

**PROPOSAL #2 – PILOT PROGRAM FOR EARLY CASE
MANAGEMENT CONFERENCES FOR QUALIFYING CASES**

PROPOSED AMENDMENT TO SUPERIOR COURT STANDING ORDER 1-88

Superior Court Standing Order 1-88 shall be amended by adding the following new part after existing part E. In order to facilitate conducting the case management conference early in the case, it is also recommended that Rule 4(j) of the Rules of Civil Procedure be amended to change the time to effect service of process from 90 days to 30 days. The Superior Court will monitor the Pilot Program through MassCourts and surveys of judges and attorneys.

PILOT PROGRAM FOR CASE MANAGEMENT CONFERENCES

(a) Case Management Conference in Certain Cases. A pilot program will be established for qualifying cases in which the clerk of court shall schedule a Case Management Conference as soon as practicable, but in any event within ninety (90) days after service of process. The following case types qualify for the pilot program: A08, Real Estate; A12, Construction; B05, Products Liability; and B22, Employment Discrimination. For any other types of cases in which all parties assent to the scheduling of a Case Management Conference, such a conference shall be scheduled.

In preparation for the Case Management Conference, the parties are required to confer, complete and file a Joint Case Management Statement and Proposed Order. The minimum requirements of the Joint Case Management Statement and Proposed Order are attached to and made part of this Standing Order as Appendix, "Joint Case Management Statement and Proposed Order." The Joint Case Management Statement is to be filed with the court on the date of the Case Management Conference. The plaintiff is required to circulate the first draft of the Joint Case

Management Statement and Proposed Order no later than three (3) weeks before the Case Management Conference.

The date established for the Case Management Conference does not preclude the filing of a motion seeking an earlier Case Management Conference where appropriate. Discovery and all other aspects of the case may proceed among the parties, in accordance with applicable rules and the initial presumptive tracking order, pending the Case Management Conference.

(b) Obligation of Counsel to Confer. Unless otherwise ordered by the judge, counsel for the parties must confer at least fourteen (14) days before the date for the Case Management Conference for the purpose of:

- (1) preparing an agenda of matters to be discussed at the Case Management Conference; and
- (2) completing the Joint Case Management Statement and Proposed Order.

(c) Settlement Proposals. Unless otherwise ordered by the judge, the plaintiff shall present written settlement proposals to all defendants no later than three (3) weeks before the date for the Case Management Conference. Defense counsel shall have conferred with their clients on the subject of settlement before the Case Management Conference and present a written response to the plaintiff's settlement proposals no later than three (3) business days before the Case Management Conference. Neither the written settlement proposal nor the written response is to be filed in court.

(d) Conduct of Case Management Conferences.

Case management conferences shall be presided over by a judge who may:

(1) Explore the possibility of alternative dispute resolution including court-connected alternative dispute resolution where available.

(2) Inquire as to the utility of the parties conducting settlement negotiations, explore means of facilitating those negotiations, and offer whatever assistance may be appropriate in the circumstances. Assistance may include a reference of the case to another judge for settlement purposes. Whenever a settlement conference with a judge is held, a representative of each party who has settlement authority shall attend or be available by telephone.

(3) Identify or formulate (or order the attorneys to formulate) the principal issues in contention;

(4) prepare (or order the attorneys to prepare) a specific discovery schedule and discovery plan that, if the presiding judge deems appropriate, might:

(a) limit discovery to avoid unnecessary or unduly burdensome discovery;

(b) sequence discovery into two or more stages; and

(c) include time limits set for the completion of discovery;

(5) establish deadlines for filing motions and a time framework for their disposition;

(6) provide for the "phased resolution" or "bifurcation" of issues for hearing or trial; and

(7) explore any other matter that the judge determines is appropriate for the fair and efficient management of the litigation.

All self-represented litigants shall appear in person. All other parties shall be represented by lead counsel. The court reserves the right to require that the parties themselves or their claims representative appear at the Case Management Conference. All counsel attending are required to

be fully familiar with the case and have complete authority regarding all aspects of the conduct of the litigation.

(e) Additional Case Management Conferences. Nothing in this rule shall be construed to prevent the convening of additional Case Management Conferences or Rule 16 Conferences by the court as may be appropriate in the circumstances of the particular case.

COMMONWEALTH OF MASSACHUSETTS

)	
)	The Superior Court
)	Case Number: Civ. 2015-xxxx
)	
Plaintiff(s))	JOINT CASE MANAGEMENT
)	STATEMENT & [PROPOSED]ORDER
)	
vs.)	
)	
)	
Defendant(s))	
)	
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)	
)	
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The parties to the above-entitled action jointly submit this JOINT CASE MANAGEMENT STATEMENT & PROPOSED ORDER pursuant to Standing Order 1-88.

1. Legal Issues:
A brief statement, without extended legal argument, of the disputed points of law, including reference to specific statutes and decisions.
2. Motions:
All prior and pending motions, their current status, and any anticipated motions.
3. Amendment of Pleadings:
The extent to which parties, claims, or defenses are expected to be added or dismissed and a proposed deadline for amending the pleadings.
4. Discovery:
Discovery taken to date, if any, the scope of anticipated discovery; preservation issues as to discoverable materials.
5. Relief:
All relief sought through complaint or counterclaim, including the amount of any damages sought and a description of the bases on which damages are calculated.
6. Settlement and ADR:
Settlement and ADR efforts to date, including specifics of any ADR plan for the case, and a description of key discovery or motions necessary to position the parties to negotiate a resolution.

7. Scheduling:
Proposed dates for designation of experts, discovery cutoff, hearing of dispositive motions, pretrial conference and trial.

8. Other:
Such other matters as may facilitate the just, speedy and inexpensive disposition of this matter.

Dated: _____
Counsel for plaintiff

Dated: _____
Counsel for defendant

CASE MANAGEMENT ORDER

The above JOINT CASE MANAGEMENT STATEMENT & PROPOSED ORDER is approved as the Case Management Order for this case and all parties shall comply with its provisions. [in addition, the Court makes the further orders stated below.]

IT IS ORDERED.

Dated: _____
ASSOCIATE JUSTICE OF THE SUPERIOR COURT