

1 **1-016. Pretrial conferences; scheduling; management.**

2 A. **Pretrial conferences; objectives.** In any action the court may in its
3 discretion direct the attorneys for the parties and any unrepresented parties to appear before
4 it for a conference or conferences before trial for such purposes as:

- 5 (1) expediting the disposition of the action;
- 6 (2) establishing early and continuing control so that the case will not be
7 protracted because of lack of management;
- 8 (3) discouraging wasteful pretrial activities;
- 9 (4) improving the quality of the trial through more thorough preparation;
- 10 and
- 11 (5) facilitating the settlement of the case.

12 B. **Scheduling and planning.** Except in categories of actions exempted by local
13 district court rule as inappropriate, the judge may, after consulting with the attorneys for the
14 parties and any unrepresented parties, by a scheduling conference, telephone, mail, or other
15 suitable means, enter a scheduling order that limits the time:

- 16 (1) to join other parties and to amend the pleadings;
- 17 (2) to file and hear motions; and
- 18 (3) to complete discovery.

19 The scheduling order shall also include:

- 20 (4) provisions for disclosure or discovery of electronically stored
21 information;
- 22 (5) any agreements the parties reach for asserting claims of privilege or
23 of protection as trial preparation material after production;

1 (6) the date or dates for conferences before trial and a final pretrial
2 conference;

3 (5) a trial date not later than eighteen (18) months after the date the
4 scheduling order is filed; and

5 (6) any other matters appropriate in the circumstances of the case.

6 The pretrial scheduling order shall be filed as soon as practicable but in no event
7 more than one hundred twenty (120) days after filing of the complaint. A scheduling order
8 shall not be modified except by order of the court upon a showing of good cause.

9 If a pretrial scheduling order is not entered, the court shall set the case for trial in a
10 timely manner, but no later than eighteen (18) months after the filing of the complaint.

11 For good cause shown, the court may extend the time for commencement for trial
12 beyond the time standards set forth in this paragraph or may modify the scheduling order.

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14 C. **Subjects to be discussed at pretrial conferences.** The participants at any
15 conference under this rule may consider and take action with respect to:

16 (1) the formulation and simplification of the issues, including the
17 elimination of frivolous claims or defenses;

18 (2) the necessity or desirability of amendments to the pleadings;

19 (3) the possibility of obtaining admissions of fact and of documents which
20 will avoid unnecessary proof, stipulations regarding the authenticity of documents and
21 advance rulings from the court on the admissibility of evidence;

22 (4) the avoidance of unnecessary proof and of cumulative evidence;

1 (5) the identification of witnesses and documents, the need and schedule
2 for filing and exchanging pretrial briefs and the date or dates for further conferences and for
3 trial;

4 (6) the advisability of referring matters to a master;

5 (7) the possibility of settlement or the use of extrajudicial procedures to
6 resolve the dispute;

7 (8) the form and substance of the pretrial order;

8 (9) the disposition of pending motions;

9 (10) the need for adopting special procedures for managing potentially
10 difficult or protracted actions that may involve complex issues, multiple parties, difficult
11 legal questions or unusual proof problems;

12 (11) the limitation of the number of expert witnesses; and

13 (12) such other matters as may aid in the disposition of the action.

14 At least one of the attorneys for each party participating in any conference before
15 trial shall have authority to enter into stipulations and to make admissions regarding all
16 matters that the participants reasonably anticipate may be discussed.

17 D. **Final pretrial conference.** Any final pretrial conference shall be held as
18 close to the time of trial as reasonable under the circumstances. The participants at any such
19 conference shall formulate a plan for trial, including a program for facilitating the admission
20 of evidence. The conference shall be attended by at least one of the attorneys who will
21 conduct the trial for each of the parties and by any unrepresented parties.

22 E. **Pretrial orders.** After any pretrial conference is held pursuant to this rule,

1 an order shall be entered reciting any action taken. This order shall control the subsequent
2 course of the action unless modified by a subsequent order. The order following a final
3 pretrial conference shall be modified only to prevent manifest injustice.

4 F. **Sanctions.** If a party or party's attorney fails to obey a scheduling or pretrial
5 order, or if no appearance is made on behalf of a party at a scheduling or pretrial conference,
6 or if a party or party's attorney is substantially unprepared to participate in the conference,
7 or if a party or party's attorney fails to participate in good faith, the judge, upon motion or
8 the court's own initiative, may make such orders with regard thereto as are just, including
9 any of the orders provided in Subparagraphs (b), (c) or (d) of Subparagraph (2), of Paragraph
10 B of Rule 1-037. In lieu of or in addition to any other sanction, the judge shall require the
11 party or the attorney representing him or both to pay the reasonable expenses incurred
12 because of any noncompliance with this rule, including attorney's fees, unless the judge finds
13 that the noncompliance was substantially justified or that other circumstances make an award
14 of expenses unjust.

15 [As amended, effective January 1, 1990; as amended by Supreme Court Order No. 09-8300-
16 007, effective May 15, 2009.]

17 **Committee Commentary for 2009 Amendments.**

18 See the 2009 Committee Commentary to Rule 1-026 NMRA for additional information.

19 [As amended by Supreme Court Order No. 09-8300-007, effective May 15, 2009.]