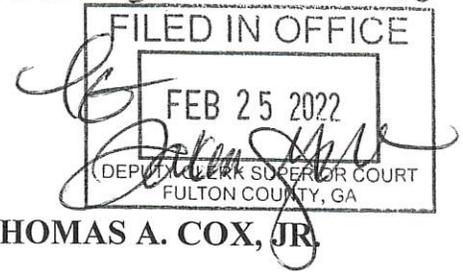


IN THE SUPERIOR COURT OF FULTON COUNTY 2022 EX000265
STATE OF GEORGIA

IN RE: PROCEDURE FOR ALL)
CIVIL CASES ASSIGNED)
TO JUDGE COX'S DIVISION)
)

JUDGE THOMAS A. COX, JR.



STANDING CASE MANAGEMENT ORDER
FOR CIVIL CASES IN JUDGE THOMAS A. COX, JR.'S DIVISION

I. GENERAL INFORMATION.

This case has been assigned to Judge Thomas A. Cox, Jr. The purpose of this Standing Order is to inform all parties and their counsel of the Court's policies, practices, and procedures. This Order is designed to promote the just and efficient determination of each civil case. The following deadlines, policies, and procedures will govern each civil case assigned to this division of the Superior Court of Fulton County. In this regard, the Court must be immediately notified of any problem or dispute that could delay the deadlines contained herein. Notably, modification of any deadline or hearing date contained herein requires prior approval of the Court, even if all parties consent to the change.

This Standing Case Management Order shall guide the future progress of this case and inform the parties and their attorneys of the Court's order, expectations, and deadlines. Please read it carefully and provide a copy to all co-counsel and other

professionals who will assist you in the handling of this case. Parties without attorneys (“Self -Represented Litigants”) are responsible for being familiar with this Standing Order and following all instructions and procedures described herein without additional guidance or prompting from the Court.

Electronic filing (“e-filing”) is mandatory in the Superior Court of Fulton County. All parties should create an account with eFileGa to ensure consistent service of orders and other notices from the Court. Please visit <http://www.odysseyefilega.com> for account registration¹, information, and training. All calendars regarding case status will also be published pursuant to Rule 8.1 of the Uniform Superior Court Rules. The failure to appear at properly noticed and published calendars may result in the Court issuing Orders of Contempt, imposing the penalty of a fine or the dismissal of an action or having pleadings stricken.

Each case will receive a scheduling order detailing specific deadlines associated with the case. Each scheduling order incorporates the provisions of the Standing Case Management Order by reference.

II. COMMUNICATIONS.

The Court has chosen email as the primary method of communication.

¹ For more information concerning mandatory e-filing for civil cases, the parties are directed to the September 16, 2015, Amended Order Implementing Electronic-Filing For Civil Cases filed in the case of In Re: Certain Litigation in the Superior Court of Fulton County, Administrative Order No. 2015-EX-01168.

Telephone calls to the Court should be reserved for exceptional circumstances. Please be advised that the Court cannot counsel Self-Represented Litigants on the procedure or on law.

By selecting email as the primary method of communication with the Court, each party is required to check their emails or arrange to have their emails forwarded to someone in your office who will be responsible for checking them and informing you of the messages/documents that have been sent. To avoid *ex-parte* communications, submit all questions, explanations, and discussions concerning this case by email, with a copy to opposing counsel. Please note that the Court will not condone or participate in “practice by email.” Please note that the Court will only respond to matters that have been properly filed with the Clerk’s Office. All attorneys and Self-Represented Litigants are reminded of the requirements of the Uniform Superior Court Rules, as well as other binding Georgia legal authority, as the first point of reference for addressing matters that need to be brought to the attention of the Court. Likewise, the Court does not answer questions regarding legal strategy, court preferences or approaches to legal questions. Rather, the Court insists that attorneys simply follow applicable Georgia law and all Uniform Superior Court Rules.

Finally, **never** communicate by email directly with Judge Cox.

Communication with the Court regarding civil matters shall be directed to the

Senior Staff Attorney, Erik Smith, at erik.smith@fultoncountyga.gov.

III. COURTROOM CONDUCT.

The following policies and procedures will govern the expected conduct of attorneys, witnesses and all other participants in matters before the Court. The Court makes every effort to begin proceedings at the time set; thus, promptness is expected from counsel, parties, and witnesses. Arrange the schedule of the case to avoid unnecessary delay. If a witness is scheduled to testify on a certain date, have the witness ready to take the stand when reached. If you have reason to anticipate scheduling difficulties, or that any question of law or evidence will provoke an argument, provide the Court with notice regarding the specific issue in advance of the Pre-Trial Conference. All leave notices filed with the Court within 30 days of trial requires specific advanced permission of the Court for approval of the leave.

In order to create a suitable environment equal to the noble purpose of the courtroom and to create an appropriate environment for the administration of justice, the Court insists that counsel respect the time-honored tradition of standing while addressing the Court, and encourages the utilization of the lectern. In order to maintain courtroom decorum and to ensure the safety of all participants and courtroom professionals, counsel are requested to seek permission to approach the bench if necessary. Ringing telephones and one-sided conversations are prohibited when the Court is in session. Files, stacks of paper and other clutter should not

accumulate at counsel's table. Finally, persons moving about the courtroom without a purpose directly related to the court proceedings being heard are distracting to the formal atmosphere of the Court. This activity must be avoided.

A. Jury Trials.

The Court expects a minimum of 5 to 6 hours of testimony per day in jury trials and will not allow sidebar conferences or hearings outside the presence of the jury to disrupt the orderly presentation of evidence. Additionally, when the jury is in the courtroom it is the Court's and the litigants' responsibility to use the jury's time efficiently. If matters need to be taken up outside the presence of the jury, they should be raised during breaks or before the start of the trial day.

IV. DISCOVERY DISPUTES/EXTENSION REQUESTS.

Any motion seeking resolution of a discovery dispute must conform to the requirements of Uniform Superior Court Rules 6.4(A) and (B). Specifically, all parties are reminded of the requirement that both parties confer with one another prior to raising a discovery dispute with the Court. These rules also require that "at the time of filing the motion, counsel shall also file a statement certifying that such conference has occurred and that the effort to resolve by agreement the issues raised failed." Ga. Unif. Super. Ct. R. 6.4(B).

The discovery motion shall be limited to no more than ten (10) pages, double spaced. Responses to the discovery motion shall be filed within one (1) week of the

filing of the discovery motion and shall be limited to no more than ten (10) pages, double spaced. Neither replies nor sur-replies will be considered without prior approval from the Court. Approval may be requested informally by email and should explain the reason why a reply or sur-reply is needed. If prior Court approval is obtained, replies and/or sur-replies shall also be limited to no more than five (5) pages, double spaced. The Court will address discovery issues via telephone conference, as appropriate.

Except in extraordinary circumstances where a request is made, and good cause shown prior to the expiration of the discovery period, no extension of time for discovery or other discovery motions will be granted. The request for a discovery extension, for which a formal motion is not required, shall include all the current deadlines and all proposed litigation deadline extensions, including the new proposed deadlines for filing dispositive motions and readiness for trial. All requests for discovery extensions *shall* also include a list of discovery conducted thus far, the requested deadline extension, and a schedule of outstanding discovery to be completed during the requested extension. Without this detail, requests for discovery extensions will not be considered.

V. MOTIONS.

Except as otherwise provided in the Civil Practice Act or ordered by the Court, all motions, including dispositive motions, such as motions for summary

judgment and Daubert motions, must be filed and served upon the opposing party in accordance with the Civil Practice Act and the Uniform Superior Court Rules, within 30 days after the close of fact discovery.

Except upon written permission of the Court, briefs and responsive briefs shall be limited to limited to twenty-five (25) pages in length, excluding exhibits. Responsive briefs shall be filed within 30 days after the filing of the subject motion. Approval for page limitation extensions may be requested informally by email.

Every ministerial motion (e.g., motion to extend, exceed page limits, withdrawal) must be accompanied by a proposed order. **Proposed orders shall not be filed with the clerk of court**, inasmuch as proposed orders have no force and effect in law and arguably serve no other purpose than to unnecessarily clutter the public record.

Generally, motions will be determined upon the written motion and supporting documents; however, the Court may allow oral argument *sua sponte*, upon good-cause shown in a written request, or as otherwise prescribed in the Civil Practice Act. Submit any requests for oral argument relating to summary judgment motions in accordance with Uniform Superior Court Rule 6.3.

Failure to respond to any motion within the time afforded by the Uniform Superior Court Rules (unless extended) will indicate that there is no opposition to the motion. If a motion or response brief is over thirty (30) pages in length,

including exhibits, it must be hand delivered or mailed to Chambers.

A. Consent Protective Confidentiality Orders; Filing Under Seal; Confidential Settlement Agreements.

The Court eschews the excessive use of consent protective confidentiality orders that allow counsel to designate documents, tangible things and information as “confidential” and/or “confidential – for attorney’s eyes only.” While the Court recognizes the legitimacy of such orders in some cases, the Court’s experience is that such orders are used more often than truly necessary.

As a guide to counsel, the Court notes that documents, tangible things and information ordinarily are not truly confidential unless they constitute either (1) a “trade secret,” as defined by the Uniform Trade Secrets Act, or cases applying Georgia law, O.C.G.A. §10-1-761(4); (2) personal identifying information, such as a Social Security number; or (3) personal health information protected by the Health Insurance Portability and Accountability Act. Counsel should also be aware that the Court is not hesitant to sanction a party and/or counsel for abusing a protective confidentiality order by too readily designating documents, tangible things and/or information as “confidential” and/or “confidential – for attorney’s eyes only.”

If the parties find that a consent protective confidentiality order is necessary, the following language should be included (and shall be deemed included) therein:

Any documents (including briefs), tangible things for information designated as Confidential that are submitted to the Court in support of

or in opposition to a motion or introduced at a hearing or during trial may retain their protected confidential status only by order of the Court in accordance with the procedures outlined in the Court's Standing Case Management Order.

VI. PROPOSED ORDERS.

Proposed orders shall be emailed to the Court in Microsoft Word Format. The proposed order must contain the signature (electronic or ink) of the counsel who prepared the proposed order and must contain the word "proposed" in the title. Parties are required to email all proposed orders to the Senior Staff Attorney, Erik Smith at erik.smith@fultoncountyga.gov. Proposed orders shall not be filed with the clerk of court. **Once again, proposed orders shall not be filed with the clerk of court.**

VII. ALTERNATIVE DISPUTE RESOLUTION.

Prior to trial, all parties are required to participate in a mandatory mediation. The neutral must be registered with the Georgia Office of Dispute Resolution. ADR will be specifically raised and discussed during the status conference. Participation in ADR shall not cause the continuance of any deadline set forth in the Scheduling Order.

The mandatory mediation shall be conducted in person, with lead counsel for each party present. During the mandatory mediation, the parties shall discuss and negotiate in good faith to resolve all issues in the case.

A written report detailing the completion of the mandatory mediation session shall be filed in the case no later than ten (10) days after completion of mediation.

VIII. CONSOLIDATED PRE-TRIAL ORDERS.

A. Generally.

All parties shall submit, by email, a fully consolidated pre-trial order directly to the Judge's chambers by the deadline set forth in the Scheduling Order. *See* O.C.G.A. §9-11-16. Plaintiff/Petitioner shall be responsible for consolidating the pre-trial order. All other parties shall exchange their portions of the consolidated pre-trial order to the Plaintiff/Petitioner no later than ten (10) business days prior to the due date. No party may submit their own individual portions of the pre-trial order to the Court without written certification detailing their good-faith efforts to present the Court with a fully consolidated order. Extensions for submitting proposed pre-trial orders will be granted only for good-cause shown. "Failure of counsel to ... present a proposed pre-trial order shall authorize the court to ... enter such pre-trial order as the court shall deem appropriate, or impose any other appropriate sanction." Ga. Unif. Super. Ct. R. 7.1. See also Triple A Distrib. v. Carrier Reps, USA, Inc., 193 Ga. App. 348 (1989) (plaintiff's counsel who failed to prepare pretrial order could be required to pay attorney fees to defendant for its counsel's time in preparing proposed order).

B. Statement of Contentions.

Upon compiling material for the submission of the Consolidated Pretrial Order, the plaintiff shall explicitly state each and every theory of liability and legal issues raised, together with the type and amount of each type of damage sought. The specific actionable conduct shall be set out, and, in a multi-defendant case, the actionable conduct of each defendant shall be identified. The defendant shall explicitly set out any affirmative defenses upon which it intends to rely at trial, as well as satisfy the above requirements with respect to any counterclaims.

C. Potential Witnesses.

In identifying witnesses, it is not sufficient to include boiler plate language covering groups of potential witnesses, such as "all individuals identified during discovery." Instead, trial witnesses must be identified by name. Failure to identify a witness, including expert witnesses, by name in the consolidated pretrial order may result in the exclusion of the undisclosed witness' testimony from trial. In listing witnesses or exhibits, a party may not reserve the right to supplement his list, nor shall a party adopt another party's list by reference.

D. Exhibits, Depositions, and Discovery Requests.

In preparing the pre-trial order, each party shall identify to opposing counsel each deposition, interrogatory or request to admit response, or portion thereof, which the party expects to or may introduce at trial, except for impeachment. All exhibits, depositions, interrogatories, and requests to admit responses shall be

admitted at trial when offered unless the opposing party indicates an objection to it in the pre-trial order.

IX. PRE-TRIAL MATTERS.

This case will be placed on a trial calendar approximately four months after the close of discovery. You will receive a Notice of Trial approximately one month prior to the date of the trial calendar. It is possible, due typically to the case load of the Court, that this case will be placed on a later trial calendar. The parties should anticipate however, that this case will be tried in the month indicated. The Court will not generally specially set a civil case for trial, even if the case involves expert or out of town witnesses. The Court will call the cases for trial in the order in which they appear on the calendar, except in exceptional circumstances. The Court specifically reserves the right to call cases for trial out of the order listed on a trial calendar.

The Court will notify the parties or their counsel of trial by publication in the Fulton County Daily Report at least twenty-one (21) days before the call of the first case listed. Immediately upon publication of the trial calendar, the parties are ordered to contact the Senior Staff Attorney, Erik Smith at erik.smith@fultoncountyga.gov, with the status of the case, the estimated length of trial and the possibilities of settlement during the trial calendar. All conflict letters must be submitted three (3) weeks before the trial calendar begins and must follow Uniform Superior Court Rule 17.1

in proposing a resolution. Please note that the submission of a conflict letter alone does not excuse counsel or self-represented litigants from the trial of the case. Continuances will be granted only on the basis of exceptional circumstances. The Court handles a large number of civil and criminal cases each month with limited resources. Please assist the Court in efficiently and effectively managing its workload and resources by avoiding requests that do not meet this threshold.

A. Motions in Limine and Depositions Used at Trial.

Motions in Limine shall be made in writing, filed no later than two (2) weeks prior to the beginning of the trial calendar. If the parties intend to rely on deposition testimony, attorneys are instructed to confer prior to trial and attempt to agree on the testimony to be presented. If the attorneys cannot agree on what portions of the deposition testimony should be excluded, the attorneys are instructed to jointly prepare a list of the page and line numbers at issue and provide it to the Court at the time they file their motions in limine, along with the relevant text from the deposition.

B. Voir Dire.

The Court will prepare and read general voir dire questions to the jury. Attorneys may submit special voir dire questions for the Court's consideration one (1) week prior to the beginning of the trial calendar. Attorneys will be allowed to conduct their own individual voir dire, based on the questions they submit for the

Court's consideration.

C. Verdict Forms.

The attorneys shall submit a consolidated proposed verdict form to the senior staff attorney, Erik Smith, at erik.smith@fultoncountyga.gov no later than one (1) week prior to the beginning of the trial calendar.

D. Jury Charges.

Each attorney shall list by title and pattern number the applicable pattern charges that he or she requests be given, using the current pattern charges published by the Council of Superior Court Judges, (the pattern charges are updated January and July of each year). Please do not recite the text of the pattern charge, just list the title and pattern number. In addition, attorneys may request non-pattern charges, *if there is no pattern charge that covers the issue*. It is the Court's preference to utilize pattern charges. In requesting non-pattern charges, attorneys shall reference applicable statutory or case authority. The parties are limited to requesting twenty (20) non-pattern jury charges absent prior Order from the Court based on motion and good cause shown for requesting additional non-pattern jury charges. The Court will not give duplicative charges and will defer to pattern, rather than non-pattern charges. Therefore, please do not burden the Court's resources by unnecessarily requesting non-pattern charges. In addition to filing jury charge requests with the Clerk, attorneys shall also email an electronic copy in Microsoft Word version to the

senior staff attorney, Erik Smith at erik.smith@fultoncountyga.gov at least three (3) business days before the beginning of the trial calendar.

E. Exhibits & Demonstrative Evidence.

Pursuant to the new rules of the Judicial Council of Georgia, all transcripts, and accompanying exhibits, are required to be e-filed. Due to the size limits of eFileGa, all exhibits must be scanned individually and emailed to the court reporter. For oversized or non-paper exhibits (i.e., guns, poster boards) you may submit a digital photograph of the object marked with an exhibit sticker. Regarding DVDs/CDs, provide the court reporter with the original and one copy, after exchanging a copy of the same with the opposing side. DVD's/CD's must be contained in a hard case. Cheryl Gilliam is the Court's assigned court reporter, and her email address is Cheryl.gilliam@fultoncountyga.gov .

All exhibits and demonstrative evidence shall be marked with exhibit labels and **exchanged among the parties prior to the beginning of the trial of the case.** The parties are instructed to work together and agree, at least as to authenticity, on all such exhibits where possible. In the event that over 100 exhibits are anticipated and in dispute, the parties must notify the court one (1) week in advance of trial so that the Court can decide whether to schedule a pre-trial hearing.

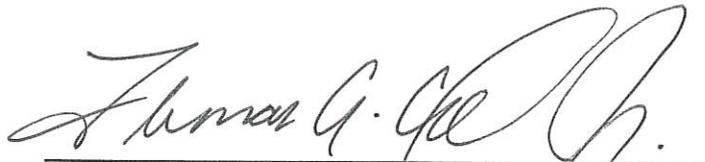
Finally, the Court reminds the parties that failure to strictly adhere to the Uniform Superior Court Rules, the Civil Practice Act, other applicable Georgia legal

authority or the Court's orders in the case may result in sanctions.

X. SANCTIONS.

The parties should note that sanctions for the failure to abide by the deadlines set out in this or any other Order, or for failing to timely supplement disclosure responses as required by O.C.G.A. § 9-11-26(e) and this Order, may include, but are not necessarily limited to, the striking of pleadings, entry of default, exclusion of evidence, and charging of costs against the offending party. See Kohler v. Van Peteghem, 330 Ga. App. 230 (2014); Hart v. Northside Hospital, Inc., 291 Ga. App. at 210; OTS, Inc. v. Weinstock & Scavo, P. C., 339 Ga. App. 511 (2016). Further, the Court may choose to consider motions filed outside of the deadlines set in this Case Management Order to prevent manifest injustice. See Velasco v. Chambliss, 295 Ga. App. 376 (2008).

SO ORDERED, this the 24th day of February 2022.



**THOMAS A. COX, JR, JUDGE
SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT**