

Scheduling Order
Multi-Family Residential Construction Defect
(This Order is drafted as if filed on January 1)

The parties do not need to file the Informational Statement required by Rule 112 of the General Rules of Practice for District Courts. **To the extent issues are not addressed in this Scheduling Order, the Minnesota Rules of Civil Procedure and the Minnesota General Rules of Practice, District Courts, shall apply.**

1. AUTOMATIC DISCLOSURES

Automatic disclosures, described below, are intended to aid in the efficient, cost-effective preparation of cases for trial.

A. Plaintiff:

Within 30 days after filing of the summons and complaint, the plaintiff(s) shall disclose the following information, but only to the extent that the information is otherwise discoverable pursuant to the Minnesota Rules of Civil Procedure:

- i. Information related to Plaintiffs' **individual** ownership of the dwelling in dispute, including records of construction and all documents governing the Homeowners' Association such as articles and bylaws.
- ii. A description of known design or construction defect(s), the date the injury associated with each known defect was first discovered by the Plaintiff, the identity of each person first discovering the defect, the date of any inspections and the identity of the inspector(s), and the extent of any repairs at issue to date.
- iii. The identity of each person known to Plaintiff with knowledge of the facts underlying the allegations in the complaint, including name, address, and the subject of each person's knowledge.
- iv. Information related to any claims made to Plaintiff's homeowner's insurance or the insurer for the Homeowners' Association for property damage to the dwelling that is the subject of the complaint, including the name of the insurance company and the subject and date of the claim.
- v. All documents related to Plaintiffs' claims, including any and all initial inspection reports, city building file, repair estimates, reports of inspection or testing contracts or purchase orders related to any repairs, and communications with the general contractor and/or subcontractors or developer that provided work during original construction or during the remodel at issue; articles; bylaws, minutes of Homeowners' Association

meetings; records of transition dates. These documents must be made available for inspection and/or copying at a mutually acceptable time and place.

B. Defendant/Third-Party and Subsequent Defendants:

Within 60 days after the summons and complaint has been filed and served upon a Defendant, Third-Party Defendant and Subsequent Defendants, such party shall disclose:

- i. A detailed description of its work on the individual dwelling or development; whether it supplied any materials, and if so, the type of materials supplied.
- ii. The identity of each person with knowledge of the facts underlying the allegations in the complaint and the disclosing parties' answer, including name, address, and the subject of each person's knowledge.
- iii. The identity of each contractor (general or subcontractor) and supplier, and their scope of work, making available for inspection and copying all subcontracts, and purchase orders between the contractor and each identified subcontractor/supplier.
- iv. Information related to the date that the disclosing party received notice of any alleged defects in design or construction of the dwelling, whether the notice was written or oral, and whether it has inspected the property or made any alterations or repairs.
- v. The identity of any of liability insurer(s) and dates of insurance, making available the relevant insurance policies, endorsements, certificates of insurance and whether any reservation of rights or denial letters have been issued.
- vi. All documents relating to the above, including the complete project file and any communications with or between the general contractor(s); subcontractor(s); developer(s) and declarants and reports of inspection or testing must be made available for inspection and copying at a mutually acceptable time and place.

C. All Parties:

- i. The parties shall not serve written discovery requests on any party within the timeframe for ADR specified in paragraph 4. The parties may serve non-duplicative discovery requests after ADR has been completed.
- ii. The parties have a duty to supplement their automatic disclosures as additional information becomes available.

- iii. After the ADR specified in paragraph 4, the parties may serve non-duplicative written discovery requests within the discovery period.
2. **JOINER OF ADDITIONAL PARTIES** - The last day to join additional parties is April 1 (3 months from date of filing and service), unless as otherwise stipulated by the parties or ordered by the Court. Parties joined pursuant to this paragraph must join additional parties within two months of the date of service by the party seeking joinder.
3. **DISCOVERY DEADLINE** - All discovery, including depositions, must be completed by January 1, year 2 (12 months from date of filing and service). No formal discovery conference is scheduled.
 - A. All party inspection and destructive testing completed by June 15 (5 1/2 months from date of filing). The parties shall endeavor to choose an inspection date that is mutually agreeable.
 - B. No written discovery (“written discovery” does not include depositions) other than the disclosures provided in paragraphs 1,2,3A, and 5 shall be allowed until after the ADR specified in paragraph 4 is concluded. Parties may be relieved of this prohibition on written discovery upon good cause shown except or by agreement of the parties.
 - C. All discovery served before the date of filing is stayed. This order takes effect upon filing and the parties are then under no obligation to respond to the outstanding written discovery served before filing; rather, that parties must follow the automatic disclosure requirement.
4. **ADR** - The parties shall agree upon a form of ADR, a qualified Neutral, and date of ADR by June 1 (5 months from date of filing). The parties shall promptly notify the Court of the form of ADR, the Neutral and the date of ADR. The parties shall complete ADR no later than September 1 (8 months from date of filing). Representatives of parties and their insurance carriers, if any, with full authority to settle up to the amount of plaintiff’s claim, must be available for decisions during the ADR procedure selected by the parties or the court.
5. **ADR EXPERT DISCLOSURES (PRELIMINARY EXPERT DISCLOSURES)** - Plaintiffs and Defendants shall disclose to each other preliminary expert opinions, including the identity of each witness, the opinions to be expressed and the basis and reasons therefore, including written repair estimates, if any. Plaintiffs – 60 days before ADR; Defendants – 30 days before ADR.
6. **MOTION PRACTICE (DISPOSITIVE AND NON-DISPOSITIVE MOTIONS)** - All non-dispositive motions shall be scheduled to be heard no later than May 1, year 2 (16 months from date of filing). Dispositive motions shall be scheduled to be heard no later than March 1, year 2 (14 months from the date of filing). (Pursuant to Rule 115.02, any party scheduling a motion shall provide prompt notice to all other parties to allow for similar motions to be heard at the same time.)

7. **EXPERT DISCLOSURES** - Plaintiffs shall serve final Expert Disclosures no later than April 1, year 2 (15 months from date of filing). Any Defendant or Third Party Defendant intending to introduce expert testimony must first serve final Expert Disclosures no later than May 1, year 2 (16 months from date of filing/one month after Plaintiff's Final Expert Disclosures. Rebuttal Expert Disclosures, if any, must be served by May 15, Year 2 (16 1/2 months from date of filing).
 - A. Substance of Disclosures. Any final Expert Disclosure or Supplemental Expert Disclosure shall contain a complete statement of the identity of all experts to be called as witnesses; all opinions to be expressed and the basis and reasons therefore; including repair estimates, if any; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years, the compensation to be paid for the study and testimony; and, a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.
8. **PRE-TRIAL/SETTLEMENT CONFERENCE** - A Pre-Trial/Settlement Conference is scheduled for June 1, year 2, (17 months from date of filing).
9. **TRIAL DATE** - This matter is scheduled for trial on July 1, year 2 (eighteen months following case filing).
10. **TRIAL DOCUMENTS** - At least 14 days before Trial, the parties shall:
 - A. Serve and file Separate Statement of the Case.
 - B. Serve and file JIGS, Special Verdict Form, Motions in Limine and any other trial motions.
 - C. Each party shall serve and file a witness list containing the names, addresses, telephone numbers of anticipated witnesses and shall include a brief description of any the expected testimony of any witness.
 - D. Each party shall serve and file an exhibit list containing a brief description of any exhibits the party expects to be offered or used at trial.
11. **AMENDMENTS** - This Court's Scheduling Order may be modified upon stipulation of the parties or on motion and good cause shown. Any motion to extend a deadline contained in this Scheduling Motion must be made before that deadline has passed. Requests for Continuances shall be by written request to the Court, with copies to all parties, or by stipulation signed by all parties. Stipulations for continuance are subject to the Court's approval.

Dated: _____

 Judge of District Court