

***Early Case Mediation  
Discovery Protocol***

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The parties are desirous to proceed with the voluntary exchange of documents and information with the expectation that each party will be satisfied that it has sufficient understanding of the facts of the case in order to confidently engage in Early Case Mediation at the soonest possible time.

Notwithstanding the mutual expectation that the parties will be successful in resolving this dispute, the parties and their attorneys must anticipate the strict adherence to the Scheduling Order established by the Court. Therefore, all documents or information that is voluntarily exchanged during Pre-Mediation efforts will be distributed and received as if that party had complied with the discovery procedures set forth in Chapter 2 of the Michigan Rules of Civil Procedure, or Rule 26 of the Federal Rules of Civil Procedure. In the event Mediation is not successful, each party may rely on their respective requests or submissions exchanged during the Early Case Mediation.

By stipulation the parties agree with the following additional procedures for Discovery.

1. Each party will use Bates Numbering, or a similar convention, for all documents submitted or delivered during the Early Case Mediation.
2. For each exchange of documents, the transmitting party will include a Table of Contents identifying or describing the subject of the documents exchanged, including the respective range for Bates Numbering for each document.
3. All requests for discovery, and all responses or objections will be signed by an attorney of record, and the parties where required by the Michigan Court Rules or the Federal Rules of Civil Procedure. Requests or responses by a party not represented by counsel will be signed by the party. Consistent with the objective of achieving prompt resolution of the case, email will be used for most requests and responses, and email originating from an attorney of record shall be considered signed by that attorney unless stated otherwise. This is agreed to be consistent with MCR 2.302(G).
4. The parties will complete their Initial Disclosures under MCR2.302(A) or FRCP Rule 26 (including the Bates Numbering of documents) and provided the disclosures to the opposing party and the Mediator.

5. At the beginning of Early Case Mediation, some parties may be reluctant to immediately commence full disclosure of information without assurance that the same level of cooperation will be adopted by the opposing party. To address this concern, the Mediator will initially act as a clearing house for information and facilitate the simultaneous exchange of information to the respective parties.
  - a. Description of the Information to be provided by the Plaintiff (may include Initial Disclosures).
  - b. Description of the Information to be provided by the Defendant (may include Initial Disclosures).
  - c. Each party will deliver the Bates Stamped documents referenced in sub paragraphs a. and b. above to the Mediator by email.
  - d. At such time that the Mediator receives the documents from both parties, the Mediator will distribute the documents to the respective parties.
6. In addition to the voluntary exchange of documents referenced above, each party may further request the production of documents in the possession or control of the other party or serve other discovery requests on another party. The request shall be considered issued in accordance with MCR 2.10 or FRCP Rule 26 The parties agree that the time period for a response will be 14 days unless further time can be justified.
7. The parties agree that they will fully cooperate if a party desires to request information from a non-party unless there are grounds to limit this request as provided under MCR 2.305, Discovery Requests to a Non-Party.
8. The parties have been advised to consider the necessity of a Stipulated Protective Order, a copy of which may be obtained from the website of the Oakland County Business Court.
9. The Parties agree to engage the Mediator as a Discovery Master to resolve all issues related to Discovery.
10. The Mediator intends to conduct Pre-Hearing video conferences as well as the Mediation Hearing by video conference where all parties are encouraged to speak to each other while maintaining high standards of respect and decorum. These video conferences are for “Mediation Purposes Only” and are not to be recorded by any party.

11. Execution. This Early Case Mediation Discovery Protocol is signed by counsel for the parties.

Neutral  
Jerome F. Rock (P27317)

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Date:

Case Caption

Attorney for Plaintiff:

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

Client:

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

Attorney for Defendant:

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Client:

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Attorney for Defendant:

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Attorney for Defendant: .

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