing date, the moving party should alert all other parties of the intent to do so. The parties should inform Chambers of all other pending or anticipated motions so the motions can be heard at the same time. The parties should also inform Chambers of any

related cases with related motions.

- If a hearing date or time must be rescheduled, it is helpful to have counsel for all parties on the line at the same time so that an effort can be made to avoid potential scheduling conflicts.
- Magistrate Judge Foster may schedule oral argument to be heard telephonically or by Zoom for Government rather than in person, and Judge Foster will consider requests from the parties for remote hearings. Counsel should meet and confer regarding any request for a remote hearing. Requests should be made by emailing [Foster\\_Chambers@mnd.uscourts.gov](mailto:Foster_Chambers@mnd.uscourts.gov), copying all counsel of record, and should state the reason for the request and whether all counsel agree to a remote hearing.

### **Filing Motion Papers**

- Once the moving party has secured a hearing date, that party must promptly serve and file the notice of hearing informing all parties of the nature of the motion and the date, time, and location of the hearing. The moving party shall serve and file the motion and remaining motion papers in compliance with the dates prescribed by Local Rule 7.1, unless the Court sets a different briefing schedule. A party may not call Chambers to secure a hearing date or “hold” a hearing date without promptly serving and filing a notice of hearing.
- Please **do not send paper** courtesy copies of filings to Chambers. Parties should email courtesy copies of proposed orders in Word format to [Foster\\_Chambers@mnd.uscourts.gov](mailto:Foster_Chambers@mnd.uscourts.gov).
- If a pending motion is resolved, please notify Chambers as soon as possible so that any scheduled hearing can be removed from the calendar. If a motion has been partially resolved, please notify Chambers which parts have been resolved and no longer need to be addressed by the Court. If time permits, notification should be by joint stipulation, as provided by Local Rule 7.1. A party seeking to withdraw a motion should file a formal notice of withdrawal on CM/ECF.
- Memoranda, declarations and other filings should refer to the record using citations to the CM/ECF docket number rather than any other applicable identifier (e.g., title, exhibit number or bates number).

### **Hearings**

- Magistrate Judge Foster encourages litigants to seek opportunities for newer lawyers to participate in hearings before the Court, particularly with respect to motions that the newer lawyer made a significant contribution towards preparing. Judge Foster will make no inferences about the importance a party places on a particular issue from the experience level of the lawyer chosen to argue that issue.
- Counsel should refer to the record using citations to the CM/ECF docket number rather than any other applicable identifier (e.g., title, exhibit number or bates number).

### **In-Person Hearings**

- If you intend to use paper copies of cases, documents, etc., at an in-person hearing, bring sufficient copies for the Court, the law clerk, and opposing counsel.

- If you intend to use visual aids at an in-person hearing, such as PowerPoint or other presentation graphics, bring sufficient copies for the Court, the law clerk, and opposing counsel. Magistrate Judge Foster and her staff are not responsible for the functioning of the courtroom's technology, so it is important for you to have a back-up plan if the technology is not available at the hearing. The copies should reference the case name and case number.
- If you plan to use the courtroom technology, please become familiar with it ahead of time. Training can be arranged by contacting Magistrate Judge Foster's Chambers at 612-664-5540 or [Foster\\_Chambers@mnd.uscourts.gov](mailto:Foster_Chambers@mnd.uscourts.gov).

## **Remote Hearings**

- Remote hearings will be held telephonically or using Zoom for Government. Counsel are responsible for ensuring that they and any participants affiliated with them have tested the technology and understand how to use it. Before any Zoom video hearing begins, counsel must review the District's instructions for participating in a Zoom video conference here: <https://www.mnd.uscourts.gov/sites/mnd/files/Preparing-to-Participate-in-a-Zoom-Video-Conference.pdf>.
- Attorneys who anticipate using presentations, exhibits or demonstratives during a video hearing should inform Chambers by emailing [Foster\\_Chambers@mnd.uscourts.gov](mailto:Foster_Chambers@mnd.uscourts.gov) before the hearing and copying all counsel of record, so that necessary arrangements can be made to the Zoom settings. Counsel must deliver PDF copies of any documents they intend to use via email to Chambers and all counsel of record at least **48 business hours** before the hearing is scheduled to begin.
- Counsel are expected to conduct themselves during a hearing by Zoom for Government in the same manner they would during an in-person hearing in the courtroom. This includes wearing appropriate courtroom attire and maintaining courtroom decorum throughout the remote proceeding.

## **Settlement Conferences**

- Magistrate Judge Foster will consider requests that a settlement conference be held by Zoom for Government. Counsel should meet and confer regarding a request for a remote settlement conference. Requests should be made by emailing [Foster\\_Chambers@mnd.uscourts.gov](mailto:Foster_Chambers@mnd.uscourts.gov). Copy all counsel of record and state the reason for the request and whether all counsel agree to a remote settlement conference. Judge Foster will determine whether a remote settlement conference is appropriate for a particular case. If a settlement conference will be held remotely, counsel must review the District's instructions for participating in a video proceeding, which are available here: <https://www.mnd.uscourts.gov/sites/mnd/files/Preparing-to-Participate-in-a-Zoom-Video-Conference.pdf>. Counsel are expected to wear courtroom attire and maintain courtroom decorum throughout the proceeding.