DISCOVERY PROCEDURES
FOR MAGISTRATE JUDGE JACQUELINE BECERRA

I. DISCOVERY DISPUTES

A. Pre-Hearing Communication: If a discovery dispute arises, Counsel must confer (in person or via telephone) and engage in a genuine effort to resolve the discovery dispute before seeking Court intervention. Conferring via email is not sufficient. The Court expects all parties to engage in reasonable compromise to facilitate the resolution of discovery disputes.

B. Timeliness: Discovery disputes must be timely raised as required by Local Rule 26.1(g)(1). The Court strictly enforces Local Rule 26.1(g)(1) and interprets the thirty-day window as the opportunity during which good faith resolution efforts must be made (subject to the seven-day extension permitted by the Rule). Unapproved extensions agreed to by the parties shall not be recognized. The Court also enforces Local Rule 26.1(d) requiring that all discovery, including resolution of discovery disputes, be fully completed prior to the expiration of the discovery cutoff. Under Local Rule 26.1(d), no Court intervention or remedy will be available to either party after the cutoff date.

II. DISCOVERY HEARING PROCEDURES

A. No Written Motions: Except as provided below, discovery disputes shall not be raised by filing discovery motions under Federal Rule of Civil Procedure 37. No written discovery motions, including motions to compel and motions for protective order, shall be filed unless requested by Magistrate Judge Becerra or the District Court.

B. Setting A Discovery Hearing: In lieu of traditional motion practice, the party seeking to enforce a discovery obligation or obtain protection from such an obligation ("the moving party") shall set the matter on the Court's discovery hearing calendar. Specifically, the moving party shall send an email to the Chambers of Magistrate Judge Becerra (chambers_becerra@flsd.uscourts.gov), with copy to opposing counsel and within the time frame provided by Local Rule 26.1(g)(1), providing at least three mornings or afternoons when both counsel are available for a hearing on the discovery issue. The email subject line shall be "Request for Discovery Hearing on [Case Number]." The Court prefers to set discovery hearings on Tuesdays or Thursdays, however, counsel is permitted to provide to Chambers other days if counsel are not available on Tuesday or Thursday. Dates provided to the Court shall be within seven (7) business days from the date of the email to Chambers, as the Court endeavors to set the hearing as expeditiously as possible. Ordinarily, no more than fifteen minutes of argument per side is permitted. If the matter requires additional time, counsel should note that in the email to Chambers. All communication with Chambers regarding discovery matters must be by email, and all counsel of record must be copied on the email.

C. Notice of Hearing: On the day that the Court confirms the date and time for the discovery hearing, the moving party shall file a Notice of Hearing that notes the discovery matters to be heard (i.e., "the parties dispute the appropriate time frame for Plaintiff's Interrogatory Nos. 1, 4–7 and 10"). The Notice of Hearing shall include a certificate of conferral that fully complies with Local Rule 7.1(a)(3). The Notice should not include any argument; it should simply state the subject of the dispute.

D. Proposed Orders and Source Materials: Within twenty-four (24) hours of filing the Notice of Hearing, the moving party must also submit to Chambers, via email (at chambers_becerra@flsd.uscourts.gov): (1) a Proposed Order on the issues raised setting forth the specific relief requested; and (2) a copy of all source materials relevant to the discovery dispute in a single PDF document (for example, if the dispute concerns interrogatories, the interrogatories at issue and the response thereto should be provided). The parties are not to submit copies of email communication between counsel.

E. Notice of Authorities: In the event (for non-routine issues) that the parties intend to rely on authorities during the Discovery Hearing, either party may file, no later than twenty-four (24) hours before the hearing, a Notice of Authorities listing the authorities that the party will rely upon during the hearing. This Notice of Authorities may not contain argument. The Court will strike any non-compliant Notice of Authorities.

F. Modification of Issues to Be Heard and Cancellation of Hearing: The parties shall notify Chambers via email at chambers_becerra@flsd.uscourts.gov as soon as practicable if they resolve some or all of the issues in dispute. If all the issues cited in the Notice of Hearing have been resolved, the parties must contact Chambers by email and phone, and must file a Notice of Cancellation. If only some of the issues have been resolved, the parties should amend the Notice of Hearing. If the parties resolve all the issues in dispute within twenty-four (24) hours of the time and date of the hearing, they are to contact Chambers by email before filing a Notice of Cancellation. Chambers will advise the parties whether a Notice of Cancellation may be filed or whether counsel will nevertheless be required to appear before the Court.

G. Agreed Orders: If the parties have agreed to the entry of an order, the parties shall not file a motion for entry of the order. Instead, counsel shall email to Chambers a copy of the proposed order in Word format, with a statement that the parties have agreed to entry of the proposed order. If the Court enters an order that differs from the proposed order and the parties have an objection to the order as entered, they must follow the procedures for setting a Discovery Hearing so that objections may be heard by the Court without the need for the filing of a motion.

H. Imposition of Sanctions: The Court may impose sanctions, monetary or otherwise, if the Court determines discovery is being improperly sought or is being withheld in bad faith or without substantial justification. *See* Fed. R. Civ. P. 37.

I. Attorneys' Fees and Costs: If a party is seeking attorneys' fees and costs in connection with the discovery dispute that is set for hearing, it should be prepared to argue the basis

for entitlement, as well as the amount of attorneys' fees and costs, at the hearing. *See* Fed. R. Civ. P. 37.

III. DISCOVERY OBJECTIONS

A. Vague, Overly Broad, and Unduly Burdensome: Blanket, unsupported objections that a discovery request is "vague, overly broad, or unduly burdensome" are, by themselves, meaningless, and shall be disregarded by the Court. A party objecting on these basis must explain the specific and particular ways in which a request is vague, overly broad, or unduly burdensome. *See* Fed. R. Civ. P. 33(b)(4). If a party believes that the request is vague, the party shall attempt to obtain clarification prior to objection on this ground. Sworn testimony or evidence may be necessary to show that a particular request is in fact burdensome.

B. Objections Based on Scope: If there is an objection based upon an unduly broad scope, such as time frame or geographic location, discovery should be provided as to those matters within the scope that is not disputed. For example, if discovery is sought nationwide for a ten-year period and the responding party objects on the grounds that only a five-year period limited to activities in Florida is appropriate, the responding party shall provide responsive discovery falling within the five-year period of activity in Florida.

C. Irrelevant and Not Reasonably Calculated to Lead to Admissible Evidence: An objection that a discovery request is irrelevant or not reasonably calculated to lead to admissible evidence must include a specific explanation describing why the request lacks relevance, and why the information sought will not reasonably lead to admissible evidence.

D. Formulaic Objections Followed by an Answer: Parties should avoid reciting a formulaic objection followed by an answer to the request. It has become common practice for a party to object and then state that "notwithstanding the above," the party will respond to the discovery request, subject to or without waiving such objection. Such an objection and answer preserve nothing and constitute only a waste of effort and the resources of both the parties and the Court. Further, such practice leaves the requesting party uncertain as to whether the question has been fully answered, or only a portion of it has been answered. Federal Rule of Civil Procedure 34(b)(2)(c) specifically requires an objection to state whether any responsive materials are being withheld. As such**,** counsel shall include in the Answer a clear statement that all responsive documents/information identified have in fact been produced/provided, or otherwise describe the category of documents/information that have been withheld based on the objection.

E. Objections Based on Privilege: Generalized objections asserting attorney-client privilege or work product doctrine do not comply with the Local Rules. *See* S.D. Fla. L.R. 26.1(e)(2)(B). The party with the burden of persuasion on a privilege claim has the obligation to present to the Court, no later than at the time of the hearing, sworn evidence, if necessary, to satisfy that burden. The failure to present that sworn evidence by the scheduled hearing may be deemed by the Court as a waiver of the privilege absent a showing of good cause.

F. Objections to Scope of 30(b)(6) Notices for Depositions: Corporations are not entitled to review anticipatory relevance objections prior to the taking of a corporate representative deposition. Objections to the scope of a deposition notice shall be timely served (not filed) in advance of the deposition. *See King v. Pratt & Whitney*, 161 F.R.D. 475–76 (S.D. Fla. 1995); *New World Network Ltd. v. M/V Norwegian Sea*, No. 05-22916-CIV, 2007 WL 1068124, at *2–3 (S.D. Fla. Apr. 6, 2007). Accordingly, any objections to the scope of a Federal Rule of Civil Procedure 30(b)(6) deposition notice shall only be adjudicated *after* the taking of the deposition.

G. Written Objections to the Timing of Depositions: If a motion for protective order is required for a particular dispute under Federal Rule of Civil Procedure 26(c), Federal Rule of Civil Procedure 30(d)(3), or Local Rule 26.1(g)(3), a notice of objection must be served (not filed) on the opposing party no later than five (5) days after receipt of the deposition notice at issue. Such a notice may not be submitted on the eve of the event. The failure to timely preserve an objection may be deemed a waiver. But if a good faith scheduling dispute arises prior to a deposition, the service of the written notice of objections, followed by a good faith conference to resolve the dispute, will be sufficient to preserve the issues involved without fear of waiver prior to the Court resolving the dispute at a discovery conference. *See* S.D. Fla. L.R. 26.1(h). If the parties do not thereafter reach an agreement to resolve the dispute, the objecting party shall schedule the matter at the next available discovery calendar. Federal Rule of Civil Procedure 37, however, continues to apply to such objections; thus, if the Court finds that the objections were not substantially justified, the failure to comply with a timely served Federal Rule of Civil Procedure 30 deposition notice may be sanctioned appropriately.