

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**STANDING ORDER AND PROCEDURES RE: CIVIL MOTION PRACTICE**

**Judge Robert J. Colville**

In addition to the rules set forth in the Federal Rules of Civil Procedure and the Court's Local Rules, the parties shall follow the procedures set forth below in making or responding to motions in any case assigned to this member of the Court. *This Order supersedes any prior Order on these matters in this action, and is applicable to all pending civil proceedings unless otherwise ordered by the Court.*

**1. Motions**

- a.** A motion shall consist of a document setting forth, in a short and plain statement, the specific relief sought, the factual and legal grounds for the relief sought, and shall affirmatively state whether the motion has been discussed with all other parties, and their position as to the relief sought.
- b.** Other than routine administrative/scheduling motions, each substantive motion shall be supported by a separate brief in support that contains the factual and legal support for the relief sought. Evidentiary materials in support of, or in opposition to, a motion should be plainly marked and may be attached to the motion or brief, or compiled and filed in a separate document. Counsel should furnish only the evidentiary materials that are necessary for deciding the motion.
- c.** A proposed order setting forth the specific relief requested shall be filed as a separate attachment.

**2. Requirement to Confer**

- a.** Prior to filing a motion to modify a scheduling order, counsel shall comply with the requirement to confer as set forth in Local Rule 16.1.B.5, including the filing of a certificate of conferral.
- b.** The Court requires that, prior to filing a discovery motion, counsel shall meet and confer in an effort to resolve their disputes. The Court requires that discovery motions be accompanied by a certificate of conferral to be filed by the movant stating that all parties made a reasonable effort to reach agreement on the issue raised by the motion. E-mail

communications, while not discouraged, are not alone sufficient. If the matter is still unresolved after meeting and conferring, then the parties shall contact the Court to request a telephone discovery conference prior to filing any discovery motion. *See* Section 3(b).

- c. Given that motions pursuant to Federal Rule of Civil Procedure 12(b) are discouraged if the pleading defect is curable by amendment, Counsel shall meet and confer prior to the filing of such a motion to determine whether it can be avoided. The Court requires that all such motions be accompanied by a certificate of conferral stating that the moving party has made good faith efforts to confer with the nonmovant(s) to determine whether the identified pleading deficiencies may be cured by amendment.

### **3. Case Management and Discovery Motions**

- a. Each case management or discovery motion shall affirmatively state: 1) that the motion has been discussed with all parties; 2) the position of each party as to the motion; and 3) the relief it seeks. If the non-moving party or parties do not oppose the motion, or the motion is of a type that normally does not implicate the substantial rights of a non-moving party (e.g., motion to withdraw as counsel, motion to set a conference, most motions for extension of time), the non-moving party shall so state in its response. No response need be filed to a joint or unopposed motion. The Court may decide motions that do not implicate the substantial rights of the opposing party, or which state that the motion is either joint or not opposed by all parties, without a response. Absent such action by the Court, a response should be filed for all motions. Letters do not constitute motions or responses. Failure to respond in a timely fashion may be deemed as conceding the grounds for any motion.
- b. In the Court's experience, many discovery and case management disputes can be promptly resolved in a conference with the Court and counsel. Therefore, in the event of such a dispute, lead counsel shall confer in person or by telephone, agree on the scope and nature of the dispute, and then contact the involved law clerk or the Courtroom Deputy Clerk to request a telephone status conference. This applies to all discovery motions. The Court may set a status conference as soon as practicable, usually within three (3) days, and, more often than not, the dispute will be resolved at that time. The Court may, in situations involving more substantive matters, direct counsel to file the appropriate motion for relief.
- c. All motions to amend a pleading or document must attach as an exhibit the proposed amended document.

### **4. Responses to Motions**

- a. The opposing party shall file a separate response to every motion. A brief shall also be filed with any response to a substantive motion. A proposed order shall be filed as a separate attachment.
- b. **Deadlines for Responses:**
  - i. Responses to non-dispositive motions, such as discovery or other case management pretrial motions, shall be filed within ten (10) days from the date of service of the

motion. Should the moving party believe that there is particular urgency to the grant or denial of a motion requiring expedited treatment due to the particular facts or circumstances of the matter (an uncommon situation in the Court's experience), they should so state in the motion.

- ii. Responses to motions to dismiss and responses to motions for judgment on the pleadings shall be filed within twenty-one (21) days from the date of service of the motion.
  - iii. Responses to motions for summary judgment shall be filed within thirty (30) days from the date of service of the motion.
  - iv. Unless otherwise stated in a specific Order, responses to all motions other than those referenced in i., ii., and iii. above shall be filed within fourteen (14) days from the date of service of the motion.
  - v. Unless the Court issues a specific briefing order, the parties should proceed as set forth in this Order upon the filing of a motion.
- 5. Reply Briefs.** A reply brief is defined as the second brief advocating a party's position on the same motion filed after the non-moving party's response. Reply briefs shall be filed within seven (7) days (and within fourteen (14) days for replies in summary judgment matters) from the date of service of the non-moving party's response. Surreply briefs, or other briefs, may be filed only with leave of court, obtained in advance of filing.
- 6. Oral Argument.** Motions may be decided with or without oral argument as determined by the Court. Any party believing that oral argument will materially advance the decisional process may so advise the Court and request oral argument.
- 7. Joint Motions.** Joint, consent, or uncontested motions on matters that do not implicate the substantial rights of the parties are encouraged and will be promptly decided. A joint, consent, or uncontested motion shall identify itself as such in its title. Joint motions in cases with more than two parties that have the consent of fewer than all the parties shall so state such on the first page. Counsel's informed representation that a motion is joint or consented to is sufficient.
- 8. Page Limits**
- a. Briefs respecting discovery and case management motions shall be limited to 10 pages.
  - b. Briefs respecting motions in limine shall be limited to 10 pages.
  - c. Briefs respecting motions to dismiss, motions for judgment on the pleadings, and summary judgment motions shall be limited to 20 pages, excluding tables.
  - d. Briefs in support of and opposing all other motions shall be limited to 15 pages.

- e. Reply briefs respecting motions to dismiss or summary judgment motions shall be limited to 15 pages; and respecting all other motions shall be limited to 10 pages.
  - f. All text in briefs shall be in 12-point font (footnotes in at least 10-point font), with one-inch margins. Text must be double-spaced; footnotes may be single-spaced.
  - g. Any party seeking to exceed the page limits set forth above must seek leave of Court.
- 9. Citations in Briefs.** The argument portion of every brief in support of or in response to a motion shall cite to current authority from the Supreme Court of the United States or the United States Court of Appeals for the Third Circuit. Otherwise, citation to current authority from a district court in this circuit or another court of appeals, if available, that establishes the legal point argued is most appropriate. When citing to unpublished opinions, the Court prefers that counsel use the Westlaw citation rather than the LEXIS citation.
- 10. Courtesy Copies.** Counsel should not submit any courtesy copies unless requested by the Court. In the event that the Court requests courtesy copies of filings that contain voluminous exhibits, such courtesy copies shall be the filed documents printed from ECF so as to contain the docketing information at the top of each page. Any courtesy copy should be 3-hole punched and placed in one or more standard black presentation binder(s) (no thicker than three (3) inches). The binder's front cover and spine should be labeled with the case name, case number, and the subject matter of the materials.
- 11. Other Deadlines.** This Order does not alter response deadlines set by any federal statute or the computation of time under the Federal Rules of Civil Procedure.
- 12. Discretion to Modify.** The Court may alter any of these provisions by Order, or by notice from court staff at the Court's direction, in the interests of justice.

SO ORDERED this 31<sup>st</sup> day of January, 2020.

*s/Robert J. Colville*  
Robert J. Colville  
United States District Judge

cc: All counsel of record