

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

**Civil Action No. 08-468 (GMS)**

**ORDER**

WHEREAS, Rule 16 of the Federal Rules of Civil Procedure and Local Rule 16.2(b) do not preclude parties from commencing discovery prior to the court noticing or conducting a scheduling conference in a matter;

WHEREAS, Rule 26 of the Federal Rules of Civil Procedure sets forth the timing and sequence of discovery, and requires, among other things, that the parties confer on the issue of discovery; and

WHEREAS, Rule 26 of the Federal Rules of Civil Procedure does not preclude the parties from commencing discovery prior to the court noticing or conducting a scheduling conference under Federal Rule 16 and Local Rule 16.2(b);

IT IS HEREBY ORDERED that pursuant to, and in accordance with, the Federal Rules of Civil Procedure and the local rules of this court:

1. In the above-captioned action, the parties are not precluded from commencing and engaging in discovery prior to the court noticing and/or conducting a Rule 16/Local Rule 16.2(b) scheduling conference.<sup>1</sup>

Dated: January 13, 2009

/s/ Gregory M. Sleet  
CHIEF, UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Upon the commencement of discovery, should a discovery related dispute arise, the parties are expected to adhere to the court's existing Discovery Dispute Resolution practice. Furthermore, absent some other appropriate reason for delay, the court fully expects the parties to proceed with commencement of discovery, notwithstanding notice or scheduling of the Rule16 scheduling conference.