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CHE ALEXANDER
Clerk of Superior Court
Fulton County, Georgia

IN THE SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT

STANDING CASE MANAGEMENT ORDER FOR CIVIL CASES IN JUDGE McBURNEY'S DIVISION

25EX 000142

(REVISED 14 January 2025 -- supersedes all previous versions)

YOU SHOULD READ THIS ENTIRE ORDER. AS A CIVIL LITIGANT IN THIS DIVISION, YOU ARE BOUND BY ITS PROVISIONS. HOWEVER, IF YOU ARE GOING TO READ ONLY ONE THING, READ THIS BOX.

1. Do not e-file proposed orders. Ever. E-mail them to Ms. Niles.
2. If your pleading is urgent, send a courtesy copy to Ms. Niles. E-filing a document gets it into the docket but not onto the Court's radar.
3. If you are sending a document for signature, please do so in Microsoft Word format.
4. Boilerplate objections to discovery requests will only bring you grief.
5. Reply briefs are by permission only. Put it all in your original motion.
6. The parties are responsible for any court reporter needs.

The following provisions govern the parties during the pre-trial phase of their civil case in this Division. The Court has issued a separate standing Order governing trial practice.

I. CONTACTING THE COURT

Monica Niles, Staff Attorney, is your principal contact; she can be reached at 404.612.6912 or monica.niles@fultoncountyga.gov. Ms. Niles is, as you might expect, a busy person; she will return your message as soon as

she is able.[1] Mailed and hand-delivered communications should be addressed as follows:

Monica Sullivan Niles
185 Central Avenue SW
Suite T-8855
Atlanta, GA 30303

Electronic communication is encouraged. *Ex parte* communications are not encouraged: always copy the opposing side on your e-mails to the Court. Documents e-mailed for the Court's *review* (motions and other pleadings) should be sent in .PDF format. Documents e-mailed for the Court's *signature* (proposed orders, etc.) should be sent in Microsoft Word format.

II. E-FILING

E-filing is mandatory for civil cases filed in Fulton County Superior Court.[2] This means that electronic service of pleadings, other than the initial complaint and summons, is legally sufficient. Every attorney of record and every self-represented litigant must register with the Court's e-filing system. This can be done at http://www.odysseyefilega.com. While e-filing ensures that your pleadings and other documents are made part of the official record, it does not necessarily result in that pleading or document reaching the desk of either the Staff Attorney or the Judge. If there is a filing that you want to ensure is brought to the Court's *immediate*

[1] Ms. Niles is also very nice, but as nice as she is, she cannot give you legal advice, even if you are a self-represented litigant.

[2] There are very few exceptions, none of which applies to your case unless you are seeking to domesticate a judgment or validate a bond. *See* Administrative Order 2018EX001350.

attention, you should e-mail a copy to Ms. Niles, explaining what it is and why it is urgent.

Please note that proposed orders should **not** be e-filed; they should always be e-mailed to Ms. Niles in Microsoft Word format.

III. CASE MANAGEMENT

1. Scheduling conference

Once all defendants/respondents have answered, the Court will arrange a scheduling conference. Unless all parties are self-represented (or the represented parties otherwise request), this conference will be virtual (*i.e.*, via Zoom). During the conference, the Court will solicit the parties' input as to deadlines for discovery and dispositive motions, as well as a likely trial date. The parties will also offer their views as to the value of mediation in their case. All dates established during the conference will be memorialized in a written Scheduling Order.

2. Other conferences

Discovery, pre-trial, and settlement conferences can promote efficient resolution of cases. The Court thus encourages parties to request such conferences whenever they believe that one would be helpful *and* they have specific goals for the conference. The Court will accommodate the parties by meeting in person or virtually, consistent with the parties' schedules and preferences.

3. Extensions of time

Because parties are given an opportunity during their scheduling conference to establish what they deem to be reasonable, workable deadlines, motions for extension will not be granted simply as a matter of course. Parties seeking an extension should explain *with specificity* the

unanticipated circumstances necessitating the extension and should also set forth a timetable for the completion of the task(s) for which the extension is sought.

4. Alternative dispute resolution (ADR)

The Court encourages ADR and will support any request to direct a case to mediation, arbitration, or judicially hosted settlement conference. The Court also reserves the right to mandate some form of ADR when appropriate. Additionally, the Court welcomes requests for non-binding summary jury trials. If the parties participate in ADR, they shall do so in a manner that does not delay discovery, motions, or trial. Absent prior approval of the Court, participation in ADR will not justify the extension of any deadline previously established in a case.

IV. DISCOVERY

1. Responses to discovery requests

Boilerplate objections to discovery requests are prohibited. Parties should not mindlessly (or purposefully) invoke the trite litany of rote objections, *e.g.*, attorney-client privilege, work-product immunity, overly broad/unduly burdensome, irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, etc. Rather, an aggrieved party should particularize its concerns so that the Court can meaningfully assess them.

General objections are also prohibited, *i.e.*, a party shall not include in its response to a discovery request a "Preamble" or "General Objections" section stating that the party objects to discovery requests "to the extent that" they violate some rule pertaining to discovery, *e.g.*, attorney-client privilege; work product immunity; the prohibition against

discovery requests that are vague, ambiguous, overly broad, or unduly burdensome; etc. Instead, *each* individual discovery request must be met with *specific* objections thereto -- but only if those objections *actually* apply to that request. Otherwise, it is impossible for the Court or the party upon whom the discovery response is served to know exactly what objections have been asserted to each individual request. ***All such general objections will be disregarded by the Court and may be disregarded by the party requesting the discovery.*** Don't waste the ink.

A party that objects to a discovery request but nonetheless responds to the request must indicate whether its response is complete, *i.e.*, whether additional information or documents would have been provided but for the propounded objection(s). For example, in response to an interrogatory, a party is not permitted to raise objections and then state, "Subject to these objections and without waiving them, the response is as follows..." unless the party indicates whether additional information would have been included in its response but for the objection(s).

Finally, should the Court have to conduct a discovery conference about violations of any of these very basic rules concerning responses to discovery, the party that failed to comply with the rules may be obligated to pay the attorney's fees accrued by the other side in preparing for and participating in the discovery conference. Compliance is cheap; non-compliance can be costly.

2. Experts

Unless otherwise established in the Scheduling Order, Plaintiff(s)/Petitioner(s) shall disclose the names and opinions of all experts 60 days before discovery closes. Defendant(s)/Respondent(s) shall

disclose the names and opinions of all experts 30 days before discovery closes.

3. Disputes

Direct, informal communication between the parties is encouraged to address *potential* discovery disputes before they become *actual* discovery disputes. Just pick up the phone. If that fails, an aggrieved party must notify the Court of the discovery dispute by sending Ms. Niles an e-mail demonstrating compliance with Uniform Superior Court Rule 6.4 and providing sufficient information and/or documentation to permit a meaningful teleconference between the parties and the Court. ***No party may file a motion to compel or a motion for a protective order without first having discussed the issue with the Court and opposing parties***. This stricture applies to disputes with non-parties as well. Motions to compel that do not comply with Rule 6.4 or that precede an initial conference with the Court will likely be denied.

4. Depositions

Absent extraordinary circumstances, counsel for the deponent (or self-represented litigants) should be consulted before a deposition is noticed. Objections lodged during depositions should be noted but questions should still be answered over those objections (other than questions allegedly infringing upon privilege). If a serious dispute arises during a deposition, the parties are encouraged to contact the Court to seek an on-the-spot resolution so that the deposition may continue. If parties have a good faith reason to believe that a deposition will be particularly contentious, they are invited to contact the Court so the Court can arrange for the deposition to occur in the Courthouse, making mid-deposition judicial conferences easier.

5. Deadlines

All discovery requests must be served early enough so that the responses thereto are due on or before the last day of the discovery period. The Court is unlikely to enforce agreements between the parties to conduct discovery beyond the end of the discovery period, nor will the Court ordinarily compel responses to discovery requests that were not served in time for responses to be made before the discovery period runs. Similarly, the Court typically will not mandate depositions for the preservation of testimony after the close of discovery if a valid objection is raised by the deponent.

Whenever an extension to the deadlines established in a Scheduling Order is requested, the moving party or parties shall submit -- but not e-file -- a proposed Revised Scheduling Order. Requests for discovery extensions shall include a statement indicating whether the Court has previously granted any extensions, along with a description of discovery conducted thus far, the requested deadline extensions, what discovery remains to be done, and an explanation as to why the deadlines should be extended.

V. MOTIONS

1. Deadlines

Unless otherwise established in the Scheduling Order, dispositive motions must be filed within two weeks of the close of discovery. Movants shall provide courtesy copies of motions and related filings to the Court. Electronic copies are preferred, although hard copies of lengthy exhibits or other attachments are required. ("Lengthy" = in excess of 50 pages.) Failure to timely respond to a motion will be deemed a lack of opposition to that motion.

2. Responses to motions for summary judgment

A party filing a response to a motion for summary judgment must include a statement of facts that explicitly admits or denies each fact set forth in the movant's motion or otherwise plainly highlights any factual disagreements.

3. Replies to responses (and any sur- pleadings)

Absent permission of the Court, movants **may not** file reply briefs. Replies filed without permission will be stricken from the record. Permission can be sought informally via e-mail to Ms. Niles; a written motion is not required. This rule applies as well to any of the dreaded and generally unnecessary "sur-" pleadings: sur-response, sur-reply, etc.

4. Format

Concision and precision are encouraged. **Absent advance permission (obtained via e-mail request), no party may file a motion, brief, or response in excess of twenty pages** (excluding affidavits, deposition extracts, and other relevant exhibits). Documents exceeding twenty pages that are filed without permission may be stricken. Documents submitted in a font size less than 12 points *will* be stricken.

Every ministerial motion (*e.g.*, motion to extend discovery or continue a hearing) must be accompanied by a proposed order (with the proposed order submitted electronically to Ms. Niles as a Microsoft Word document). Proposed orders should not be e-filed.

5. Hearings

As a general practice, motions will be decided upon the written submissions of the parties; however, the Court may request oral argument *sua sponte* or allow it upon good cause shown or as otherwise prescribed in the Civil Practice Act and Uniform Superior Court Rules.

A party seeking oral argument on a motion for summary judgment must comply with Uniform Superior Court Rule 6.3 and file a separate pleading to that effect. A party seeking a hearing on any other motion should contact Ms. Niles. Any request for hearing should include a clear explanation of why the hearing would assist the Court in deciding the issue before it and a proposed rule *nisi*.

Copies of any exhibits to be tendered at an evidentiary hearing should be provided to Ms. Niles and opposing counsel at least three days prior to the hearing, ideally in digital/electronic format. At the hearing, if hard copies of exhibits are going to be used, the parties must provide copies for Ms. Niles, the Court, all opposing parties, and the court reporter (if the hearing is being taken down).

Hearings typically can be in person or virtual. If a virtual appearance option is contemplated, the Court will generate a Zoom session for the hearing. Occasionally, however, a hearing will be in-person only, a fact which will be made clear in the hearing scheduling notice. The courtroom will always be open and the judge will be there in his seat. The parties can decide for themselves whether they, too, want to be in court or instead on the screen; both forms of appearance are equally acceptable (when allowed), provided the parties understand how to share exhibits via Zoom. If a party intends to present witness testimony via Zoom, that party must confer with the opposing side to see if there are objections to virtual testimony. Any such disputes should be brought to the Court's attention before the hearing.

Pursuant to Uniform Superior Court Rule 7.3, a party needing an interpreter for a witness must notify the Court at least five days before the

hearing at which the witness will be testifying so the Court can arrange for proper services.

Failure of the moving party to appear at the hearing on its motion may result in dismissal of the case for want of prosecution if the movant is a plaintiff or petitioner or dismissal of the motion if the movant is a defendant or respondent. Failure of a non-moving party to appear may result in a waiver of any opposition to the motion, assuming good cause otherwise exists to grant the motion.

6. Court reporters

The parties must provide their own court reporter if they desire to have any proceeding taken down; the Court does not supply a court reporter for civil matters. Attorneys have an affirmative duty to notify their clients that failure to have a proceeding reported may have an adverse effect on any appeal.

7. Proposed orders

Proposed orders on ministerial motions are expected (although, as mentioned at least twice above, they should not be e-filed). *See* Section V.4. The Court may, from time to time, request proposed orders on substantive motions as well. While the request will go to the prevailing party, the opposing party will have an opportunity to provide comments on the proposed order (not to re-argue a lost proposition, but to correct perceived errors). All proposed orders should be submitted electronically to Ms. Niles in Microsoft Word format. Proposed orders on motions for summary judgment should include particularized findings of facts and specific conclusions of law.

VI. SANCTIONS

Failure to comply with basic courtesies (to include timeliness), the Lawyer's Creed, the Uniform Superior Court Rules, the Civil Practice Act, and the Court's orders (to include this one) may result in sanctions. Sanctions include, but are not limited to, getting fussed at (perhaps in front of your client), striking pleadings, entering default judgment, and charging costs against the offending party.

SO ORDERED this 14th day of January 2025.

JUDGE ROBERT C.I. McBURNEY
SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT