2020-EX-001048

IN THE SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT
STATE OF GEORGIA

~~2020-EX-1048~~

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

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

I. CONTACTING THE COURT

Lara Percifield, Senior Staff Attorney, is your principal contact. Whenever possible, communication with Ms. Percifield should be via e-mail (lara.percifield@fultoncountyga.gov). Ms. Percifield is very busy but she will respond to your email.

When communicating with the Court, **parties are reminded to ensure that the opposing party/parties or counsel, as appropriate, is copied on all communications**.

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 now 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.

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, it does not necessarily result in that pleading or document reaching the desk of either 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. Percifield.

III. CASE MANAGEMENT

1. Scheduling conference

Upon the filing of an answer in a case, the Court will arrange a scheduling conference. This conference will be telephonic or via video conference. During the conference, the Court will solicit the parties' input as to deadlines for discovery and dispositive motions, as well as a possible 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. The parties may be excused from attending if they submit a Consent Scheduling Order in advance of the scheduling conference.

2. Other 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 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 or though their consent scheduling order to establish what they deem to be reasonable, workable deadlines, motions for extension typically will not be granted as a matter of course. 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. 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 necessary. Additionally, the Court will, in the appropriate circumstance, entertain a request for a non-binding summary jury trial. 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 specific 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

Boilerplate objections in response 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.

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 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, 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 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.

V. 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; hard copies of lengthy exhibits or other attachments are required. 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. Reply Briefs, if filed, will not postpone or delay the Court's ruling on any pending motion(s).

2. Format

Precision and concision are strongly encouraged. **Absent advance permission, no party may file a motion, brief, or response in excess of twenty (20) pages** (excluding affidavits, deposition extracts, and other relevant exhibits). Documents exceeding twenty (20) pages that are filed without permission may be stricken from the record.

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

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

4. Court reporter

Parties seeking to have any hearing reported should contact Court Reporter Evelyn Parker via email at evelyn.parker@fultoncountyga.gov. Payment will be required at the time of service. **If take down is not arranged in advance, a court reporter may not be available at the time of the hearing.** If a party chooses not to participate in take down they are not entitled to receive a copy of the transcript. Attorneys have an affirmative duty to notify their clients that failure to have a proceeding reported may have an adverse effect on any appeal.

5. 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. Percifield 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.

VI. 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, 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 1st day of September, 2020.

JUDGE PAIGE REESE WHITAKER
SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT