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New Rules that Front-Load Answers and Discovery in the Northern District of Illinois

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The Northern District of Illinois has implemented a pilot program designed to front load answers to complaints and initial discovery. Titled "Mandatory Initial Discovery Pilot Program" ("Program"), the Program brings significant changes to the timing of answers to complaints and for initial discovery in cases. The Program applies to cases filed **after June 1, 2017** and where the judge participates in the Program. [Attached is the Order](#) covering the Program rules and the list of participating judges. The majority of District Judges and Magistrate Judges are participating in the Program and have adopted the Program's rules. In courtrooms adopting the rules, compliance is mandatory with no opt out through consent of counsel.

The Program implements two major changes:

(1) Filing a motion to dismiss under Rule 12 (b) no longer defers filing an answer. With a handful of exceptions (for example if a defendant shows "good cause" by disputing jurisdiction), a defendant's answers and affirmative defenses to the complaint must now be filed at the same time as a Federal Rule of Civil Procedure 12(b) motion to dismiss the complaint. We believe this rule change may have the effect of deterring Rule 12(b)(6) motions for failure to state a claim, in particular Twombly motions for failure to plead sufficiently specific facts to state a plausible claim.

(2) All parties are now required to answer a standard set of court-issued discovery requests. There is no provision to opt out of the required discovery. The required discovery is set forth in some detail in the Order, and includes things like a "list" of documents that "may be relevant," insurance information, and specifics about damages. This rule change is designed to "front load" the initial fact analysis, case assessment, and document collection efforts in cases that are subject to the Program.

The Program seeks to encourage earlier and more efficient resolution of cases before participating judges. Time will tell whether the Program succeeds in doing so. Depending on the results, the Northern District may implement the rules on a District-wide basis beginning in 2020, or discontinue the Program.

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