

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

DO NO HARM, INC.,

Case No. 25-cv-287 (KMM/JFD)

Plaintiff,

v.

**PRETRIAL
SCHEDULING
ORDER**

DR. BROOKE CUNNINGHAM,

Defendant.

Pursuant to Rule 16 of the Federal Rules of Civil Procedure and the Local Rules of this Court, and in order to secure the just, speedy and inexpensive determination of this action, the following schedule shall govern these proceedings. This order may be modified only upon a showing of good cause as required by Federal Rule of Civil Procedure 16(b)(4) and Local Rule 16.3.

FACT DISCOVERY: DEADLINES AND LIMITATIONS

1. All pre-discovery disclosures required by Rule 26(a)(1) shall be completed on or before **March 31, 2025**. If a party plans to satisfy any part of its Rule 26(a)(1) obligations by producing copies of initial disclosure documents, those copies must be produced on or before **April 30, 2025**.
2. Fact discovery shall be commenced in time to be completed on or before December 1, 2025.
3. No more than a total of **25 interrogatories**, counted in accordance with Rule 33(a), shall be served by each side. No more than **25 document requests** and no more than **25 requests for admissions** shall be served by each side.
4. No more than **3** fact depositions shall be taken per side. This total does not include expert depositions but does include depositions of organizational-designee depositions taken pursuant to Fed. R. Civ. P. 30(b)(6). An organizational-designee deposition shall count as 1 deposition, irrespective of the number of witnesses designated. A Notice of a Rule 30(b)(6) deposition shall

be served a minimum of 60 days before the noticed date for the deposition. The parties will meet and confer regarding topics. Any agreements reached will be memorialized in an amended Rule 30(b)(6) notice. The Amended Notice will be served a minimum of 30 days before the noticed date for the deposition.

5. No Rule 35 medical examinations shall be taken.
6. Discovery of Electronically Stored Information.

The parties have discussed issues about preservation and disclosure or discovery of electronically stored information as required by Fed. R. Civ. P. 26(f), including the form or forms in which it should be produced. The parties will inform the Court of any issues that arise related to electronic discovery.

7. If the parties use the form protective order on the Court's website as a template for their own protective order, they should submit both the agreed-on protective order and a redline showing deviations from the Court's form order. (If the only change to the Court's form order is a change of caption and the insertion of the case name and file number as appropriate in the body of the protective order, then no redline need be submitted.)

EXPERT DISCOVERY: DEADLINES AND LIMITATIONS

1. The parties do not anticipate calling expert witnesses, but if expert witnesses are retained, the disclosure schedule shall be as follows:
2. Each side may call up to **2** initial expert witnesses. Disclosure of the identity of expert witnesses under Rule 26(a)(2)(A) and the full disclosures required by Rule 26(a)(2)(B), accompanied by the written report prepared and signed by the expert witness, shall be made as follows:
 - a. Initial experts.
 - i. The identity of any witness a party may use at trial to present evidence pursuant to Federal Rule of Evidence 702, 703, or 705 must be disclosed on or before **September 2, 2025**.
 - ii. The initial expert written report completed in accordance with Fed. R. Civ. P. 26(a)(2)(B) must be served on or before **October 1, 2025**.
 - b. Rebuttal experts.
 - i. The identity of any witness who may testify solely to contradict or rebut evidence on the same subject matter identified by another party under Federal Rule of Civil Procedure 26(a)(2)(B) or (C) must be disclosed on or before **October 1, 2025**.

- ii. Any rebuttal expert's written report completed in accordance with Fed. R. Civ. P. 26(a)(2)(B) must be served on or before **November 3, 2025**.
- 3. Each side may take one deposition per expert. Expert discovery, including depositions, shall be completed by **December 1, 2025**.

DEADLINES FOR FILING MOTIONS

- 1. All motions which seek to amend the pleadings or to add parties must be filed and served on or before **April 30, 2025**.
- 2. Non-dispositive motions and supporting documents which relate to fact discovery or related matters shall be filed and served on or before **January 30, 2026**.
- 3. Non-dispositive motions and supporting documents which relate to expert discovery shall be filed and served on or before **January 30, 2026**.

NON-DISPOSITIVE MOTIONS: GUIDELINES

When possible, the parties should bring discovery disputes to the Court using the Court's process for informal dispute resolution (IDR). One or both parties can contact the Court via phone or email to set a prompt (usually within 2-3 business days) telephone conference to discuss the issues. Two days before the hearing, the parties shall email (not file) the Court either a joint letter setting forth their respective positions or separate letters. If the parties submit separate letters, they must serve a copy on the opposing side unless they have received prior permission from the Court to submit the letters ex parte. Letters should be concise and focus on narrowing the issue in dispute as much as possible. Both sides must agree to use the informal process to resolve discovery disputes. If either side objects to using this process, a formal motion must be filed.

If formal non-dispositive motions are filed, they must comply with the Electronic Case Filing Procedures for the District of Minnesota, with Local Rules 7.1 and 37.1, and

be in the form prescribed by Local Rule 37.2. **Judge Docherty prefers not to receive courtesy copies, unless the motions contain or refer to documents that are not filed on ECF, in which case those documents should be emailed to Docherty_chambers@mnd.uscourts.gov.** All non-dispositive motions shall be scheduled for hearing by calling the Judicial Assistant to Magistrate Judge Docherty, at 651-848-1180, prior to filing, except when all parties are in agreement that no hearing is required. Such an agreement shall be expressly set forth in the notice of motion. Counsel are advised not to notice additional motions for hearing on an already existing hearing date without first contacting the Court for permission to do so.

A “meet and confer” requirement applies to IDR and formal motion practice. Parties must attempt to confer through personal contact rather than solely through written correspondence or email. Whether parties raise non-dispositive disputes informally or through traditional motions, the parties must engage in a focused meet and confer process in a sincere effort to resolve or narrow the disagreement.

DISPOSITIVE MOTIONS: GUIDELINES AND DEADLINES

All dispositive motions must be served and filed on or before **March 30, 2026**. However, summary judgment motions may not be filed before the close of fact and expert discovery without seeking permission from the Court. If a party wants to file an early summary judgment motion, they must file a letter on the docket seeking leave to do so.

Dispositive motions must comply with Local Rule 7.1 and the Electronic Case Filing Procedures for the District of Minnesota. Counsel must schedule a hearing on

dispositive motions prior to filing by emailing Judge Menendez's chambers at menendez_chambers@mnd.uscourts.gov. **Courtesy copies are not requested or accepted by Judge Menendez.**

TRIAL

If no summary judgment motions are filed, the case must be ready for a **bench** trial by no later than **June 1, 2026**. If summary judgment motions are filed, unless otherwise ordered by Judge Menendez, the case must be ready for trial two months after the issuance of an Order on any summary judgment motions. The anticipated length of trial is **2** days.

Date: March 24, 2025

s/ John F. Docherty
JOHN F. DOCHERTY
United States Magistrate Judge