IN THE STATE COURT OF DEKALB COUNTY
STATE OF GEORGIA
DIVISION 2-A

STANDING ORDER FOR ALL CIVIL CASES
INSTRUCTIONS TO PARTIES AND COUNSEL

This case has been assigned to Judge Kimberly K. Anderson. The purpose of this Order is to inform the parties and their counsel of the Court's policies, practices and procedures. It is issued to promote the just and efficient determination of the case. This Order, in combination with this Court's Local Rules, the Georgia Uniform State Court Rules and the Georgia Civil Practice Act, shall govern this case.

FAILURE TO COMPLY WITH ANY PORTION OF THIS ORDER MAY RESULT IN THE IMPOSITION OF SANCTIONS, INCLUDING STRIKING OF PLEADINGS, ASSESSMENT OF ATTORNEYS' FEES, DENIAL OF MOTIONS, AND/OR EXCLUSION OF WITNESSES OR EVIDENCE.

1. Contacting Chambers

Tonay Burch, our Civil Case Manager, is your principal point of contact relating to this case. Where possible, communication with Ms. Burch should be by email (tsburch@dekalbcountyga.gov) with all parties copied. If necessary, Ms. Burch may also be reached by phone at 404-371-7025. Mailed, couriered, or hand-delivered communications should be addressed as follows:

Ms. Tonay Burch
Civil Case Manager
556 N. McDonough St., Suite 2210
DeKalb County Courthouse
Decatur, GA 30030

Any pleadings or other documents required to be filed in the case must be e-filed according to the Court's electronic filing system.

Other members of the Judge's staff are:

Judicial Assistant Wendy Videki	(404) 371-2350	wvideki@dekalbcountyga.gov
Court Reporter Tina Harris	(404) 371-7012	tdharris@dekalbcountyga.gov
Staff Attorney Marny Heit		mjheit@dekalbcountyga.gov

2. Courtesy Copies

Parties are not required to forward courtesy copies of motions or other filings directly to chambers except for emergency motions filed pursuant to Uniform Superior Court Rule 6.7. Courtesy copies of motions that have voluminous exhibits should also be submitted to chambers.

In complex cases, **e-mailed** courtesy copies of substantive motions to Ms. Burch are welcomed and appreciated. In e-filed cases, you may send a courtesy copy when submitting a filing through the Odyssey system using the "Courtesy Copies" field on the "Filings" screen.

If a party files a motion or any type of response brief less than 48 hours prior to a scheduled hearing or trial, the party must provide a courtesy copy of said filing to Ms. Burch at the time of filing. Take note that Judge Anderson will not read any briefs filed after 5:00pm the day before a hearing.

3. Scheduling Order and Extensions of Time

The Court, along with counsel for the parties, is responsible for processing cases toward prompt and just resolutions. To that end, the Court seeks to set reasonable but firm deadlines. Under Georgia law, the parties automatically have six (6) months from the date of the Answer to complete discovery. However, if the parties believe at the outset of the case that more time is necessary to conduct discovery, the parties must confer to establish a deadline by which to complete discovery **and** provide a proposed scheduling order to Ms. Burch no later than **ten (10) business days** from the date of the Answer.[1] All discovery must be served early enough so that the responses thereto are due on or before the last day of the discovery period.

4. Conferences

Scheduling, 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 with the Court when counsel believes a conference will be helpful and when they have specific goals and an agenda for the conference. The proposed agenda should be submitted to the Court along with the request for such conference.

5. Candor in Responsive Pleadings

In accordance with O.C.G.A. § 9-11-8(b), a party's responsive pleading must admit or deny the averments of the adverse party's pleading. A party may not deny, in his responsive pleading, an averment in his opponent's pleading on the grounds that the

[1] The Court's preferred scheduling order format is available on the Court's website.

averment raises a matter of law rather than fact.

6. Discovery Responses

Boilerplate objections in response to discovery requests are strongly discouraged. Parties should not invoke the usual litany of rote objections—i.e., attorney-client privilege, work-product immunity from discovery, overly broad/unduly burdensome, irrelevant, not reasonably calculated to lead to the discovery of admissible evidence—unless there is a valid basis for these objections.

Moreover, general objections are disfavored, i.e., a party should avoid including in his response to a discovery request a "Preamble" or a "General Objections" section stating that the party objects to the discovery request "to the extent that" it violates some rule pertaining to discovery (such as attorney-client privilege, work product immunity from discovery, the requirement that discovery requests be reasonably calculated to lead to the discovery of admissible evidence, or the prohibition against discovery requests that are vague, ambiguous, overly broad, or unduly burdensome). **Instead, a responding party should only include those objections that actually apply to the particular request at issue.** Otherwise, it is impossible to know what objections have been asserted to each individual request. **Such general objections may be disregarded by the Court**.

A party who objects to a discovery request but then responds to the request must indicate whether the response is complete. 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 objections(s).

The parties are expected to observe the limitations regarding the number and scope of interrogatories as stated in O.C.G.A. § 9-11-33(a)(1). Counsel's or a pro se litigant's signature on the interrogatories constitutes a certification of compliance with those limitations. Interrogatories should be brief, straightforward, neutral, particularized and capable of being understood by jurors when read in conjunction with the answer. Ordinarily, they should be limited to requesting objective facts, such as the identification of persons or documents, dates, places, transactions and amounts. Argumentative interrogatories, attempts to cross-examine and multiple repetitive interrogatories are objectionable.

Requests for Admissions are limited to 25 per party, including subparts, absent leave of Court. If a party submits more than 25 RFA's without the Court's permission, the served party must respond only to the first 25 and may disregard the remainder.

Evidence presented at trial which was requested but not disclosed during the discovery period will not be admitted.

Finally, if any documents are withheld from production during discovery pursuant to a privilege, **a privilege log must be produced at the time the discovery response is due, identifying the document(s) withheld and the privilege asserted**.

7. Conduct During Depositions

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

(b) 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 the depositions. If counsel defending a deposition feels compelled to make an objection, he or she should limit the objection to only "objection to form." Defending counsel shall elaborate on his/her objection only upon the request of deposing counsel.

Counsel shall not make objections or statements that might suggest an answer to a witness and shall avoid speaking objections except in extraordinary circumstances.

(c) 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. The objection must be legitimate.

(d) Counsel and their witness-clients SHALL NOT engage in private off-the-record conferences during depositions or during breaks regarding any of counsel's questions or the witness's 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 and, if so, what it entailed. 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 be noted on the record.

(e) Deposing counsel shall provide to the witness's 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's counsel do not have the right to discuss documents privately before the witness answers questions about them. See subsection (d) above.

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

(g) If a bona fide dispute arises during a deposition that the parties cannot resolve despite a good faith effort to do so, counsel should contact the Court to request a phone or Zoom conference.

8. Serving Discovery Prior to Expiration of the Discovery Period and Extensions of the Discovery Period

Motions for extension, whether joint, unopposed or designated as consent, will not be granted as a matter of course. Such motions must be filed before the expiration of the applicable deadline to be extended, or they will not be considered by the Court. 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 tasks for which the extension is sought. Parties should indicate whether opposing counsel consents to the extension. **A proposed order must be provided along with a new proposed scheduling order establishing the remaining deadlines in the case.**

Any party seeking to re-open and extend discovery pursuant to Uniform State Court Rule 5.1 must provide a summary of the discovery that remains to be completed, why such discovery was not completed during the discovery period, how many discovery extensions were granted prior to the close of the discovery, and a proposed Scheduling Order. A motion to re-open and extend discovery, even if upon consent, will only be granted for good cause shown.

9. Discovery Disputes

Prior to filing a motion to compel discovery, the movant—after conferring with the respondent in a good faith effort to resolve the dispute by agreement—should contact Ms. Heit via email and with copies to all parties and notify her that the movant seeks the Court's input with respect to a discovery matter. Parties are directed to meaningfully confer in good faith in person or by phone prior to contacting the Court to request assistance with discovery disputes. **The duty to confer is NOT satisfied by sending a written document, such as a letter, email or fax, to the adversary, UNLESS repeated attempts to confer by telephone or in person are unsuccessful due to the conduct of the adversary.** Conferences and/or hearings regarding discovery disputes will not take place until the parties have spoken either in person or by phone, in

good faith, about the dispute. Ms. Heit will then schedule a conference in which the Court will attempt to resolve the matter without the necessity of a formal motion.

This process shall not apply to post-judgment discovery nor non-party discovery requests.

Motions to Compel filed without following the above procedure will be denied.

10. Briefs.

Briefs shall be no longer than **25 pages**, double-spaced, in 12-point font. The Court generally does not approve extensions of page limitations. Parties seeking an extension of the page limit must do so at least five days in advance of their filing deadline and should explain with specificity the reasons necessitating the additional pages. If a party files a motion to extend the page limit at the same time his or her brief is due, the extension request will be denied absent a compelling and unanticipated reason for violating the rule. If any party submits a brief longer than 25 pages without seeking special permission from the Court, the Court may disregard any arguments made in the additional pages.

11. Electronic Filings of Exhibits and Attachments

The parties should make every effort to label all electronically uploaded exhibits and attachments according to their content to assist the Court in making its ruling. For example, the Court would prefer to have documents uploaded as "Ex. A: Smith

Deposition"; "Ex. B: Employment Contract"; and "Ex. C: Jones Letter", rather than simply Ex. A, Ex. B and Ex. C.

12. Motions for Summary Judgment

All citations to the record evidence should be contained in each party's brief, not just in the party's statement of undisputed (or disputed) facts. The party should include in the brief, immediately following the deposition reference, a citation indicating the page and line numbers of the transcript where the referenced testimony can be found.

13. Hearings on Motions.

In the event a case is placed on this Court's Civil Motions Calendar, the parties should be prepared to discuss **all** pending motions if said motions are fully briefed. If a party intends to use PowerPoint (or other type of visual presentation), the party should provide a hard copy of the presentation to the Court (in-person hearings, only).

14. Proposed Orders

For all consent motions, the filing party shall include a proposed order granting the motion. In some circumstances, the Court may request that a party submit a proposed order. When submitting a proposed order, a Word version of the proposed order must be submitted Ms. Burch and/or Ms. Heit.

15. Mediation

All parties are required to mediate unless excused from so doing by the Court. The parties may use the DeKalb Dispute Resolution Center, (404) 370-8194, or may select a mutually-agreed-upon private mediator. If the parties wish to use the

DeKalb Dispute Resolution Center, they must submit a consent order for Judge Anderson's signature ordering them to mediate at the DeKalb DRC. All parties are required to mediate in good faith and with an effort to resolve ALL issues in the case. **If an insurance carrier is involved, a representative *with full settlement authority* must attend the mediation in person unless prior approval is obtained from the Court.**

16. Consolidated Pre-Trial Orders ("CPTOs")

CPTOs must be submitted by the deadline set in the Scheduling Order (i.e. one week prior to the pre-trial conference).[2] Failure to submit the CPTO according to the deadline set in the Scheduling Order will result in the continuance of the case to the next pre-trial conference calendar.

When the CPTO is submitted, the Court will consider the case to be ready for trial. The statement of contentions in the CPTO will govern the issues to be tried. The plaintiff shall make certain all theories of liability are explicitly stated, together with the type and amount of each type of damages sought. The specific actionable conduct should be set out. In a multi-defendant case, the actionable conduct of each defendant shall be identified. The defendant shall explicitly set out any affirmative defenses upon which it intends to rely at trial as well as satisfy the above requirements with respect to any counterclaims.

All exhibits and witnesses intended to be introduced at trial shall be identified

[2] A sample of the Consolidated Pre-Trial Order to be entered by the Court is available on the Court's website (www.dekalbstatecourt.net).

specifically in the CPTO. It is not sufficient to include boilerplate language covering groups of potential witnesses, such as "all individuals identified during discovery." Instead, witnesses to be called at trial must be identified **by name**. Failure to identify a witness, including an expert witness, by name in the CPTO may result in the exclusion of the undisclosed witness's testimony from trial. In listing witnesses or exhibits, a party may not reserve the right to supplement his list, nor should a party adopt another party's list by reference.

Witnesses and exhibits not identified in the CPTO may not be used during trial unless good cause is shown and except to prevent a manifest injustice.

In the CPTO, each party shall identify to opposing counsel each deposition, interrogatory or request to admit response, or portion thereof, which the party expects to or may introduce at trial, except for responses used for impeachment purposes. All exhibits, depositions, and interrogatory and requests to admit responses shall be admitted at trial when offered unless the opposing party indicates an objection to it in the CPTO. The CPTO will be strictly adhered to during the trial. Any witness, evidence or claim not contained therein shall be excluded.

Daubert motions must be filed no later than the date the proposed Pretrial Order is submitted. Briefs in opposition must be filed within fourteen days following the Daubert motion and reply briefs must be filed seven days thereafter.

17. Pre-Trial Conferences & Orders

The pre-trial conference will be held on the date indicated in the Scheduling Order issued at the outset of the case. The purpose of the pre-trial conference is to simplify the

issues to be tried, to assist in settlement negotiations where appropriate, and to give the parties a specially set date for trial. At the pre-trial conference, the parties will be required to identify the specific witnesses they will call in their case-in-chief. Lead counsel is required to appear at the pre-trial conference, unless excused by the Court prior to the conference.

Failure to appear at the pre-trial conference may result in the dismissal of the case for want of prosecution or the striking of pleadings. At a minimum, the Court will set the case for trial without input from the absent party.

The attorneys for all parties are further directed to meet by agreement, initiated by counsel for the plaintiff, no later than ten days before the date of the pretrial conference to (1) discuss settlement and (2) stipulate to as many facts and issues as possible. The Court will discuss settlement with the parties if the case is to be tried by jury.

18. Motions *in Limine* and Objections to Deposition Testimony

Deadlines to file motions *in limine* and objections to deposition testimony will be established in the Scheduling Order issued at the outset of the case. The parties are required to discuss in good faith any general motions *in limine* as well as objections to deposition testimony to see if any motions or objections can be resolved **prior to** filing a formal motion. The Court may reserve ruling on any motion that is filed prior to following the process outlined above.

The Court prefers that the parties do not filed boilerplate motions *in limine* that essentially ask the Court and opposing counsel to follow Georgia law; it is presumed the

Court will adhere to the law in its rulings. The Court expects the parties to familiarize themselves with the holding of Williams v. Harvey, 311 Ga. 439 (2021).[3]

For any general motions *in limine* or objections to deposition testimony that cannot be resolved, the parties are to file the unresolved motions or objections along with any transcripts, arguments, and citations no later than the deadline established in the Scheduling Order.

The parties are required to notify the Court of specific evidentiary issues at least ten (10) business days before trial in case a special hearing is needed. **In such a case, the Court will schedule a hearing on a date prior to trial so that all known evidentiary issues are resolved before the trial begins.** Motions *in limine* filed the day of trial may be reserved.

19. Jury Charges

All requests to charge shall be submitted to the Court in Microsoft Word format via e-mail to my staff attorney, Ms. Heit, on or before the morning of the first day of trial. The original requests to charge must be filed with the Clerk of Court. Pattern charges should be requested by number and title only and may all be listed on one page. All non-pattern charges shall be numbered consecutively on separate pages as provided by Uniform State Court Rule 10.3. Non-pattern charges must contain citations of authority supporting the requested charge.

20. Exhibits and Technology

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[3] This is an example of the Court's preferred format for Motions in Limine and objections thereto.

Arrangements with the Court's staff for the use of easels, tripods or other visual aids should be made sufficiently in advance so that they may be set up while court is not in session. A notebook containing all exhibits should be tendered to Ms. Heit prior to the start of trial, for use by the Judge on the bench during proceedings. Because enlarged exhibits and demonstrative boards are often placed on an easel in front of the jury and thus out of the Court's view, it would be helpful if counsel, when showing such an exhibit or board to the jury, would provide the Court with a small (e.g., letter- or legal-sized) copy of the exhibit or board so that the Court can view its contents.

Our courtroom has some electronic equipment for use by counsel at trial. For more information about the equipment, please contact Ms. Burch. It is the parties' responsibility to make sure they know how to use the equipment available, to have the cords necessary to hook up to the equipment, and to ensure that the parties' equipment interfaces with the Court's technology.

If a party intends to use the courtroom's technology at a hearing or trial, said party must contact Ms. Burch three (3) business days prior to the hearing or trial and schedule a time to test the equipment to ensure there is no delay due to technology issues.

21. Transcripts

Communications regarding transcripts should be directed to our Court Reporter, Tina Harris at TDHarris@dekalbcountyga.gov.

22. Leaves of Absence

All requests for or notices of leaves of absence must be electronically filed. Counsel is encouraged to review their calendars and file any requests for leave of absence as early as possible.

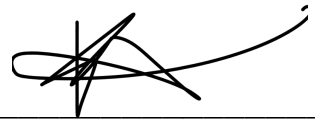
23. Withdrawal or Substitution of Counsel

It is counsel's responsibility to keep the Court informed of any change in his or her status as counsel for a party. Counsel should comply with the requirements of Uniform Superior Court Rule 4.3. Counsel who does not comply with this Rule will not be allowed to withdraw from the case until compliance is achieved.

24. Corporate Representation

Under Georgia law, corporate entities must be represented in court by a licensed attorney. Failure to comply with this rule can result in dismissal of a corporation's complaint or default being entered against a corporation.

SO ORDERED, this 16th day of May, 2023.



The Honorable Kimberly K. Anderson
Judge, State Court of DeKalb County