

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

DARCY CORBITT, et al.,)	
)	
Plaintiffs,)	Civil Action No.
vs.)	2:18-cv-91-MHT-GMB
)	
HAL TAYLOR, in his official capacity as)	
Secretary of the Alabama Law Enforcement)	
Agency, et al.,)	
)	
Defendants.)	
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REPORT OF PARTIES' PLANNING MEETING

The parties jointly file this report of their Rule 26(f) planning meeting as required by Rule 26(f) of the Federal Rules of Civil Procedure and by order of the Court. *See* Rule 26(f) Order, E.C.F. doc. 25.

1. **Participants.** The following persons participated in a Rule 26(f) conference on April 17, 2018 by telephone:
 - a. For all plaintiffs: Randall C. Marshall, and Brock Boone
 - b. For all defendants: Brad A. Chynoweth, Michael Wayne Robinson, and Winfield James Sinclair.

2. **Initial Disclosures.** The parties will complete the initial disclosures required by Fed. R. Civ. P. 26(a)(1) within 14 days after the entry of the Court's scheduling order.

3. **Discovery Plan.** In the interest of expediting the discovery process, and facilitating the resolution of this case without need for an evidentiary hearing, the parties propose to conduct discovery and submit dispositive motions on all claims and defenses.

a. **Subjects for Discovery.** Discovery will be needed on these subjects: all claims and defenses.

b. **Electronic Production of Documents and Electronically Stored Information.** Production of documents and electronically stored information should be handled as follows:

i. If a document is stored in electronic form as Word, WordPerfect, Excel, or PDF, the producing party shall produce the document in its native format or searchable PDF, at the election of the producing party, unless the requesting party demonstrates particularized need for the information in native format by, for example, demonstrating that the information can be read only in native format, such as formulas contained in Excel spreadsheets. If the requesting party demonstrates particularized need, and the producing party does not otherwise object to the request, the producing party will produce the information in native format. The parties will take the matter up with the Court if they cannot agree whether particularized need has been demonstrated.

ii. If a document is kept only on paper, the producing party shall produce a searchable PDF document.

iii. If a document or information is stored in a database that is not Excel, electronic form other than Word, WordPerfect, Excel, or PDF, the

producing party shall contact opposing counsel before production to arrange the appropriate form of production.

c. **Electronic Service.** The parties agree to the following procedures for service of discovery and disclosure documents:

- i. All discovery responses requiring a signature will be served by email as a PDF document (with or without signature) as well as by a copy bearing the original signature of the party or party representative served by mail;
- ii. Any discovery papers not requiring a signature may be served by email as a PDF document.

d. **“Clawback” Agreement.** The parties have agreed, as follows, to an order regarding post-production claims of privilege or of protection as trial-preparation material:

- i. A disclosure of communications, documents, things, and electronically stored information covered by the attorney-client privilege, work product protection or governmental privileges does not operate as a waiver in this proceeding if:

1. The disclosure is inadvertent and is made in connection with this litigation; and
2. The holder of the privilege or protection took reasonable precautions to prevent disclosure and took reasonably prompt measures, once the holder knew or should have known of the disclosure, to rectify the error.

- ii. If information produced in discovery is subject to a claim of privilege or protection, the party making the claim may notify any party that

received the information of the claim and the basis for it. After being notified, a party that received the information must make prompt and reasonable efforts to return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take prompt and reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The producing party must preserve the information until the claim is resolved.

- e. **Documents Created by, and Exchanged Solely Between and Among, Counsel for the Respective Parties.** For purposes of this litigation, the parties need not preserve, produce, or create a privilege log for any document that was created by, and exchanged solely among either side's attorneys or the attorneys' staff after the date of the filing of this lawsuit, February 6, 2018.
- f. **Costs of Production.** Each party shall bear the costs of producing its own documents, things, and electronically stored information.
- g. **Discovery Cut-off.** Discovery may begin immediately. All discovery should be commenced in time to be completed by December 5, 2018.
- h. **Interrogatories.** Maximum of 25 interrogatories, including discrete subparts, by each party to any other party. Responses due 30 days after service.
- i. **Requests for Admission.** Maximum of 25 requests for admission by each party to any other party. Responses due 30 days after service.
- j. **Requests for Production.** Maximum of 25 requests for production by each party to any other party. Responses due 30 days after service.

- k. **Depositions.** Maximum of 10 depositions per side except by agreement of the parties or for good cause.
- l. **Expert Reports.** Plaintiffs will disclose reports from retained experts under Rule 26(a)(2) by October 4, 2018. Defendants will disclose their expert reports by November 5, 2018. Plaintiffs will disclose Rule 26(a)(2)(D)(ii) reports from retained rebuttal experts no later than December 5, 2018.
- m. **Discovery Supplementation.** Supplementation of discovery responses shall be made in a “timely manner” as required by Rule 26(e)(1)(A)

4. **Other Items:**

- a. **Scheduling Conference.** The Parties do not request a conference with the Court before entry of the scheduling order. To the extent the Court prefers to hold such a conference, the parties respectfully request that it be handled telephonically.
- b. **Amendment of pleadings.** Plaintiffs should be allowed to amend their pleadings until after seventy-five (75) days of the entry of the Court’s scheduling order. Defendants should be allowed twenty-one (21) days after service of amended pleadings to respond to those pleadings.
- c. **Pretrial Conference.** The parties request a pre-trial conference on July 1, 2019.
- d. **Dispositive Motions.** All potentially dispositive motions shall be filed by January 2, 2019.
- e. **Settlement.** Settlement is unlikely. The parties know of no dispute resolution procedure that may enhance settlement prospects.
- f. **Pretrial Disclosures.** Final witness list, deposition designations, and exhibit lists under Rule 26(a)(3) should be exchanged by June 17, 2019. Objections to

these lists and designations should be due 7 days thereafter; and responses to objections should be due 14 days thereafter.

- g. **Trial Date & Length.** This non-jury action should be ready for trial July 29, 2019. At this time, trial is expected to take approximately 4 days.
- h. **Third Party Discovery.** The parties agree to work together in good faith to obtain, share, and stipulate without need for unnecessary third party discovery. The parties understand that if they are unable to obtain the necessary documents and/or reach an agreement as to their admissibility, additional discovery and time for such discovery may be required.

All parties consent to the filing of this document.

Respectfully submitted this 27th day of April, 2018.

Respectfully submitted

s/Brock Boone

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CERTIFICATE OF SERVICE

I certify that on April 27, 2018, I filed the foregoing electronically using the Court's CM/ECF system, which will serve all counsel of record.

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