

## LCR 16 PRETRIAL PROCEDURE AND MOTIONS

(a) **Hearing Matters Considered.** A pretrial conference shall be held in each case subject to this rule. Lead counsel for each party shall attend the pretrial conference. The assigned judge shall set the agenda and may consider any matter relating to trial administration, even if not provided in this rule. The conference shall be conducted in chambers or as a hearing in open court if matters of record are argued and decided. At the conclusion of the conference, a pretrial order, including any discretionary supplemental orders, may be entered.

### (c) **Public Records Act Cases.**

#### (1) *Identification and Scheduling of Public Records Act Cases.*

(A) Every case filed under the Public Records Act shall be clearly identified as a Public Records Act case on the front page of the first filed pleading and noted on the Case Information Cover Sheet as a Public Records Act (PRA) cause of action.

(B) At the time the case is filed, the clerk's office will provide the plaintiff with a notice setting a status hearing within 21 days. The plaintiff shall provide this notice to all parties when the complaint or motion is served. If service of the complaint or motion is completed before the case is filed, the plaintiff shall provide the notice by delivery, mail, facsimile, or e-mail within five days after filing the case.

(C) In the event a Public Records Act case is not identified at filing, the defendant or intervenor may make the identification and request the status hearing be reset.

(D) If a defendant or intervenor has not been served by the time of the status hearing, the status hearing may be continued up to 21 days.

(E) The status hearing will be held before the assigned judge and will be used to:

- (i) Identify issues in dispute;
- (ii) Set a hearing date and briefing schedule for resolution of issues;
- (iii) Determine whether in camera review is likely to be needed and, if necessary, order the protocol for submission of the records to be reviewed; and
- (iv) Refer to mediation if appropriate.

(F) Nothing in this rule affects the right of any party to schedule a hearing to show cause or enjoin, or any other hearing authorized by law or rule.

#### (2) *In Camera Review of Public Records Act Cases.*

(A) When commenced. In a Public Records Act case, in camera review will occur only if the assigned judge enters an order requiring such review. Agreement between parties or submission of records to the assigned judge, without an appropriate order, will not trigger in camera review.

(B) Electronic records. Records for in camera review shall be submitted in an electronic form unless the court orders otherwise on a showing of good cause.

(C) Identification of records. Records for in camera review must have a unique identifying number, such as a Bates number. The system for numbering and the placement of page numbers must be uniform for all records.

(D) Allegedly entirely exempt documents. If a record is claimed entirely exempt, it must be clearly designated as exempt or withheld on the first page of the record for in camera review.

(E) Identification of redactions. Records redacted in part must be presented to the

judge in a manner that will permit the judge to read the entire record and immediately understand which parts were withheld by redaction and which parts were produced. For example, the redactions may be outlined or indicated with a shaded or colored overlay.

(F) Submission of table. In cases with numerous records at issue, or if ordered by the judge, a table shall be submitted as part of the in camera procedure. Any table, grid, or spreadsheet is acceptable if it complies with the terms of this rule. The table must clearly identify which records are claimed entirely exempt and have been withheld and which records have been redacted in part. The table(s) shall list the following information in separate fields or columns: (1) the unique identifier for the record or page being reviewed, such as a Bates number; (2) descriptive information that accurately identifies the record, including author(s), recipient(s), and date(s) (or if descriptive information is protected, other means of sufficiently identifying particular records without disclosing protected content); (3) identification of a specific exemption claimed and an explanation of how it applies to the record; and (4) an expandable cell for the court's notes. The table shall be filed and served on all parties and also shall be submitted to the court in electronic form.

(G) Basis for exemption. The basis for the claim of exemption may appear on the document if doing so would not obliterate text or other information necessary for the court's review.

[Amended effective September 1, 1994; September 1, 1997; May 4, 1998; September 1, 1999; September 1, 2000; September 1, 2003; September 1, 2004; September 1, 2006; September 1, 2010; September 1, 2011; September 1, 2013.]