

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

JOHN DOE, a minor, by his parents and next friends, SUSAN AND JACK DOE,

Plaintiff,

Case No. 6:18-CV-102-RBD-GJK

v.

VOLUSIA COUNTY SCHOOL BOARD,

Defendant.

---

**CASE MANAGEMENT REPORT**

The parties have agreed on the following dates and discovery plan pursuant to Fed.R.Civ.P.

26(f) and Local Rule 3.05(c):

DEADLINE OR EVENT	AGREED DATE
<b>Mandatory Initial Disclosures (pursuant to Fed.R.Civ.P. 26(a)(1) as amended effective December 1, 2000)</b> [Court recommends 30 days after CMR meeting]	<b>March 29, 2018</b>
<b>Certificate of Interested Persons and Corporate Disclosure Statement</b> [Each party who has not previously filed must file immediately]	<b>Filed</b>
<b>Motions to Add Parties or to Amend Pleadings</b> [Court recommends 1 – 2 months after CMR meeting]	<b>April 27, 2018</b>
<b>Disclosure of Expert Reports</b> Plaintiff: Defendant: [Court recommends last exchange 6 months before trial and 1 - 2 months before discovery deadline to allow expert depositions]	<b>Plaintiff: June 25, 2018</b>  <b>Defendant: June 25, 2018</b>  <b>Rebuttal Reports: July 25, 2018</b>
<b>Discovery Deadline</b> [Court recommends 6 months before trial to allow time for dispositive motions to be filed and decided; all discovery must be	<b>September 25, 2018</b>

DEADLINE OR EVENT	AGREED DATE
commenced in time to be completed before this date]	
<b>Dispositive Motions, Daubert, and Markman Motions</b> [Court requires 5 months or more before trial]	<b>October 25, 2018</b>
<b>Joint Final Pretrial Statement (Including a Single Set of Jointly-Proposed Jury Instructions, Verdict Form and Voir Dire Questions emailed to <a href="mailto:chambers_FLMD-Dalton@flmd.uscourts.gov">chambers_FLMD-Dalton@flmd.uscourts.gov</a> in Word format), Witness Lists, Exhibit Lists with Objections on Approved Form) Trial Briefs</b> [Court recommends 4 weeks before Final Pretrial Conference]	<b>February 4, 2018</b>
<b>All Other Motions Including Motions <i>In Limine</i></b> [Court recommends 3 weeks before Final Pre-trial Conference]	<b>February 11, 2019</b>
<b>Final Pretrial Conference</b> [Court will set a date that is approximately 3 weeks before trial]	<b>March 4, 2019</b>
<b>Trial Term Begins</b> [Local Rule 3.05 (c)(2)(E) sets goal of trial within 1 year of filing complaint in most Track Two cases, and within 2 years in all Track Two cases, trial term must no be less than 4 months after dispositive motions deadline (unless filing of such motions is waived).	<b>March 25, 2019</b>
<b>Estimated Length of Trial</b> [trial days]	<b>3 days</b>
<b>Jury / Non-Jury</b>	<b>Non Jury</b>
<b>Mediation</b> Deadline:  Mediator: Address:   Telephone:  [Absent arbitration, mediation is <i>mandatory</i> ; Court recommends either 2 - 3 months after CMR meeting, or just after discovery deadline]	<b>May 31, 2018</b>  <b>Jill S. Schwartz</b> <b>655 W. Morse</b> <b>Boulevard, Suite 212</b> <b>Winter Park, FL</b> <b>32789</b>  <b>407-647-8911</b>
<b>All Parties Consent to Proceed Before Magistrate Judge</b> (Counsel are directed to file the separate Consent form simultaneously).	<b>Yes</b> ___ <b>No</b> <u><b>X</b></u>  <b>Likely to Agree in</b> <b>Future</b> <u><b>NO</b></u>

**I. Meeting of Parties**

Lead counsel must meet *in person* and not by telephone absent an order permitting otherwise. Counsel will meet in the Middle District of Florida, unless counsel agree on a different location. Pursuant to Local Rule 3.05(c)(2)(B) or (c)(3)(A),<sup>1</sup> a meeting was held in person on February 27, 2018 at 11:00 a.m. at Foley & Lardner, LLP, 100 N. Tampa St., Tampa, Florida and was attended by:

<u>Name</u>	<u>Counsel for (if applicable)</u>
Lauren Valiente (in person)	Plaintiff
Amy Whelan (by phone)	Plaintiff
Asaf Orr (by video)	Plaintiff
Thomas M. Gonzalez (in person)	Defendant

**II. Pre-Discovery Initial Disclosures of Core Information**

**Fed.R.Civ.P. 26(a)(1)(A) - (D) Disclosures**

Fed.R.Civ.P 26, as amended effective December 1, 2000, provides that these disclosures are mandatory in Track Two and Track Three cases, except as stipulated by the parties or otherwise ordered by the Court (the amendment to Rule 26 supersedes Middle District of Florida Local Rule 3.05, to the extent that Rule 3.05 opts out of the mandatory discovery requirements):

The parties \_\_\_\_\_ have exchanged   X   agree to exchange (check one)  
information described in Fed.R.Civ.P. 26(a)(1)(A)-(D) by March 29, 2018.

Below is a description of information disclosed or scheduled for disclosure.

---

<sup>1</sup> A copy of the Local Rules may be viewed at <http://www.flmd.uscourts.gov> .

### III. Electronic Discovery

The parties have discussed issues relating to disclosure or discovery of electronically stored information ("ESI"), including Pre-Discovery Initial Disclosures of Core Information in Section II above, and agree that (check one):

No party anticipates the disclosure or discovery of ESI in this case;

One or more of the parties anticipate the disclosure or discovery of ESI in this case.

If disclosure or discovery of ESI is sought by any party from another party, then the following issues shall be discussed<sup>2</sup>:

A. The form or forms in which ESI should be produced.

B. Nature and extent of the contemplated ESI disclosure and discovery, including specification of the topics for such discovery and the time period for which discovery will be sought.

C. Whether the production of metadata is sought for any type of ESI, and if so, what types of metadata.

D. The various sources of ESI within a party's control that should be searched for ESI, and whether either party has relevant ESI that it contends is not reasonably accessible under Rule 26(b)(2)(B), and if so, the estimated burden or costs of retrieving and reviewing that information.

E. The characteristics of the party's information systems that may contain relevant ESI, including, where appropriate, the identity of individuals with special knowledge of a party's computer systems.

F. Any issues relating to preservation of discoverable ESI.

G. Assertions of privilege or of protection as trial-preparation materials, including whether the parties can facilitate discovery by agreeing on procedures and, if appropriate, an Order

---

<sup>2</sup> See Generally: Rules Advisory Committee Notes to the 2006 Amendments to Rule 26(f) and Rule 16.

under Federal Rules of Evidence Rule 502. If the parties agree that a protective order is needed, they shall attach a copy of the proposed order to the Case Management Report, together with a statement as to why an enforceable agreement between the parties is not sufficient. The parties should attempt to agree on protocols that minimize the risk of waiver. Any proposed protective order shall comply with Local Rule 1.09 and Section IV.F. below on Confidentiality Agreements.

H. Whether the discovery of ESI should be conducted in phases, limited, or focused upon particular issues.

Please state if there are any areas of disagreement on these issues and if so, summarize the parties' positions on each:

---

If there are disputed issues specified above, or elsewhere in this report, then (check one):

One or more of the parties requests that a preliminary pre-trial conference under Rule 16 be scheduled to discuss these issues and explore possible resolutions. Although this will be a non-evidentiary hearing, if technical ESI issues are to be addressed, the parties are encouraged to have their information technology experts with them at the hearing.

If a preliminary pre-trial conference is requested, a motion shall also be filed pursuant to Rule 16(a), Fed.R.Civ.P.

All parties agree that a hearing is not needed at this time because they expect to be able to promptly resolve these disputes without assistance of the Court.

#### **IV. Agreed Discovery Plan for Plaintiffs and Defendants**

##### **A. Certificate of Interested Persons and Corporate Disclosure Statement –**

This Court has previously ordered each party, governmental party, intervenor, non-party movant, and Rule 69 garnishee to file and serve a Certificate of Interested Persons and Corporate Disclosure Statement using a mandatory form. No party may seek discovery from any source

before filing and serving a Certificate of Interested Persons and Corporate Disclosure Statement. A motion, memorandum, response or other paper – including emergency motion – is subject to being denied or stricken unless the filing party has previously filed and served its Certificate of Interested Persons and Corporate Disclosure Statement. Any party who has not already filed and served the required certificate is required to do so immediately.

Each party that has appeared in this action to date has filed and served a Certificate of Interested Persons and Corporate Disclosure Statement, which remains current:

Yes                       No

Amended Certificate will be filed by \_\_\_\_\_ (party) on or before \_\_\_\_\_ (date).

**B. Discovery Not Filed –**

The parties shall not file discovery materials with the Clerk except as provided in Local Rule 3.03. The Court encourages the exchange of discovery requests on diskette. See Local Rule 3.03(f). The parties further agree as follows:

**C. Limits on Discovery –**

Absent leave of Court, the parties may take no more than ten depositions per side (not per party). Fed.R.Civ.P. 30(a)(2)(A); Fed.R.Civ.P. 31(a)(2)(A); Local Rule 3.02(b). Absent leave of Court, the parties may serve no more than twenty-five interrogatories, including sub-parts. Fed.R.Civ.P. 33(a); Local Rule 3.03(a). Absent leave of Court or stipulation of the parties each deposition is limited to one day of seven hours. Fed.R.Civ.P. 30(d)(2). The parties may agree by stipulation on other limits on discovery. The Court will consider the parties' agreed dates, deadlines, and other limits in entering the scheduling order. Fed.R.Civ.P. 29.

**D. Discovery Deadline —**

Each party shall timely serve discovery requests so that the rules allow for a response prior to the discovery deadline. The Court may deny as untimely all motions to compel filed after the discovery deadline. In addition, the parties agree as follows:

**E. Disclosure of Expert Testimony —**

On or before the dates set forth in the above table for the disclosure of expert reports, the parties agree to fully comply with Fed.R.Civ.P. 26(a)(2) and 26(e). Expert testimony on direct examination at trial will be limited to the opinions, basis, reasons, data, and other information disclosed in the written expert report disclosed pursuant to this order. Failure to disclose such information may result in the exclusion of all or part of the testimony of the expert witness. The parties agree on the following additional matters pertaining to the disclosure of expert testimony:

**F. Confidentiality Agreements —**

Whether documents filed in a case may be filed under seal is a separate issue from whether the parties may agree that produced documents are confidential. The Court is a public forum, and disfavors motions to file under seal. The Court will permit the parties to file documents under seal only upon a finding of extraordinary circumstances and particularized need. *See Brown v. Advantage Engineering, Inc.*, 960 F.2d 1013 (11th Cir. 1992); *Wilson v. American Motors Corp.*, 759 F.2d 1568 (11th Cir. 1985). A party seeking to file a document under seal must file a motion to file under seal requesting such Court action, together with a memorandum of law in support. The motion, whether granted or denied, will remain in the public record.

The parties may reach their own agreement regarding the designation of materials as “confidential.” There is no need for the Court to endorse the confidentiality agreement. The Court discourages unnecessary stipulated motions for a protective order. The Court will enforce

appropriate stipulated and signed confidentiality agreements. *See* Local Rule 4.15. Each confidentiality agreement or order shall provide, or shall be deemed to provide, that “no party shall file a document under seal without first having obtained an order granting leave to file under seal on a showing of particularized need.” With respect to confidentiality agreements, the parties agree as follows: the parties agree to execute a mutually agreeable confidentiality agreement on or before March 29, 2018.

**G. Other Matters Regarding Discovery —**

**VI. Settlement and Alternative Dispute Resolution.**

**A. Settlement —**

The parties agree that settlement is

\_\_\_\_\_ likely \_\_\_\_\_ unlikely  X  unknown(check one)

**The Parties agree to continue to discuss the option of settlement during the course of this matter.**

The parties request a settlement conference before a United States Magistrate Judge.

yes \_\_\_\_\_ no  X  likely to request in future  Unknown

**B. Arbitration —**

The Local Rules no longer designate cases for automatic arbitration, but the parties may elect arbitration in any case. Do the parties agree to arbitrate?

yes \_\_\_\_\_ no  X  likely to agree in future  NO

\_\_\_\_\_ Binding \_\_\_\_\_ Non-Binding

**C. Mediation —**

Absent arbitration or a Court order to the contrary, the parties in every case will participate in Court-annexed mediation as detailed in Chapter Nine of the Court’s Local Rules. The parties

have agreed on a mediator from the Court's approved list of mediators as set forth in the table above, and have agreed to the date stated in the table above as the last date for mediation. The list of mediators is available from the Clerk, and is posted on the Court's web site at <http://www.flmd.uscourts.gov>.

**D. Other Alternative Dispute Resolution —**

The parties intend to pursue the following other methods of alternative dispute resolution:

Date: March 12, 2018

Respectfully submitted,

/s/ Lauren L. Valiente

Lauren L. Valiente, Trial Counsel  
Florida Bar No. 034775  
Email: [lvaliente@foley.com](mailto:lvaliente@foley.com)  
FOLEY & LARDNER LLP  
100 N. Tampa St., Suite 2700  
Tampa, FL 33602  
Telephone: 813.229.2300  
Facsimile: 813.221.4210

Christina M. Kennedy  
Florida Bar No. 58242  
Email: [ckennedy@foley.com](mailto:ckennedy@foley.com)

Jessica E. Joseph  
Florida Bar No. 99483  
Email: [jjoseph@foley.com](mailto:jjoseph@foley.com)  
FOLEY & LARDNER LLP  
111 North Orange Avenue, Suite 1800  
Orlando, FL 32801-2386  
Telephone: 407.423.7656  
Facsimile: 407.648.1743

Amy Whelan, admitted pro hac vice  
[awhelan@nclrights.org](mailto:awhelan@nclrights.org)

Asaf Orr, admitted pro hac vice  
[aorr@nclrights.org](mailto:aorr@nclrights.org)

NATIONAL CENTER FOR LESBIAN

/s/ Thomas M. Gonzalez

Thomas M. Gonzalez  
Florida Bar No. 192341  
Email: [tgonzalez@tsghlaw.com](mailto:tgonzalez@tsghlaw.com)  
Nathan J. Paulich  
Florida Bar No. 85190  
Email: [npaulich@tsghlaw.com](mailto:npaulich@tsghlaw.com)  
Thompson, Sizemore, Gonzalez & Hearing, P.A.  
201 North Franklin Street, Suite 1600  
Tampa, Florida 33602  
Telephone: 813.273.0050  
Facsimile: 813.273.0072

*Attorneys for Defendant*

RIGHTS

870 Market Street, Suite 370

San Francisco, CA 94102

Telephone: 415.392.6257

Facsimile: 415.392.8442

*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I HERBY CERTIFY that on March 12, 2018, a copy of the foregoing was filed with the Clerk of the Court using the CM/ECF electronic notification system, which will send a notice of electronic filing to all parties of record.

/s/ Lauren L. Valiente  
Attorney for Plaintiff John Doe