FILED IN OFFICE

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

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CHÉ ALEXANDER
Clerk of Superior Court
Fulton County, Georgia

STANDING CASE MANAGEMENT ORDER FOR CIVIL CASES IN JUDGE ELLERBE'S DIVISION	)	26-EX - 001339

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

The following deadlines and instructions shall govern all civil (non-Metro Atlanta Business Case Division) cases assigned to this docket.

SECTION 1. E-FILING NOTICE

Electronic filing (e-filing) is mandatory in Fulton County Superior Court. All parties shall create an account with eFileGA and add a service contact to this case to ensure consistent service of orders and other notices from the Court. Visit http://www.odysseyefilega.com for account registration, information, and training. Filing fees will apply for all e-filing transactions. Also visit http://www.fultoncourt.org/efile/ for more information and to see the current court wide Standing Order Regarding Electronic Filing for Civil Cases.

SECTION 2. GENERAL

This Order shall guide the future progress of this case and inform the attorneys and self-represented (*pro se*) litigants, collectively referred to as parties herein,

and/or their attorneys of the Court's expectations and deadlines. All parties are responsible for understanding and following the instructions and procedures described herein without additional guidance from the Court.

SECTION 3. COMMUNICATING WITH THE COURT

The Court has chosen to communicate by email, whenever possible, for the sake of efficiency and economy. Include your email address on all Court submissions. All communications with the Court must contain the case number in the subject line.

If you do not check your emails, you must arrange to have them 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, to the Staff Attorney, Ms. Gray, at kelley.gray@fultoncountyga.gov. For this same reason and to prevent miscommunications, please avoid telephoning except in exceptional circumstances. The Court and Court staff cannot provide counsel on procedure or on the law.

SECTION 4. COURT REPORTERS

Unless the party has been previously determined by the Court to be indigent, all parties seeking to have any proceeding (including trials) reported are required to provide their own court reporter. For parties who have been determined to be

indigent by the Court, they are required to email kristen.rogers@fultoncountyga.gov no later than one week in advance of the hearing or trial to request a Court provided court reporter. The parties are cautioned that the failure to secure a court reporter will prevent takedown of the proceeding which may affect the parties' rights, including certain challenges on appeal.

SECTION 5. INTERPRETERS

Parties are responsible for securing an interpreter through Superior Court Administration (https://www.fultonsuperiorcourtga.gov/interpreters). Should the matter resolve or be continued after an interpreter has been secured, parties are responsible for informing Superior Court Administration that the interpreter is no longer necessary. If they fail to inform Superior Court Administration, the parties will be responsible for all costs associated with the interpreter's appearance.

SECTION 6. DEADLINE EXTENSIONS, GENERALLY

Notify the Court immediately of any problem or dispute (e.g., discovery issues, witness unavailability, illness, or the late addition of parties or claims) that could delay the deadlines or hearing dates set forth by the Court. Modification of any deadline or hearing date requires the Court's approval, even if all parties consent to the change. Any requests for deadline extensions should be made as soon as the need arises and before the deadline expires. No continuances will be granted except for good cause shown. Extensions of discovery are governed by Section 8.6.

SECTION 7. EARLY MOTIONS

"Early Motions" are defined as motions which are dispositive of some or all of the issues in the case and for which discovery is not needed. "Early Motions" include motions to dismiss, motions for more definite statement and the like.

If a defendant files an O.C.G.A. § 9-11-12(b) motion to dismiss before the deadline to file an Answer has passed, the deadline to file an Answer is postponed until 15 days after the Court rules on that motion.

In the event an O.C.G.A. § 9-11-12(b) motion to dismiss is filed, discovery will stay or resume as indicated in the Civil Practice Act. Any party may move to lift the stay of discovery.

SECTION 8. DISCOVERY

8.1. Discovery Deadlines

The compellable discovery period shall be set by separate Scheduling Order. Absent entry of an order setting same, the compellable discovery period shall be as defined in Uniform Superior Court Rule 5.1.

See § 7. above concerning a discovery stay in the event of an O.C.G.A. § 9-11-12(b) motion to dismiss.

8.2. Expert Discovery

Expert disclosures shall include the names, subject matters, substance of facts and opinions, and a summary of the grounds for each opinion which any expert is

expected to testify at trial. Expert disclosure shall be made **no later than thirty (30) days prior to the end of discovery** unless otherwise ordered by the Court.

8.3. Discovery Responses - Boilerplate and General Objections

Boilerplate objections in response to discovery requests are prohibited. Parties should not carelessly invoke a litany of rote objections, *e.g.*, attorney-client privilege, work-product immunity, overly broad/unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, etc. Instead, parties are required to particularize their objections.

General objections are prohibited, *i.e.*, a party shall not include in his response to a discovery request an introductory or "General Objections" section stating that the party objects to the 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 that apply to that request. All general objections may be disregarded by the requesting party and the Court.

A party who objects to a discovery request but then responds to the request must indicate whether the 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 expressly indicates whether additional information would have been included in the response but for the objection(s).

Failure to comply with these directives may result in casting upon the offending party payment of attorney's fees incurred by the requesting party who was forced to bring the matter before the Court. Violation of these directives may also result in other sanctions, including, but not limited to, the exclusion of evidence introduced at trial which was requested but not disclosed during the discovery period.

8.4. Electronically Stored Information (ESI)

Parties shall take reasonable steps to preserve relevant electronically stored information ("ESI"). The parties shall confer early regarding the scope, format, and preservation of ESI, including any issues related to accessibility, search terms, and privilege. In conducting ESI discovery, the parties are expected to cooperate in good faith and specifically apply principles of reasonableness and proportionality. Absent prior agreement of the parties, or further order of the Court, ESI shall be produced in reasonably usable form.

If a party claims ESI is not reasonably accessible due to undue burden or cost, that party shall identify the sources and provide a brief explanation. The Court may order cost-shifting or other relief as appropriate.

Inadvertent disclosure of privileged ESI shall not constitute a waiver if the producing party promptly notifies all parties of the claim and takes reasonable steps to rectify the error.

8.5. Discovery Disputes

Any motion seeking resolution of a discovery dispute shall be filed **within sixty (60) days** from the date of the response or event (e.g. deposition) that is the subject of the motion, and in no event later than the close of discovery absent Court Order.

The motion must conform to the requirements of Uniform Superior Court Rules 6.4(A) and (B), including without limitation that "[a]t the time of filing the motion, counsel shall also file a statement certifying that such [pre-filing] conference [amongst affected parties or entities] has occurred and that the effort to resolve by agreement the issues raised failed." U.S.C.R. 6.4(B).

The discovery motion shall be limited to no more than ten (10) pages, double spaced, with a size twelve (12) or larger font. 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, with a size twelve (12) or larger font.

8.6. Discovery Extensions

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 shall include all the current deadlines and all proposed 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.

SECTION 9. AMENDMENTS TO PLEADINGS

The deadline for all amendments to pleadings is **the close of discovery**.

SECTION 10. 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 **within thirty (30) days after the close of fact discovery**.

Except upon written permission of the Court, briefs and responsive briefs shall be limited to twenty-five (25) pages in length, excluding exhibits, double spaced with a size twelve (12) or larger font. Approval to exceed this page length may be requested informally by email.

If a pleading, motion or response brief is over forty-five (45) pages in length, including exhibits, it must be hand delivered or mailed to Chambers.

In addition to e-filing and e-serving the motion or response, parties are required to send courtesy copies to the Staff Attorney by email. See Uniform Superior Court Rule 6.1 ("When an attorney or party e-files a motion or any response, the attorney or party shall notify the opposing parties and the assigned judge or the judge's designee by email of the motion or response contemporaneously but no later than 24 hours after e-filing.")

SECTION 11. PROPOSED ORDERS

Proposed orders should not be e-filed. Proposed orders may be emailed to the Staff Attorney (in WORD format) with attached copy of the filed motion to which the proposed order pertains.

SECTION 12. ALTERNATIVE DISPUTE RESOLUTION

The parties are expected to utilize a formal alternative dispute resolution (ADR) process to resolve their disputes and will be allowed to choose the timing and manner of their efforts. If the parties choose to participate in mediation, the neutral must be registered with the Georgia Office of Dispute Resolution. When the parties participate in ADR, they shall schedule mediation or arbitration so as not to delay discovery, motions, trial or otherwise affect the progress of the litigation. A request for the Court to enter an Order directing this case to mediation through the Fulton

County ADR Office shall be submitted in writing with a copy to opposing counsel. Participation in ADR will not cause the continuance of any hearing, trial, or deadline contained herein.

SECTION 13. CONSOLIDATED PRE-TRIAL ORDERS

If a party files a jury demand in this case, or if a party anticipates wanting a trial by jury, then the parties shall submit, by email, a fully consolidated pre-trial order ("PTO") by email directly to the Judge's Staff Attorney **no later than one (1) week before the trial calendar begins**. No party may submit their own individual portions of the PTO to the Court without written certification detailing their good-faith efforts to present the Court with a fully consolidated order. Failure of any party to submit its portion of the PTO may result in sanctions including dismissal of their claims (or the entire case) for want of prosecution.

SECTION 14. TRIAL AND TRIAL PREPARATION

This case will be placed on **a trial calendar approximately four (4) months after the close of discovery**. Parties 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. However, parties should anticipate this case will be tried in the month as indicated in the Scheduling Order. The Court will call the cases for trial in the order in which they appear on the calendar, except in exceptional circumstances.

Immediately upon receipt of trial notice, the parties are ordered to contact the Staff Attorney with the status of the case, the estimated length of trial and the possibilities of settlement during the trial calendar.

The Court will also notify parties of trial by publication in the legal organ at least twenty-one (21) days before the call of the first case listed.

All conflict letters must be submitted one (1) week before the trial calendar begins and must follow U.S.C.R. 17.1 in proposing a resolution. Continuances will be granted only due to exceptional circumstances.

14.1. Motions in Limine and Depositions Used at Trial

Motions in Limine shall be made in writing, filed **no later than one (1) week prior to the beginning of the trial calendar**.

If parties intend to rely on deposition testimony, that party must confer with all other parties **prior to trial** and attempt to agree on the testimony to be presented. If the parties cannot agree on what portions of the deposition testimony, if any, should be excluded, the objecting party must prepare a list of the page and line numbers at issue and provide it to the Court **no later than the time that party files its motions in limine (one (1) week prior to beginning the trial calendar)** – along with the relevant text from the deposition(s). Failure to comply with this requirement will constitute a waiver of the objection to the challenged deposition testimony.

14.2. Voir Dire

Parties shall submit to the Staff Attorney all proposed *voir dire* questions **no later than two (2) business days prior to the beginning of the trial calendar**. Prior to commencement of *voir dire*, the Court will discuss with the parties which questions will be permitted and which will be disallowed. The Court will propound all general questions to the entire panel. Parties will be allowed to conduct their own individual *voir dire* to follow up on answers given in response to the general questions and biographical information provided by the prospective jurors.

14.3. Verdict Forms

The attorneys shall submit any proposed verdict forms to the Staff Attorney by email **no later than one (1) week prior to the beginning of the trial calendar**.

14.4. Jury Charges

Parties shall email the Staff Attorney their requested jury charges in WORD format – as described below - **no later than two (2) business days prior to the beginning of the trial calendar**.

In this WORD document – for pattern charges - the parties shall list on a page(s) the title and pattern number of the requested pattern charges, using the current pattern charges published by the Council of Superior Court Judges (the pattern charges are updated January and July of each year). Unless a modified

version of the pattern charge is being requested, do not recite the text of the pattern charge, just list the title and pattern number.

In this WORD document – for non-pattern charges - the parties must recite the text of the charge requested and reference the applicable, supporting statutory or case authority. The parties may request non-pattern charges only if there is no pattern charge that covers the issue. 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. The Court will not give duplicative charges and will defer to pattern, rather than non-pattern charges.

14.5. Exhibits & Demonstrative Evidence

All exhibits and demonstrative evidence shall be marked with exhibit labels and exchanged among the parties, along with an exhibit list, **prior to the beginning of the trial**. The parties are instructed to confer before trial and agree, at least as to authenticity, on all such exhibits where possible.

Before jury selection begins, the parties shall provide the Court with a copy of the exhibit list. Exhibit lists shall include for each exhibit both the exhibit number/letter and a brief description of what the exhibit purports to be. Any known disagreement about admissibility of exhibits shall be brought to the Court's attention **before trial begins**.

Parties are under a continuing obligation to preview upcoming exhibits with

the opposing party before relevant witnesses are called to the stand. It is not an appropriate use of the jurors' time to have the parties reviewing proposed exhibits while a witness waits on the stand and the jurors wait in the jury box.

14.6. Courtroom Technology

The Superior Court of Fulton County uses Zoom for displaying evidentiary materials. Parties seeking to utilize Court technology to display recordings or other evidence must prepare for trial by contacting Court Technology Services (www.fultoncourt.org/court-technology) to fill out a request form **at least one (1) week before trial** to make certain the evidence viewing equipment has the associated media player, drivers and accessories necessary for you to make an effective presentation and you are trained on use of the equipment before day one of trial. The Court and Court staff are not available to provide training on how to work the courtroom technology.

However, the courtroom evidence presentation technology can be temperamental. The parties are free to bring their own evidence viewing equipment, although this will require an order pursuant to Uniform Superior Court Rule 22. Any party seeking such an order must provide a proposed order to the Staff Attorney **at least one (1) day prior to trial**. The inability to display evidence will not be reason to delay or continue trial.

SECTION 15. COURTROOM CONDUCT

All attorneys, parties and *pro se* litigants are required to conduct themselves with professionalism and civility in the courtroom.

15.1. Objections to Questions or Testimony

When objecting during a proceeding, state only that you are objecting and specify the ground(s) for the objection. Do not make "speaking objections" or utilize objections for the purpose of making a speech, recapitulating testimony, or attempting to guide the witness. Typically, the grounds for objections can be stated in three words or less (calls for speculation, lack of foundation, hearsay, asked and answered). Argument upon the objection will not be heard until permission is given or argument is requested by the Court. Parties may request a sidebar discussion if there is a need to elaborate on the grounds for or response to an objection.

15.2. Court Hours and Promptness

The Court makes every effort to begin proceedings at the time set, and thus, promptness is expected from counsel, parties, and witnesses. Parties shall arrange the schedule of the witnesses and the case to avoid unnecessary delay. If a party anticipates scheduling difficulties, or a question of law or evidence will provoke an argument, provide the Court with advance notice.

The Court reminds the parties that failure to strictly adhere to the Uniform Superior Court Rules, the Civil Practice Act, or the Court's Orders may result in

sanctions.

SECTION 16. SANCTIONS

Sanctions for the failure to abide by the directives and deadlines set out in this or any other Order, or for failing to timely supplement discovery responses as required by O.C.G.A. § 9-11-26(e) and this Order, may include, but are not limited to, the striking of pleadings, entry of default, exclusion of evidence, and charging of costs against the offending party. See Lee v. Smith, 307 Ga. 815 (2020); Doherty v. Brown, 339 Ga. App. 567, 575-76 (2016), *rev'd sub nom.* Southeast Pain Specialists, P.C. v. Brown, 303 Ga. 265 (2018), and *vacated on other grounds*, 347 Ga. App. 187 (2018).

A party's failure to respond to a discovery request to identify anyone with knowledge during the discovery period or the failure to identify experts as ordered will not be cause to continue a trial on behalf of the offending party and, unless good cause is shown for the omission, may cause the undisclosed witness's testimony to be excluded, striking of pleadings, or other sanctions. Id.

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. Chambless, 295 Ga. App. 376, 377 (2008).

- Judge's signature on next page -

SO ORDERED, this 21st day of October, 2026.

KELLY LEE ELLERBE, JUDGE
SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT