IN THE SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT

STANDING CASE MANAGEMENT ORDER FOR CIVIL CASES IN JUDGE M^C^BURNEY'S DIVISION

2020EX 000092

(REVISED 5 February 2020 -- supersedes all previous versions)

The following terms govern the parties and their practice 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 Sullivan Niles, Staff Attorney, is your principal contact. Whenever possible, communication with Ms. Niles should be by telephone (404.612.6912) or e-mail (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. Mailed and hand-delivered communications should be addressed as follows:

Monica Sullivan Niles
185 Central Avenue SW
Suite T-1955
Atlanta, GA 30303

Electronic communication is encouraged. 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. This means that electronic service of pleadings, other than the initial complaint and

summons, is now 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. 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 attention, you should e-mail a copy directly to Ms. Niles, explaining what it is and its urgency.

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

III. CASE MANAGEMENT

1. Scheduling conference

Upon the filing of an answer in a case, the Court will arrange a scheduling conference. Unless there are *pro se* parties involved (or the represented parties otherwise request), this conference will be telephonic. 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 the efficient resolution of cases. Therefore, the Court encourages the parties to request such a conference whenever they believe that it would be helpful *and* they 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.

3. Extensions of time

Because parties will be 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 the matter 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. Deadlines

In the event an extension to the discovery deadline(s) established in the Scheduling Order 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 schedule of outstanding discovery to be completed during the requested extension, and an explanation as to why the deadline the parties set in the original Scheduling Order was insufficient.

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 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. Responses to discovery requests

Boilerplate objections to discovery requests are prohibited. Parties should not mindlessly invoke the usual 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, they should particularize their 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 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 thereto -- 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 that objects to a discovery request but then 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 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, Plaintiff(s) shall disclose the names and opinions of all experts two months before discovery closes. Defendant(s) shall disclose the names and opinions of all experts one month 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 to permit a meaningful telephone conference 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 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 rules and laws governing it.

5. Depositions

Absent extraordinary circumstances, opposing counsel (or *pro se* 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. 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.

V. MOTIONS

1. Deadlines

Unless otherwise established in the written Scheduling Order, dispositive motions must be filed within two weeks of the close of discovery. Movants must provide courtesy copies of motions and related filings to the Court.[1] Electronic copies are preferred, although hard copies of lengthy exhibits or other attachments are required. ("Lengthy" = in excess of 50 pages.) Failure to respond to a motion 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.

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

Absent permission of the Court, movants **may not** file reply briefs. Replies filed without permission will be stricken from the record.

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[1] An amendment to Uniform Superior Court Rule 6.1 making this standard practice throughout Georgia is presently before the Supreme Court for expected approval.

4. Format

Precision and concision are encouraged. **Absent advance permission, 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 from the record.

Every ministerial motion (*e.g.*, motion to file reply, to extend discovery, etc.) must be accompanied by a proposed order (with the proposed order submitted electronically as a Microsoft Word document). However, proposed orders should not be e-filed; they should be provided directly to Ms. Niles.

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. That Rule 6.3 pleading must also be e-mailed to Ms. Niles, along with a proposed rule nisi in Microsoft Word format.

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 both the Court and Ms. Niles.

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 that the Court can arrange for proper services.

6. Court reporter

The parties must provide their own court reporter if they desire to have any proceedings 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. All proposed orders should be submitted electronically to Ms. Niles in Microsoft Word format. Proposed orders on motions for summary judgment should include detailed findings of facts and 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 may include, but are not limited to, the striking of pleadings, entry of default, and charging of costs against the offending party.

SO ORDERED this 5th day of February 2020.

JUDGE ROBERT C.I. M°BURNEY
SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT