

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CASE NO. 5:21-cv-251-BO

BERINGER COMMERCE, INC.,)
Plaintiff,)
v.)
FIN CAP, INC., et al.,)
Defendants.)

ORDER FOR DISCOVERY PLAN

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, the Court will enter a scheduling order in this case. **The Rule 26(f) meeting must occur by 9/1/2021.** The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for arranging the conference and for attempting in good faith to agree on the proposed discovery plan. **The discovery plan must be submitted to the Court within fourteen (14) days after the 26(f) meeting.**

Please confer with opposing counsel and present to the Court a discovery plan in accordance with the Rule 26 Report of the Parties' Planning Meeting form, available on the district's website. Pursuant to Rule 16(b), the planning meeting required by Fed. R. Civ. P. 26(f) and the discovery plan contemplated by this request are a mandatory part of the process of formulating a scheduling order. If counsel cannot agree on a discovery plan, please submit your respective positions to the Clerk of Court, and the Court will resolve the disputed issues. Following court approval, modifications of the scheduling order will be allowed only by motion and for good cause shown.

Mandatory initial disclosures must be made within fourteen (14) days after the Rule 26(f) conference unless (1) a different time is set by stipulation of parties or court order, or (2) a party objects during the 26(f) conference and states the objection and the response thereto in the discovery plan. Absent a stipulation or court order, any party first served or otherwise joined after the 26(f) conference must make these disclosures within thirty (30) days after being served or joined. Failure to disclose information required by Rule 26(a) or 26(e)(1) may subject the offending party or parties to sanctions pursuant to Rule 37, Fed. R. Civ. P.

Note that Local Rule 7.1 requires that all motions (except those relating to the admissibility of evidence at trial) must be filed within 30 days after the conclusion of discovery. Untimely motions may be summarily denied. Also, note that cases are currently being docketed for trial 60 to 90 days after discovery expires with a final pretrial conference scheduled approximately two weeks prior to trial.

This district now mandates mediation, pursuant to Local ADR Rule 101, for civil cases in specified categories. Refer to Local ADR Rule 101.1a and other relevant rules to determine the applicability of the mediation requirement to this case. **The parties in cases subject to mandatory mediation must discuss mediation plans at the 26(f) conference and report their plans in the discovery plan, pursuant to Local ADR Rule 101.1a(b).**

SO ORDERED this the 2nd day of August, 2021.

/s/ Peter A. Moore, Jr.
Clerk of Court