

## **GENERAL PROTOCOL (Commercial and Non-Commercial Cases)**

### **I. Motion Practice**

Motions for Partial Summary Judgment: If you are moving for partial summary judgment, identify in the opening paragraph the specific claims, counterclaims or issues the motion applies to.

Oral argument: I will have reviewed all filings prior to the argument and will outline my preliminary analysis and inclinations at the outset of the hearing. I will not necessarily start with the movant. The argument will be free-flowing and without structured time limits. I am interactive during argument and generally ask multiple questions. I allow counsel to sit or stand during argument, but I consider it respectful to ask to remain seated.

Forms of Order: Please submit all forms of order in WORD format.

Exhibits: For depositions or voluminous documents (such as a contract), include only those pages cited unless additional pages are needed for context only.

Citations: Include all case citations in the body of the brief and not in footnotes.

Supplemental Briefing: Sur-responses, sur-replies and supplemental briefing will not be permitted without leave of court.

Page length extensions: Briefs exceeding the page limit will not be accepted without leave of court. Prior to moving for an extension of the page limit, I expect counsel to aggressively edit their briefs in an effort to meet the page limit. I will consider motions to extend the page limit, however, when an adequate explanation is provided. A stipulation between the parties to exceed the page limit is not sufficient.

Motions in Limine: I impose a four-page limit on motions in limine and a three-page limit on responses. I do not allow replies. Each motion in limine should address only one topic.

Omnibus Motions: Do not include more than one motion in a single filing or combine a response and a motion or a reply and a motion in one filing (with the exception of true cross-motions). This includes requests for fees. Any requests for fees must be made by separate motion.

Filings made shortly before a hearing: It can take more than 24 hours for a document that is efiled to make it to my Judicial Assistant's efile inbox. If you file a document less than 3 days before a hearing that you want me to address at that hearing, please email it to my Judicial Assistant.

## II. Discovery or Disclosure Disputes and/or Sanctions

I have adopted informal discovery dispute resolution procedures as set forth in this standard order:

**IT IS ORDERED** that the dispute resolution procedures outlined below shall apply to the following circumstances: (1) the parties have a discovery dispute that needs to be addressed; (2) one party seeks to compel another party to take some action; or (3) a party intends to seek sanctions against another party. Under any of these circumstances, counsel for the movant shall contact the Court's Judicial Assistant and all other counsel to advise them of his/her request for a telephonic hearing. The moving party shall, by close of the following business day, email or fax to the Court's Judicial Assistant a one page summary of the dispute. The opposing parties shall email or fax a responsive one-page summary within two business days of receiving the movant's summary. No exhibits shall be included with the summaries. If, after reviewing a summary, the Court determines that it needs additional documents, division staff will contact the attorneys. The summaries will be filed with the clerk by the Court. Once the Court receives a summary from each party, the Court's Judicial Assistant will contact the parties to schedule a telephonic conference. The email address for the Court's Judicial assistant, Susan Whitaker, is whitakers@superiorcourt.maricopa.gov, and the fax number for the Division is 602-372-8566.

Personal Consultation: I take very seriously the obligation imposed on counsel by the Rules of Civil Procedure to personally consult in an attempt to resolve a dispute before raising it with the Court. Personal consultation means either an in-person conference or a telephone conversation.

Communication between counsel: I expect counsel to promptly respond to communications from opposing counsel. If I determine that an attorney is not promptly responding, I will issue an order requiring a response within two business days of any communication.

Written discovery and Rule 26.1: I look unfavorably upon boilerplate objections to discovery requests. With respect to requests for production, if a party objects to a request as overly broad, that party must produce any documents not subject to the objection and explain why the remainder of the request is overly broad. If a party makes an unduly burdensome objection, it must explain why and how the request is unduly burdensome. I will strictly enforce Rule 26.1.

## III. **Other Pre-trial Practice Guidelines or Comments**

Scheduling orders and extensions: I am generally liberal in granting extensions of pretrial deadlines. However, I require the parties to provide an explanation for such requests and will reject stipulations lacking an explanation. If I am concerned about the number of extensions or the length of any requested extension, I will set a status conference.

Accessibility: I try to make myself as accessible to the parties as possible. Attorneys may contact my judicial assistant if a problem arises that I would likely be able to address through a brief status conference.

#### **IV. Trial Practice and Protocol**

##### **Setting Trial:**

I will not set a trial less than six months from the dispositive motion deadline. The purpose is to ensure sufficient time for briefing (including requested extensions), oral argument and ruling. The parties must therefore keep this in mind when they request extensions of pretrial deadlines. In addition, if a trial has already been set and the parties request an extension of the dispositive motion deadline that results in less than six months between the new deadline and the trial date, the trial will have to be moved.

**Trial Schedule:** My general trial schedule is Monday-Thursday, 9:30am-4:30pm.

**Time Limits:** If I impose a specific time limit for each party's trial presentation, the parties are responsible for tracking time and will need to confer prior to trial the following day to reach an agreement on the remaining time for each party.

**Jury Selection:** I will conduct most of the voir dire, but I do allot a reasonable amount of time for attorneys to conduct follow-up.

**Courtroom Protocol:** Attorneys may move freely around the well and are not confined to the podium. Attorneys should stand when making objections.

#### **COMMERCIAL COURT PROTOCOL**

**Motions to Dismiss: Make sure to comply with Rule 8.1(f)(4), which became effective on February 8, 2017.** That rule requires that a good faith consultation certificate be attached to any motion to dismiss, certifying that the parties have been unable to agree that the pleading is curable by a permissible amendment.

Within a few weeks of receiving the parties' Joint Report and Proposed Scheduling Order (Forms 14(a) and 14(b)), I will set an in-person Rule 16(d) Conference. While I welcome the presence of clients, I do not require their appearance. The minute entry setting the Rule 16(d) Conference will include an order requiring that the parties be prepared to discuss the following possibilities to limit litigation costs and to expedite early resolution of the case:

1. The scope of discovery, including discovery limitations and proportionality, particularly with respect to Electronically Stored Information ("ESI") (see ESI Checklist attached to Rule 8.1 on the Court's website);

2. Sequencing of discovery to facilitate an early mediation/settlement conference, or the early resolution of dispositive or partially dispositive motions;
3. Submitting one or more issues for a bench trial;
4. Stipulations regarding ESI, claw-back agreements, protective orders;
5. The timing and forum for alternative dispute resolution;
6. The expected number of experts, their areas of expertise and deadlines for disclosure of expert opinions;
7. Whether any Daubert challenges are expected;
8. Sequencing of dispositive or partially dispositive motions; and
9. The Court's dispute resolution order (see above).

I will generally hold more frequent status conferences in commercial court cases to ensure that the case is on track. Those conferences will be brief and telephonic.