

Judge Smith's Standing Order in E-File Cases (Civil)

Having found that the interests of the parties and the orderly management of the Court's business would be served by setting a schedule for this litigation and by stating the practices and procedures of this Court.

IT IS ORDERED that, unless specifically exempted, counsel for all parties must confer, in person or by telephone, in an effort to settle the case, discuss discovery, limit issues, and discuss other matters addressed by the Case Management Order ("CMO"). This early planning conference shall be held no later than **30 days after the appearance of a defendant by answer**. Counsel for the plaintiff(s) shall ensure that this early planning conference is timely scheduled and completed.¹

IT IS FURTHER ORDERED that, unless specifically exempted or unless the case is successfully resolved during the early planning conference, the parties are required to complete and e-file a proposed CMO no later than **45 days after the appearance of a defendant by answer**. The Proposed CMO shall be consolidated and e-filed by counsel for the plaintiff(s). A copy of the proposed CMO is attached as Exhibit A. A Microsoft Word version may be requested from Veronica Sharifi, Division 7 Calendar Coordinator. Please send emails requesting a Word version to veronica.sharifi@gwinnettcounty.com. The completed proposed CMO should be e-filed using the Gwinnett County Clerk of Court's official electronic filing system, Odyssey

¹ Foreclosure cases, dispossessory cases, and magistrate court appeals are exempt from completing the Proposed CMO unless otherwise instructed by the Court.

eFileGA.² Additional information about e-filing and the State Court E-File Standing Order can be found at <https://www.gwinnettcourts.com/state-court/Standing-Orders>.

A Word version of the proposed CMO should be emailed to Veronica Sharifi.

If a party fails or refuses to participate in the early planning conference or completion of the proposed CMO, counsel for the plaintiff(s) shall notify the Court of the refusal by including that information in the filed proposed CMO. If the parties fail to reach agreement on portions of the proposed CMO, each party's proposal shall be included in the proposed CMO with a notation in **bold** that the parties failed to reach agreement on that portion. The parties are encouraged to reach agreement where possible.

For cases filed before January 30, 2023, this Court will continue to impose deadlines in a signed and filed CMO or other scheduling order. If the deadlines for a signed and filed CMO or scheduling order have passed or otherwise require attention, then the parties should file a joint motion requesting amendment or extension of the existing order.

IT IS FURTHER ORDERED that the following practices and procedures govern this litigation and communication with the Court:

- **COMMUNICATION WITH THE COURT:** The parties may contact Staff Attorney Jennifer Daniels (Jennifer.Daniels@gwinnettcounty.com or 770.822.7738) to arrange a status conference or hearing. Unless

² <https://www.gwinnettcourts.com/about/efilega>

instructed by the Court, the parties shall not submit letter briefs or send substantive emails addressing the merits of this case. The parties will not “carbon copy” court personnel on correspondence between the parties if that correspondence addresses the merits of the case.

- **DISCOVERY DISPUTES:** Any motions regarding discovery disputes (including motions to compel) shall be filed no later than 30 days from the date of the response or event triggering the motion. In addition to the obligations contained in Uniform Superior Court Rule 6.4(B), the parties shall meet and confer in person or by telephone in a good faith effort to resolve any discovery disputes. Before filing any discovery motion, the parties may contact the Court’s Staff Attorney to request a telephonic hearing if it would expedite resolution.
- **PROPOSED ORDERS and COURTESY COPIES:** The parties shall e-file proposed orders through the Gwinnett County Clerk of Court’s e-filing system. When requested, courtesy copies of proposed orders should be emailed to Staff Attorney Jennifer Daniels (Jennifer.Daniels@gwinnettcourt.com) in Word format. The parties may contact Ms. Daniels regarding any consent or joint filings or other filings requesting prompt action by the Court.
- **ORIGINAL DEPOSITION TRANSCRIPTS:** The parties shall e-file scanned copies in lieu of original deposition transcripts and retain original deposition transcripts until specifically requested by the Court or trial.
- **LEAVE OF ABSENCES (LOAs).** For scheduling purposes, the Court will recognize filed and approved leaves for lead counsel designated in the eFileGA system. Changes in lead counsel designation must be made through the Clerk of Court’s e-filing system and communicated to the Court in writing with counsel for all parties copied on the communication.
- **WITHDRAWAL OF COUNSEL.** Counsel are reminded of the procedures concerning the withdrawal of counsel found in Uniform Superior Court Rule 4.3. Orders for the withdrawal of counsel will not be signed absent compliance with all requirements of Rule 4.3.

A party's failure to comply with the terms of this Standing Order may result in sanctions, including but not limited to dismissal of the complaint or striking of the answer, as appropriate.

SO ORDERED on February 6, 2024.



Jaletta Long Smith
Judge, State Court of Gwinnett County

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

_____,)
)
Plaintiff,)
) CIVIL ACTION FILE
v.) NO. _____
)
_____,)
)
Defendant.)
CASE MANAGEMENT ORDER¹

As directed by Judge Smith’s Standing Order in E-File Cases (Civil), the parties conducted an early planning conference on _____, with the following counsel (or pro se parties) in attendance:

<u>Party</u>	<u>Counsel</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Parties not in attendance: _____

The parties have conferred concerning settlement, discovery, limiting issues, and to discuss other matters addressed by this Case Management Order (“CMO”).

¹ The proposed deadlines are not binding until this order is signed and entered.

The parties agree that the following deadlines govern discovery and pretrial matters:

- DISCOVERY (including, but not limited to, written discovery, depositions, and any expert discovery) commenced on _____ under Uniform Superior Court Rule 5.1 and will close on _____.²

Please provide an explanation for any departure from the guideline or for _____ “complex” _____ designation:³

_____.

- EXPERT DISCOVERY (if applicable): **All expert discovery must be completed by the above discovery deadline.**
 - The plaintiff(s) shall identify experts that are expected to testify at trial no later than _____.
 - Discovery depositions of all experts identified by the plaintiff(s) shall be completed no later than _____.
 - The defendant(s) shall identify experts that are expected to testify at trial no later than _____.

² Discovery guidelines are as follows:

Contract, 6 months;

Complex Contract, 12 months;

Personal Injury, 6 months;

Complex Personal Injury (including Wrongful Death), 12 months;

Medical Malpractice, 12 months;

Complex Medical Malpractice (including Wrongful Death), 18 months;

Other, 6 months

³ Complex cases are those cases that involve a large number of parties, large number of claims and defenses, highly technical and exceptionally complex issues and proof, multiple experts, greater than normal number of documents and evidence (including greater than normal volumes of electronically stored information), problems locating and preserving documents and evidence, and extensive discovery outside the State of Georgia. Complex cases typically require 12 months to complete discovery.

- Discovery depositions of all experts identified by the defendant(s) shall be completed no later than _____.
 - The parties shall disclose any rebuttal experts within 45 days of the conclusion of the deposition of the expert to be rebutted, but no later than _____, and shall make any rebuttal experts available for deposition no later than _____.
- MEDIATION shall be scheduled and completed within 45-days of the close of discovery and in accordance with the Mediation Procedures attached as Exhibit A. Mediation shall be scheduled on or before _____.
- DISPOSITIVE or 702 MOTIONS shall be filed no later than 60 days after the close of discovery. Before filing any 702 (*Daubert*) motion, the parties shall meet and confer in a good faith effort to resolve the evidentiary issue(s). 702 motions are not to be included in Motions in Limine. Dispositive or 702 motions must be filed on or before _____.⁴
- WITNESSES. The parties shall supplement the identification of witnesses (except for purposes of impeachment), in response to any applicable discovery request, no later than 15 days after the close of discovery. Failure to do so, absent extraordinary circumstances, will result in the exclusion of the unidentified or late-identified witness. The last date for identifying witnesses is on or before _____.
- CONSOLIDATED PRETRIAL ORDER. Consolidated Pretrial Order in the form set out in Uniform Superior Court Rule 7.2 and any motions in limine shall be filed no later than _____ or 30 days after this Court rules on any substantive motions, motions for summary judgment and Daubert motions, whichever date is later. Plaintiffs' counsel shall consolidate the order. All other parties shall deliver their portion of the pre-trial order to Plaintiffs' counsel no later than ten days prior to the due date. No party shall submit their individual portion of the pretrial order to the Court absent written certification detailing their good faith efforts to present the Court with a fully consolidated order. Extensions for submission of consolidated

⁴ See OCGA § 24-7-702; see also *Zarate-Martinez v. Echemendia*, 299 Ga . 301, 788 S.E.2d 405 (2016).

pre-trial orders will be granted only for good cause shown by order of this Court.

- **All documentary and physical evidence shall be identified with reasonable particularity in the consolidated pre-trial order. All witnesses shall be identified by name or specific information to allow identification of the person or entity.** In the event a witness or document not previously disclosed during discovery is listed on the pretrial order, the Court may strike the witness or evidence.
- Do not file boilerplate or generic motions in limine where the law is well-settled and same would be clearly granted i.e. invoking the rule, collateral source and insurance, golden rule in closing etc. Those can be submitted as mutually agreed and entered on the record without review. Please submit disputed and novel motions in limine only where the law is unsettled, or the Court needs to provide a ruling on a substantive area of law prior to trial.
- **EXHIBITS.** Copies of all exhibits and a copy of the list of exhibits are to be made for each opposing counsel. This includes copies of videos that either party intends to introduce at trial. Exhibit copies and a proposed list of exhibits are to be exchanged **no later than 7 days prior to the first scheduled date of trial**. The parties shall confer before trial with a view toward stipulating exhibits for admission into evidence.
- **DEPOSITIONS FOR USE AT TRIAL.** Counsel and parties are ordered and directed to submit in writing to each other the portions of depositions they intend to use at trial, and within 14 days thereafter meet in person, by Zoom, conference call, or other agreed upon electronic meeting and discuss all objections to any written designated portions of depositions a party intends to introduce at trial in lieu of live testimony. Counsel and parties are encouraged to reach an accord on the objections if possible. If no agreement is reached, counsel and parties are then required to submit to the Court a motion, in writing, identifying by page and line numbers any objections for which agreement between the parties could not be reached for the Court's determination. **Objections must be filed by both parties in a joint motion with the Court as soon as known, but no later than 10 days prior to the first scheduled date of trial. The joint motion shall identify the objected to testimony by line and page number by each party, in addition to the specific objection by**

each party to the designations by another party. The Court will not consider or rule on counter designations with supplemental objections or designations for use at trial that have no specific objections. Please simply state objections to testimony as described above.

- **REQUESTS TO CHARGE.** Requests to charge must be submitted to the Court when the case is called in for trial. Pattern charges shall be requested in writing and identified by number. Each party is limited to no more than 10 non-pattern requests to charge.

The parties acknowledge that the following practices and procedures govern this litigation and communication with the Court:

- **COMMUNICATION WITH THE COURT:** The parties may contact Staff Attorney Jennifer Daniels (Jennifer.Daniels@gwinnettcourt.com or 770.822.7738) to arrange a status conference or hearing. Unless instructed by the Court, the parties shall not submit letter briefs or send substantive emails addressing the merits of this case. The parties will not “carbon copy” court personnel on correspondence between the parties if that correspondence addresses the merits of the case.
- **DISCOVERY DISPUTES:** Any motions regarding discovery disputes (including motions to compel) shall be filed no later than 30 days from the date of the response or event triggering the motion. In addition to the obligations contained in Uniform Superior Court Rule 6.4(B), the parties shall meet and confer in person or by telephone in a good faith effort to resolve any discovery disputes. Before filing any discovery motion, the parties may contact the Court’s Staff Attorney to request a telephonic hearing if it would expedite resolution.
- **PROPOSED ORDERS and COURTESY COPIES:** The parties shall e-file proposed orders through the Gwinnett County Clerk of Court’s e-filing system, Odyssey eFileGA.⁵ When requested, courtesy copies of proposed orders should be emailed to Staff Attorney Jennifer Daniels (Jennifer.Daniels@gwinnettcourt.com) in Word format. The parties may contact Ms. Daniels regarding any consent or joint filings or other filings requesting prompt action by the Court.
- **ORIGINAL DEPOSITION TRANSCRIPTS:** The parties shall e-file scanned copies in lieu of original deposition transcripts and retain

⁵ See <https://www.gwinnettcourts.com/about/efilega>

original deposition transcripts until specifically requested by the Court or trial.

- **LEAVE OF ABSENCES (LOAs).** For scheduling purposes, the Court will recognize filed and approved leaves for lead counsel designated in the eFileGA system. Changes in lead counsel designation must be made through the Clerk of Court's e-filing system and communicated to the Court in writing with counsel for all parties copied on the communication.
- **WITHDRAWAL OF COUNSEL.** Counsel are reminded of the procedures concerning the withdrawal of counsel found in Uniform Superior Court Rule 4.3. Orders for the withdrawal of counsel will not be signed absent compliance with all requirements of Rule 4.3.

Failure to comply with this CMO may result in sanctions, including striking of pleadings, imposition of attorneys' fees, and exclusion of witnesses and evidence. *See Doherty v. Brown*, 339 Ga. App. 567, 576 (2016); *OTS, Inc. v. Weinstock & Scavo, P.C.*, 339 Ga. App. 511, 517 (2016); *Hart v. Northside Hospital, Inc.*, 291 Ga. App. 208 (2008). **This Case Management Deadline Order supersedes all previous dates and deadlines and will control the course of the trial. Except for good cause shown and by Order of this Court, the deadlines in this CMO shall not be amended except by consent of the parties and by Order of the Court to prevent manifest injustice.**

Submitted this _____ day of _____, _____.

Submitted by:

/s/ Plaintiff(s) or Plaintiff(s)' Counsel

/s/ Defendant(s) or Defendant(s)' Counsel

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

)	
)	
Plaintiff,)	
)	CIVIL ACTION FILE
v.)	NO. _____
)	
)	
)	
Defendant.)	

Mediation Procedures

1. This case shall be mediated within 45 days after the close of discovery. Counsel and any pro se parties are directed to contact the Gwinnett County Office of Dispute Resolution at 770-822-8553 and schedule mediation within 45 days after the close of discovery.

2. Parties may also choose from a list of registered mediators at <http://www.gwinnettcourts.com/court-programs/adr-processes>. You may also contact the Gwinnett Office of Dispute Resolution at 770-822-8553 for a list. The parties shall select their mediator, contact the mediator for a date and time, then contact the GCODR to schedule the mediation. Because of limited space, the parties shall also have an alternative date selected. If an agreement cannot be reached as to a mediator, the court will appoint one for you.

3. Should the parties decide to use a private mediation service or arbitrator, the Court and the Gwinnett Office of Dispute Resolution must each be notified, in writing, within 45 days after the close of discovery, as to whom the parties have agreed to use and the date of the mediation, verifying that the mediation is to occur within the allotted time. Nothing in this order prohibits alternative mediation with a person unaffiliated with the Gwinnett Dispute Resolution Program.

4. If any additional mediation sessions are needed, they are to be scheduled and completed within 75 days of the close of discovery.

5. Documentation of mediation shall be provided to the Gwinnett Office of Dispute Resolution. If the case is not resolved through mediation, it shall be immediately returned to the court's docket.

6. The appearance of each party and the attorney of record is mandatory. If insurance is involved, an adjustor, with authority up to the policy limits or the most recent demand, whichever is lower, **shall attend** for the duration of the mediation session, either in person or immediately available by phone or audio-visual means.
7. The cost of the mediator will be divided equally among the parties who shall be prepared to pay the mediator at the time of the session. The parties and the designated mediator will determine the length of the session. Sanctions may be imposed due to nonpayment and the case may not be determined closed if there are any outstanding fees due to the mediator.
8. All discussions, representations, and statements made at the mediation conference shall be privileged consistent with Georgia law.
9. The mediator has no power to compel or enforce settlement agreements and does not give legal advice. If a settlement is reached in this case, the attorneys shall reduce the agreement to writing and submit it to the Court within 10 business days of the mediation session.
10. The mediator will notify this Court of any failure of a party or parties to appear for mediation at the scheduled date and time. Should a party fail to appear, the Court may impose sanctions, including costs, upon that party.
11. If the case is settled, or in any way disposed of before mediation, the Gwinnett Office of Dispute Resolution and the Staff Attorney must be notified in writing immediately.
12. The case will remain assigned to this Court for all motions, hearings and trial calendars already scheduled and for future motions, hearings and calendars.

NOTE: If both parties agree that mediation will likely not be helpful or that the cost of mediation would likely outweigh the benefit, the parties may submit a Consent Order vacating this Mediation Order. The parties must submit the Consent Order within 45 days of the close of discovery. If mediation is cancelled, the case will be immediately placed on the next available trial calendar.