

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Frank Herring v. William Gittere, et al.

Hearing · No. 3:24-cv-00004-ART-CLB · Decided December 17, 2025

SUMMARY

This order in Frank Herring v. William Gittere, et al. directs the parties to exchange initial disclosures and sets a mandatory case management conference for January 7, 2026. It also requires case management conference statements and explains that a subsequent scheduling order will govern further discovery and litigation deadlines.

CASE DETAILS

COURT	United States District Court for the District of Nevada
DECIDED	December 17, 2025
DOCKET	3:24-cv-00004-ART-CLB
DISPOSITION	other
PROCEDURAL POSTURE	After screening Plaintiff's prisoner civil-rights complaint under 28 U.S.C. § 1915A(a) and allowing the action to proceed, the court entered an order governing initial disclosures, case management, and the timing of discovery.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Frank Herring v. William Gittere, et al.

TOPICS

- discovery dispute
- prisoners rights
- affirmative defenses
- civil procedure

PRACTICE AREAS

- civil procedure
- prisoner civil rights
- discovery

QUESTIONS PRESENTED

- Whether the court should require initial disclosures under Federal Rule of Civil Procedure 16 notwithstanding the general exception in Rule 26(a)(1)(B) for actions brought by a person in custody.
- Whether the court should suspend further discovery until after a mandatory case management conference and issuance of a scheduling order.

3. What information and preconference submissions the parties must provide to facilitate management of the prisoner civil-rights action.

HOLDINGS

1. The court ordered all parties to exchange specified initial disclosures under Federal Rule of Civil Procedure 16, notwithstanding Rule 26(a)(1)(B), because the disclosures would assist in managing the action.
2. No discovery other than the initial disclosures ordered by the court may proceed until the court conducts the mandatory case management conference and enters a full scheduling order.
3. If Defendants intend to rely on failure to exhaust administrative remedies as an affirmative defense, they must provide Plaintiff with all documents they intend to use to support that defense.

KEY QUOTATIONS

“Aside from the initial disclosures required by this order, no other discovery may proceed until the court enters a full scheduling order following the mandatory scheduling conference.” (at 1)

FACTUAL BACKGROUND

The action is a prisoner civil-rights case pending in the District of Nevada. The court relied on the extent of prisoner litigation in the district, the parties' relative access to information, the importance of the issues, and the potential usefulness of administrative-grievance materials in managing discovery. The court also anticipated that exhaustion of administrative remedies could become an issue and required disclosure of documents supporting any exhaustion-based affirmative defense.

PROCEDURAL HISTORY

The district court screened Plaintiff's complaint pursuant to 28 U.S.C. § 1915A(a) and ordered the case to proceed. The court then issued this procedural order requiring initial disclosures, setting a mandatory case management conference, and directing the parties to file preconference statements before entry of a full scheduling order.

DISPOSITION

other

CASES CITED

- United States v. International Union of Petroleum & Industrial Workers, AFL-CIO, 870 F.2d 1450, 1452 (9th Cir. 1989)

OPINION

1 UNITED STATES DISTRICT COURT 2 DISTRICT OF NEVADA 3 FRANK HEARRING,
Case No. 3:24-cv-00004-ART-CLB 4 Plaintiff, ORDER SETTING MANDATORY 5 CASE

MANAGEMENT CONFERENCE v. AND EXCHANGE OF INITIAL 6 DISCLOSURES
WILLIAM GITTERE, et al., 7 Defendants. 8 9 The Court has now screened Plaintiff's complaint
pursuant to 28 U.S.C. § 10 1915A(a) and ordered the case to proceed.

In order to ensure the just, speedy, and 11 cost-effective resolution of this action, the court orders:
(1) the parties to exchange initial 12 disclosures, as described below; and (2) the parties attend a
mandatory case 13 management conference to be held on Wednesday, January 7, 2026, at 10:00
a.m., 14 as describe more fully below. 15 Following the mandatory conference, the court will issue
a full scheduling order, 16 setting out additional dates related to discovery and the litigation.

Aside from the initial 17 disclosures required by this order, no other discovery may proceed until
the court enters 18 a full scheduling order following the mandatory scheduling conference. 19 I.
INITIAL DISCLOSURES 20 Notwithstanding Federal Rules of Civil Procedure 26(a)(1)(B), the
court finds that 21 initial disclosures would be helpful in managing this action under Federal Rule
of Civil 22 Procedure 16, taking into account the extent of prisoner litigation in this district, the
desire 23 1 to manage those cases efficiently, the desire to secure the just, speedy, and inexpensive
2 determination of this case, the importance of the issues at stake, the parties' relative 3 access to
relevant information, the parties' resources, the importance of discovery in 4 resolving issues, and
the value of initial disclosure of information obtained through the 5 administrative grievance
process.¹ Accordingly, all parties are hereby ordered to provide 6 initial disclosures with the
following information:² 7 A. The name and, if known, the address and telephone number of each 8
individual likely to have discoverable information—along with the subjects of that 9 information
—that the disclosing party may use to support its claims or defenses, unless 10 the use would be
solely for impeachment.

11 1. The Parties may withhold confidential sensitive information 12 regarding the identity or
contact information of such individuals so long as they provide 13 a method of identifying and
contacting such individuals, such as through counsel. 14 B. A copy—or a description by category
and location—of all documents, 15 electronically stored information, and tangible things that the
disclosing party has in its 16 possession, custody, or control and may use to support its claims or
defenses, unless 17 18 1 Rule 26, Advisory Committee Note, 2000 Amendments ("[T]he court can
19 order exchange of similar information in managing the action under Rule 16.").

Also note Rule 26, Advisory Committee Note, 1993 Amendment "The enumeration in Rule 20
26(a) of items to be disclosed does not prevent a court from requiring by order or local rule that
the parties disclose additional information without a discovery request." 21 2 These disclosures
must be mailed to the other parties in the case, or their 22 attorneys, if they are represented by
counsel.

These disclosures should not be filed with the court. 23 1 the use would be solely for
impeachment. 2 1. In the context of Rule 26, "[c]ontrol is defined as the legal right to 3 obtain

documents upon demand." United States v. Int'l Union of Petroleum & Indus. 4 Workers, AFL-CIO, 870 F.2d 1450, 1452 (9th Cir. 1989). 5 2.

To the extent Defendant(s) intend to rely on an affirmative defense 6 based on a failure to exhaust administrative remedies, Defendant(s) shall provide to 7 Plaintiff all documents Defendants intend to use to support that defense. 8 II. MANDATORY CASE MANAGEMENT CONFERENCE 9 A mandatory case management conference will be held on January 7, 2026, at 10 10:00 a.m.

Lead Defense Counsel shall dial 1-855-244-8681, access code 2319 945 11 8106 to be properly connected into the courtroom for this hearing. The Attorney 12 General's Office shall make the necessary arrangements for the telephonic appearance 13 of the Plaintiff and shall provide the Courtroom Deputy at lisa_mann@nvd.uscourts.gov 14 with the telephone number at which the Plaintiff can be reached for this hearing.

The 15 parties should be available for one hour, although the case management conference 16 will likely take less time. The parties shall be prepared to informally discuss the following 17 issues: 18 A. A brief statement of the parties' claims and/or defenses; 19 B. Confirmation that initial disclosures (described above) have been provided, 20 and any justification for withholding any portion of that information; 21 C. The location of potentially relevant documents; 22 23 1 D. Any deficiency or problems in the other party's initial disclosures; 2 E. Discovery each party intends to take, if any, in addition to the discovery 3 ordered above; 4 F. A timeline for the scheduling of discovery; 5 6 G. Any options or methods for the streamlining discovery; 7 H. Whether any party intends to challenge the issue of exhaustion; 8 I. Whether any party intends to use expert witnesses; and, 9 10 J. Any immediate or ongoing issues or requests for injunctive relief regarding 11 current incarceration that could require the court's immediate attention.

12 III. CASE MANAGEMENT CONFERENCE STATEMENTS 13 At least one-week in advance of the case management conference, each party 14 shall file a case management conference statement. The case management conference 15 statement must address the issues listed above, as well as any other issues that the 16 parties believe would assist in the scheduling of the case.

The statement should include 17 the date that initial disclosures were served and any deficiencies in either party's 18 disclosures. The statement must not exceed five (5) pages in length and no exhibits or 19 attachments should be included. 20 IV. SCHEDULING ORDER 21 Following the case management conference, the court will issue a Scheduling 22 Order and Discovery Plan with the benefit of the input of the parties.

Once issued, the 23 | dates in the Scheduling Order and Discovery Plan shall be firm and no extension shall 2 be given without permission from the court based on good cause shown. 3

DATED: December 17, 2025 ' 4 Egle UNITED STATES MAGISTRATE JUDGE 6 7 8 9 10 11] 12
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