24-EX-001435

FILED IN OFFICE

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CHE ALEXANDER
Clerk of Superior Court
Fulton County, Georgia

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

IN RE: PROCEDURE FOR ALL CIVIL CASES ASSIGNED TO JUDGE MCAFEE'S DIVISION	JUDGE SCOTT MCAFEE

AMENDED[1] STANDING CASE MANAGEMENT ORDER FOR CIVIL CASES IN JUDGE SCOTT MCAFEE'S DIVISION

The following terms govern the parties and their practice for civil cases in this Division.

CONTACTING THE COURT

Elizabeth Suh, Senior Staff Attorney, is the principal contact for civil matters. Electronic communication is encouraged. Communication with Ms. Suh should be via e-mail (elizabeth.suh@fultoncountyga.gov). Ms. Suh will respond to all matters as time permits. When communicating with the Court, parties are reminded to ensure that the opposing parties and counsel, as appropriate, are copied on all communications. Documents e-mailed for the Court's review (motions and other pleadings) should be sent in .PDF format. Documents e-mailed for Judge McAfee's signature (proposed orders, etc.) should be sent in Microsoft Word format.

E-FILING

E-filing is mandatory for civil cases filed in Fulton County Superior Court. Electronic service of pleadings, other than the initial complaint and summons, is legally sufficient. Every attorney of record and every *pro se* litigant must register with the Court's e-filing system. This can be accomplished at www.efilega.com. Please visit https://www.fultonsuperiorcourtga.gov/efile for more information and to see the current Standing Order Regarding Electronic Filing for Civil Cases.

E-filing does not provide automatic notice to the Court of filings. While e-filing ensures that your pleadings and other documents are made part of the official record,

[1] This Order supersedes Amended Standing Case Management Order for Civil Cases in Judge Scott McAfee's Division, 24-EX-001151 (Oct. 18, 2024).

it does not result in that pleading or document automatically reaching the desk of the Senior Staff Attorney or the Judge. If there is a filing that you want to be sure is brought to the attention of the Court, you should e-mail a copy of same to Ms. Suh.

CASE MANAGEMENT

1. Service

   Petitioner/Plaintiff must file proof of service of the initial Petition and related filings within 60 days of filing the case or the case shall stand DISMISSED, absent proof of diligence in attempting service and leave of Court.[2] The Court reserves the right to shorten or lengthen this period upon notice to the parties or entry of an order. To seek an order for service by publication, the Petitioner/Plaintiff must file proof of attempted service on Respondent/Defendant at Respondent's/Defendant's last known address, together with a Motion for Service by Publication and an Affidavit of Diligent Search, within 60 days of filing the case or the case shall stand DISMISSED. If a Motion for Service by Publication is granted by the Court, Petitioner/Plaintiff must file a Notice of Publication directing the Clerk of Court to mail a copy of the summons, complaint, copy of the Order for Service by Publication, and the notice of publication to Respondent/Defendant at his/her last known address within 15 days of entry of the Order for Service by Publication and must publish Notice in the official county organ within 15 day of entry of the Order for Service by Publication and file with the clerk's office an Affidavit of Publication from the official county organ within 45 days of entry of the Order or the case shall stand DISMISSED.

2. Scheduling

   The Court will enter a Case-Specific Scheduling Order ("CSSO") which establishes the discovery period and deadlines. In the event a modification to the CSSO is requested, the moving party shall submit a proposed Revised Scheduling Order, including all proposed deadline extensions and a statement indicating whether the Court has previously granted extension requests, to Ms. Suh via

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[2] Pursuant to O.C.G.A. § 9-11-41(b), the Court is authorized to *sua sponte* exercise its inherent power to enter an order of involuntary dismissal. *Swartzel v. Garner*, 193 Ga. App. 267, 267 (1989).

email, with all parties copied. Unless the Court receives a modification request, the Court will enter a CSSO as follows:

Task	Deadline
Plaintiff Expert Disclosures	90 days before the close of discovery
Defendant Expert Disclosures	60 days before the close of discovery
Rebuttal Expert Disclosures	45 days before the close of discovery
End of Discovery	6 months from the date of the answer
Dispositive & Daubert Motions	30 days after the close of discovery
Deadline to Mediate	90 days after the close of discovery
Deadline to Request a Jury	90 days after the close of discovery
Consolidated Pre-Trial Order	7 days before the Pre-Trial Conference
Pre-Trial Conference	7-14 days before the first day of the trial week
Trial	The first available civil trial week occurring (generally) 120 days after the close of discovery

3. Extensions of Time

Parties seeking an extension should explain with specificity the unanticipated or unforeseen circumstances necessitating the extension and should set forth a timetable for the completion of the task(s) for which the extension is sought. The Court shall be notified 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 case or cause a party to miss a deadline.

4. Conferences

Discovery, pre-trial, and settlement conferences promote the speedy, just, and efficient resolution of cases. Therefore, the Court encourages the parties to request a conference whenever they believe that such will be helpful and have specific goals for the conference. The Court will accommodate the parties by

meeting in chambers, in court, or over the phone, consistent with the parties' schedules and preferences.

5. Mediation/Alternative Dispute Resolution (ADR)

Parties are required to contact the Alternative Dispute Resolution Program of Fulton County Superior Court, or a private mediator of their choice, to participate in a mediation by the deadline imposed in the respective scheduling order. Any party can obtain an exemption from this requirement upon a proper showing to the Court. Any party may request arbitration or judicially hosted settlement conference in lieu of mediation. The Court will, in the appropriate circumstance, entertain a request for a non-binding summary jury trial. Participation in mediation or some other form of ADR shall 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.

DISCOVERY

1. Deadlines

In the event an extension to the discovery deadline(s) established in the CSSO is requested, the moving party shall submit a proposed Revised Scheduling Order, which must include all proposed deadline extensions as well as a statement indicating whether the Court has previously granted extension requests. All requests for discovery extensions shall include a basic description of discovery conducted thus far, the requested deadline extension, a specific schedule of outstanding discovery to be completed during the requested extension, and an explanation as to why the deadline(s) set in the original CSSO was insufficient.

All discovery requests must be served early enough so that the responses are due on or before the last day of the discovery period. The Court typically will not enforce private 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 an objection is raised by the opposing party.

2. Discovery Responses

Boilerplate objections in response to discovery requests are prohibited. Parties should not invoke a 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.

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 the discovery request "to the extent that" it violates 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 — but only those objections that *actually* apply to that particular 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 shall be disregarded by the Court.

Finally, a party which 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 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).

3. Experts

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

4. Disputes

Direct, informal communication is encouraged between the parties to address potential discovery disputes before they become actual discovery disputes. If that fails, an aggrieved party must notify the Court of the discovery dispute by

submitting a letter/e-mail demonstrating compliance with Uniform Superior Court Rule 6.4 and providing sufficient information and/or documentation. No party may file a motion to compel or a motion for a protective order without first having discussed the issue with opposing parties. This stricture applies to disputes with non-parties as well. Motions to compel that do not comply with Rule 6.4 will be denied. The Court will not hesitate to sanction a party and/or counsel found to have abused the discovery process or to have flouted the governing rules and laws.

The Court will *sua sponte* appoint a Special Master pursuant to U.S.C.R. 46 in any case where it appears discovery disputes have been or will be frequent and reoccurring. Such a special master will be directed to promptly address and provide guidance for any motions to compel, motions for contempt, and any other discovery disputes, with costs to be apportioned among the parties.

5. Depositions

Absent extraordinary circumstances, opposing counsel (or *pro se* litigants) should be consulted before a deposition is noticed.

At the beginning of a deposition, deposing counsel shall instruct the witness to ask deposing counsel, rather than the witness' own counsel, for clarifications, definitions, or explanations of any words, questions, or documents presented during the deposition. The witness shall abide by these instructions.

All objections except those that would be waived if not made at the deposition under O.C.G.A. § 9-11-32(d)(3)(B) and those necessary to assert a privilege or to present a motion pursuant to O.C.G.A. § 9-11-30(d) shall be preserved. Therefore, those objections need not be made during depositions. If counsel defending a deposition feels compelled to make objections during depositions, counsel should limit the objections to only "objection to form." Defending counsel should only elaborate on their objection upon the request of deposing counsel. Defending counsel should avoid speaking objections except in extraordinary circumstances.

Counsel shall not instruct a witness not to answer a question unless that counsel has objected to the question on the ground that the answer is protected by a privilege or a limitation on evidence directed by the Court. Therefore, objections lodged during depositions should be noted but questions should be answered over those objections. If a serious, legitimate 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.

Counsel shall not make objections or statements that might suggest an answer to a witness. Counsel's statements when making objections should be succinct and verbally economical, stating the basis of the objection and nothing more.

Counsel and their witnesses/clients shall not engage in private off-the-record conferences during depositions or during breaks regarding any of counsel's questions or the witness' answers, except for the purpose of deciding whether to assert a privilege. Any conferences that occur pursuant to, or in violation of, this rule are a proper subject for inquiry by deposing counsel to ascertain whether there has been any witness-coaching. Any conferences that occur pursuant to, or in violation of, this rule shall be noted on the record by the counsel who participated in the conference. The purpose and outcome of the conference shall also be noted on the record.

Deposing counsel shall provide to the witness' counsel a copy of all documents shown to the witness during the deposition. The copies shall be provided either before the deposition begins or contemporaneously with the showing of each document to the witness. The witness and the witness' counsel do not have the right to discuss documents privately before the witness answers questions about them.

Depositions are limited to no more than seven hours of time on the record. Breaks are not counted when calculating the duration of the deposition.

MOTIONS

1. Deadlines

Unless otherwise established in the written Scheduling Order, dispositive motions must be filed within 30 days after the close of discovery. Movants must provide courtesy copies of motions and related filings to the Court. Electronic copies of pleadings are preferred. Movants are permitted to file a reply within 15 days of the response. No party may file additional briefing without leave of court, which may be requested by email explaining why additional briefing is necessary. Failure to respond or reply within the time afforded by the Uniform Superior Court Rules (or as extended by Court order) will not prevent the Court from ruling once a motion is ripe for adjudication. Similarly, a party's failure to inform

the Court that it intends to file a reply within the time afforded will not prevent the Court from ruling on the merits.

2. Format

All motions, proposed orders, and other submissions to the Court shall be printed or typed with not less than double-spacing between the lines, except in block quotations or footnotes. Margins shall be no less than one inch at the top, bottom, and sides. The type size shall not be smaller than 12-point font. Precision and concision are strongly encouraged. Absent advance permission, no party may file a motion or brief in excess of 25 pages (excluding affidavits, deposition extracts, and other relevant exhibits). Reply briefs are limited to 15 pages. Documents exceeding the above page limits that are filed without permission may be disregarded by the Court and stricken from the record.

Every ministerial motion (*e.g.*, motion to exceed page limit, to extend discovery, etc.) must be accompanied by a proposed order (with the proposed order submitted electronically as a Microsoft Word document).

3. Amicus Briefs/Non-Party Filings

An amicus curiae brief may be filed only by an attorney admitted to practice before this Court. Consent of the parties is not required. A motion for leave to file an amicus curiae brief may be presented to the Court by email to the Staff Attorney. The motion shall attach the proposed brief as Exhibit 1, shall state the identity and nature of the movant's interest, and shall include a proposed order granting the motion. Any unapproved filings submitted by a non-party shall not be docketed by the Clerk of Court and/or stricken from the record by this Court.

4. 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. That Rule 6.3 pleading must also be e-mailed to Ms. Suh.

All notices issued by the Court will specify whether the proceeding is in person, virtual only, or virtual and/or in person. Counsel and parties may appear in any manner specified by the published calendar. The Court may authorize counsel and/or the parties to appear in a manner different than specified on the calendar, but only upon specific request and authorization by the Court. Witnesses may appear virtually if agreed by the parties and authorized by the Court. *See* U.S.C.R. 9.1 and 9.2. Video links provided for a hearing shall not be shared with anyone for any reason absent express permission from the Court.

To facilitate public access and open judicial proceedings, the Court may live-stream its proceedings and subsequently post recordings on the county-provided YouTube channel.[3] Parties are directed to raise any concerns regarding this practice with the Court in advance of any hearing.

5. Court reporter

Parties seeking to have any hearing or trial reported are directed to provide their own court reporter. Attorneys have an affirmative duty to notify their clients that failure to have a proceeding reported may have an adverse effect on any appeal.

6. Proposed orders

When a dispositive motion is ripe for adjudication, the parties are invited to submit proposed orders for review. All proposed orders should be submitted electronically via email directly to Ms. Suh in Microsoft Word format. Proposed orders on motions for summary judgment should include detailed findings of facts and conclusions of law which the Court may adapt as appropriate.

SANCTIONS

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. Sanctions for failure to abide by the terms of this Order or of any of the Court's other Orders, including, without limitation, the deadlines set out in this or any other Order; failing to timely supplement discovery responses as required by O.C.G.A. § 9-11-26(e) and this Order; or failing to maintain confidentiality as required by this or any other Order may include, but are not necessarily limited to, the striking of pleadings, exclusion of evidence, exclusion of witnesses, and charging of fines,

[3] Available at https://www.youtube.com/@judgescottmcafee/streams.

attorney's fees, and/or costs against the offending party. *See Hart v. Northside Hosp., Inc.*, 291 Ga. App. 208 (2008). Further, the Court may choose to consider motions filed outside of any deadlines set in this Order to prevent manifest injustice. *See Velasco v. Chambless*, 295 Ga. App. 376, 377 (2008).

SO ORDERED, this the 2nd day of December, 2024.

JUDGE SCOTT MCAFEE
SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT