

21.0 CASE MANAGEMENT AND PRETRIAL PROCEDURE

For the purpose of insuring the readiness of cases for pretrial and trial, the following procedure shall be in effect. Within ninety (90) days after suit is filed, the case shall be set by the Court for a Case Management Conference to establish case management procedures to prepare the case for an effective final pretrial. At that time the Court will take appropriate action on the service, leaves to plead, time limitations for discovery, scheduling a date for the pretrial hearing and any other steps warranted under the circumstances.

A pretrial conference shall be conducted in all civil cases prior to being scheduled for trial, except in actions for injunctions, foreclosures, marshaling of liens, partition, receiverships and appeals from administrative agencies.

PART I: Case Management Conference.

- (A) In addition to the Judge the Case Management Conference may be conducted by the Bailiff or Judicial Staff Attorney, at the Court's option. The Case Management Conference may be conducted in person or telephonically, according to the Court's preference. All counsel attending must have full authority to enter into a binding case management order. Parties are not required to be present.
- (B) Notice of the Case Management Conference shall be given to all counsel of record by mail and/or telephone from the Court not less than fourteen (14) days prior to the conference. Any application for continuance of the conference shall be addressed to the Court to whom the case has been assigned.
- (C) If chief trial counsel wishes to attend and is not available at the time scheduled by the Court, and if he or she is unwilling to send other counsel authorized to enter into a binding case management order, then counsel shall have the obligation to reschedule the Case Management Conference to take place within 30 days of the originally scheduled Case Management Conference with the concurrence of all counsel and the Court. Failure to obtain such concurrence will result in the Case Management Conference being held as originally scheduled. A case management order may be entered binding all counsel.
- (D) The following decisions shall be made at the Case Management Conference and all counsel attending must have full authority to enter into a binding case management order:
 - (1) Each case shall be categorized in terms of type (i.e., personal injury, contract, malpractice, commercial, collection, products liability etc.); complexity of facts and legal issues presented; anticipated difficulty in obtaining and completing discovery; and dollar amount in controversy.
 - (2) Based on information determined by discussion of issues in (D)(1), above, a definite discovery schedule shall be agreed upon by all parties for the completion of all discovery.
 - (3) Determination shall be made concerning immediate assignment of the case to arbitration upon agreement of counsel or upon order of the Court if the Court personally conducts the Case Management Conference. The Court shall set a date certain as to when the case shall be referred to arbitration. The Court may also set a date for trial in the event an appeal is taken from the arbitration.

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- (4) A definite date for exchange of expert witness reports shall be determined pursuant to Rule 21.1.
- (5) A definite date for the filing of all motions which date shall not be later than seven (7) days before the final pretrial conference.
- (6) The date for the final pretrial conference shall be set by the Court.
- (E) At the conclusion of the Case Management Conference, a case management order shall be prepared and signed by all counsel and submitted to the Court for signature. This order shall include definite dates for Part I (D)(1)-(6) of this rule. This order shall be journalized and binding on all parties.
- (F) If any new parties are added to the litigation subsequent to the case management order, then the Court shall set another Case Management Conference with all parties following the requirements of Part I (A)-(E) of this rule. The new case management order shall supersede any prior case management order.

PART II: Final Pretrial Conference.

Upon order of the Court or request of any party, the Court shall set a day for a settlement conference within 30 days of the request.

The purpose of this conference is to effect an amicable settlement. Therefore, all parties must be present or, with permission of the Court, be available by telephone and have full settlement authority. All settlement conferences shall be conducted by the assigned Judge.

A party shall be entitled to request only one settlement conference.

PART III: Final Pretrial Conference.

- (A) The purpose of this conference is to effect an amicable settlement, if possible, to narrow factual and legal issues by stipulation or motions; and to set a date certain for trial. All final pretrial conferences shall be conducted by the assigned Judge.
- (B) All plaintiffs must be present or, with permission of the Court, be available by telephone with full settlement authority. Each defendant or a representative of each defendant must be present or, with permission of the Court, be available by telephone with full settlement authority. If the real party in interest is an insurance company, common carrier, corporation or other artificial legal entity, then the chosen representative must have full authority to negotiate the claim to the full extent of plaintiffs demand. Plaintiffs demand must be submitted to counsel for defendant at least 14 days prior to the final pretrial conference.
- (C) Counsel attending the conference must have complete authority to stipulate on items of evidence and admissions.
- (D) If the Court concludes that the prospect of settlement does not warrant further Court supervised negotiations, then the Court shall act on any other matters which come before it at that time and efforts shall be made to narrow legal issues, to reach stipulations as to facts in controversy and, in general, to shorten the time and expense of trial. The Court may enter a pretrial order to become part

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of the record of the case embracing all stipulations, admissions and other matters that have come before it. The Court shall at that time determine whether trial briefs should be submitted and shall fix a date when they are to be filed.

- (E) Each party shall submit a pretrial statement at least seven (7) days in advance of the final pretrial setting forth the following:
- (1) Statement of facts and legal issues;
 - (2) Statement of real factual and legal issues in dispute;
 - (3) Stipulations;
 - (4) List of non-expert trial witnesses with a brief summary of expected testimony;
 - (5) List of expert trial witnesses with reports attached;
 - (6) Special legal problems anticipated;
 - (7) Estimated length of trial;
 - (8) Pretrial motions contemplated;
 - (9) Special equipment needs for trial.
- (F) If the Court shall determine that the case is suitable for arbitration at the pretrial, then the Court may so order the referral to the arbitration list. At the same time the Court may set a trial date in the event an appeal is filed from the arbitration award.
- (G) A trial date shall be set by the Court not later than 180 days after the final pretrial.
- (H) Any Judge presiding at a pretrial conference or trial shall have authority:
- (1) After notice, dismiss an action without prejudice for want of prosecution upon failure of plaintiff and/or his counsel to appear in person at any pretrial conference as required by Part III (B) of this Rule.
 - (2) After notice, order the plaintiff to proceed with the case and decide and determine all matters ex parte upon failure of the defendant to appear in person or by counsel at any pretrial conference or trial, as required by Part III (B) of this Rule.
 - (3) The failure of an attorney to comply with the provisions of Part III (E) without good cause shown may subject the attorney to sanctions, including a fine of up to One Hundred Dollars (\$100.00) to be paid by the attorney to cover the costs of opposing counsel's appearance at the pretrial.
 - (4) The failure of an attorney to appear within thirty (30) minutes of a scheduled settlement or pretrial conference may subject the attorney to sanctions in the amount of Two Hundred Fifty Dollars (\$250.00) unless good cause is shown. If the Court awards sanctions, the attorney is personally responsible for payment of the sanction.

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- (5) The sanctions contained in (H)(1)-(4) should not be imposed until a reasonable attempt is made by the Court or opposing counsel present at the pretrial to contact the missing counsel by telephone to determine whether that counsel's non-compliance with these rules can be reasonably explained.
- (I) In the event the Judge is not present in Court within thirty (30) minutes of the time set for a settlement or pretrial conference, counsel and the parties scheduled for that conference may depart without sanctions.

Amended 07/01/2003