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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

[Plaintiff],

Plaintiff,

Case No. [Case #]

v.

ORDER SETTING FORTH COURT
PROCEDURES

[Defendant],

Defendant.

(1) This is a case involving [insert]

The following procedures are to be followed in civil cases assigned to this Court. These practice standards supplement the Federal Rules of Civil Procedure (FRCP) and Local Rules of the United States District Court for the Western District of Washington (LCR). In the event there is an inconsistency between the LCR and these practice standards, the terms of this Order control. The terms of this Order shall apply to all pleadings and hearings pertaining to cases assigned to Judge Fricke and shall have the force and effect of orders of the Court from this date forward. If

1 the case was previously assigned to a different Judge, these practice standards replace those that
2 previously controlled, but only as to pleadings filed and hearings held from this date forward.

3 (1) Communications with Chambers

4 Except as provided in this Order, parties and counsel are discouraged from contacting
5 chambers. This Court strongly discourages communications with Judge Fricke or her Judicial
6 Law Clerks involving any matter other than scheduling, notice of settlement, or other procedural
7 matters. In relation to scheduling and/or settlement, contact from one party is allowed if all
8 parties agree to have one party contact the Court alone. Otherwise, all parties must be on the line
9 when communicating with the Court. Parties that require technical equipment shall direct all
10 requests to the Court's Courtroom Technology Administrator. Such requests must be made at
11 least **FIVE (5) business days** in advance of the hearing.

12 (2) Certification Showing the Parties Met and Conferred

13 Except for summary judgment motions, motions shall contain a certification that the
14 parties have met and conferred. The certification should be clearly visible within either the first
15 substantive paragraph or the final paragraph of the motion. Parties must make a meaningful
16 effort to confer prior to filing a motion. For example, waiting until a deadline has passed before
17 contacting the opposing party, or having a phone call where one party tells the other party that he
18 or she will be filing a motion but does not actually meet with the intent to try and resolve the
19 dispute, will not satisfy the meet and confer duty. Parties should provide for at least three (3)
20 business days between attempts to meet and confer and a motion's filing and shall explain their
21 specific efforts to comply if contact was not successfully made. Motions which do not comply
22 will be summarily stricken from the Court's docket.

23 (3) Discovery

1 All discovery shall be completed by **SELECT DATE**. Service of responses to
2 interrogatories and to requests to produce, and the taking of depositions, shall be completed by
3 this date. Federal Rule of Civil Procedure 33(a) requires answers or objections to be served
4 within thirty (30) days after service of the interrogatories. The serving party, therefore, must
5 serve his/her interrogatories at least thirty (30) days before the deadline in order to allow the
6 other party time to answer. The serving party should send discovery requests directly to the
7 opposing party; they should not be filed with the Court. Discovery disputes shall be raised in a
8 timely manner so as to allow discovery to be completed within the discovery deadline. Any party
9 who serves any discovery request on a third party shall also serve written notice of the Court's
10 discovery procedures to third parties. Third parties are required to comply with this Order when
11 the third parties receive such discovery requests.

12 If any party expects that electronic discovery will be required, the parties are required to
13 request an FRCP 26(f) conference with the Court.

14 At the earliest practical time, electronic discovery plans and electronically-stored
15 information (ESI) protocol agreements should be submitted to the Court for consideration of
16 proportionality and for review of whether an ER 502(d) order should be issued. If the parties
17 request a protective order to cover the review of ESI that may contain privileged and/or
18 confidential information, the protective order must comply with the most recently updated
19 procedures and forms set forth in the United States District Court for the Western District of
20 Washington Local Rules, Protocols, and Forms. See LCR 26.

21 a. Discovery Disputes – Meet and Confer

22 No opposed discovery motions are to be filed with the Court until the parties
23 meaningfully comply with FRCP 37(a)(1). If the parties are not able to agree on a

1 resolution of a discovery dispute after they meet and confer, then the parties shall arrange
2 a telephone hearing. Both of these steps must be completed before any opposed discovery
3 motion is filed. Motions that do not comply with this requirement will be stricken from
4 the Court's calendar unless and until the parties comply. See LCR 37.

5 b. Telephone Hearing re: Discovery Disputes or Status Conference

6 To arrange a telephone hearing, all counsel and parties who are representing
7 themselves pro se (not support staff) for the disputing parties shall contact chambers at
8 253-882-3890 on a single line. Counsel and pro se litigants shall be prepared to
9 summarize the dispute(s) and, if Judge Fricke is available, shall be ready to make their
10 legal arguments. If it is necessary to set a hearing for a future date, counsel and any pro se
11 parties shall have their calendars available during the phone conference so that a hearing
12 may quickly be set. Counsel and any pro se parties shall not contact the Court until they
13 have met about the issues, and negotiated in good faith to ascertain possible solutions,
14 and narrowed the disputed issues to those issues that cannot be resolved by the parties
15 themselves.

1 (4) Motions

2 Any dispositive motion shall be filed and served on or before **SELECT DATE**. . The
3 motion shall include in its caption (immediately below the title of the motion) a designation of
4 the date the motion is to be noted for consideration upon the Court's motion calendar.
5 Dispositive motions shall be noted for consideration on a date no earlier than the fourth Friday
6 following filing and service of the motion. LCR 7(d)(3). A motion and the legal argument
7 supporting the motion shall be filed as a single document as required by LCR 7(b). Motions to
8 exceed the page limitations will be granted only where the matter one of **extraordinary**
9 **complexity**.

10 **Pleadings shall not contain a table of cases or a table of authority.**

11 Except for motions for summary judgment, all other motions, oppositions, and objections
12 shall not exceed **FIFTEEN (15) pages** (exclusive of the certificate of service). Replies
13 shall not exceed **SEVEN (7) pages**, unless otherwise noted. Leave of Court must be obtained to
14 file a surreply. If leave is obtained, surreplies shall not exceed **FIVE (5) pages**. A motion for
15 summary judgment and oppositions shall not exceed **FORTY (40) pages** (exclusive of the
16 certificate of service). Replies shall not exceed **TWENTY (20) pages**. If leave to file a
17 surreply is given, it shall not exceed **SEVEN (7) pages**. A motion for summary judgment
18 may be filed at any time during the case prior to expiration of the dispositive motions deadline.
19

20 Motions, oppositions, objections, replies, and surreplies shall be double-spaced and filed in
21 no less than 12-point font in the text and 10-point font in the footnotes. If a party does not have
22 access to a computer, legible hand-written documents must comply with the page limits in this Order,
23 and must comply with any page limits for other categories of documents as described in the relevant
Federal Rules (FRCP or LCR).

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3 All briefs and affidavits in opposition to any motion shall be filed and served pursuant to
4 the requirements of Rule 7 of the Federal Rules of Civil Procedure and LCR 7. The party
5 making a motion may file and serve a reply to the opposing party's briefs and affidavits. Any
6 reply brief shall also be filed and served pursuant to the requirements of Rule 7 of the Federal
7 Rules of Civil Procedure and LCR 7.

8 A motion pursuant to Fed. R. Civ. P. 12(b) is discouraged if the defect can be cured by
9 filing an amended pleading. **Therefore, the parties must meet and confer** prior to the
10 filing of a Motion to Dismiss to determine whether it can be avoided. Consequently, such motions
11 must contain a certification of conferral as set forth above. In addition, parties shall endeavor not
12 to oppose timely Motions to Amend.

13 Regardless of any party's request for oral argument, the Court retains discretion to resolve
14 any motion on the briefs. If the Court finds that oral argument is necessary, the parties shall be
15 limited to **TWENTY (20) minutes** per side plus **FIVE (5) minutes** for rebuttal unless
16 otherwise ordered.

17 Motions for reconsideration are strongly discouraged. Motions for reconsideration and
18 oppositions shall not exceed **TEN (10) pages** (excluding the certificate of service). Replies shall
19 not exceed **FIVE (5) pages**. Motions that re-assert previous arguments, or raise new arguments
20 that could have been made earlier will be summarily denied.

21 Requests for extensions of time are discouraged and will be granted only if the moving
22 party shows good cause. Motions for extensions of time should be filed at least **THREE (3)**
23 **business days** in advance of the expiration of the relevant deadline. Any opposition must be filed

1 within two (2) business days of the motion. Untimely motions or responsive pleadings may be
2 summarily denied, stricken, or ignored.

3 Motions to re-set a hearing are discouraged. If rescheduling becomes necessary, the
4 motion shall be filed no later than **FIVE (5) business days** before the scheduled hearing. The
5 motion shall contain alternative dates and times that are available for all parties. If the suggested
6 dates are not available on the Court's calendar, the Court will select a date and time on its own
7 initiative.

8 The Court does not accept courtesy copies of pleadings. However, where a party's
9 exhibits attached to a pleading exceed 100 pages, a courtesy copy of the exhibits shall be
10 provided to chambers. The exhibits shall be bound and tabbed. All exhibits filed by the parties
11 shall also be edited to exclude any irrelevant material. Parties shall contact chambers (253-882-
12 3890) before submitting any courtesy copy to secure the proper mailing address.

13
14 (5) Joint Pretrial Statement

15 The parties are advised that a due date for filing a Joint Pretrial Statement may be
16 established at a later date pending the outcome of any dispositive motions.

17 (6) Proof of Service and Sanctions

18 All motions, pretrial statements and other filings shall be accompanied by proof that such
19 documents have been served upon counsel for the opposing party or upon any party acting *pro*
20 *se*. The proof of service shall show the day and manner of service and may be by written
21 acknowledgment of service, by certificate of a member of the bar of this Court, by affidavit of
22 the person who served the papers, or by any other proof satisfactory to the Court. Failure to
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1 comply with the provisions of the Order can result in dismissal/default judgment or other
2 appropriate sanctions.

3 **(7) Early Case Evaluation and Settlement**

4 The parties shall evaluate the opportunity for settlement at the outset of the case,
5 regardless of whether the parties must meet and confer concerning any specific motion. If the
6 parties agree that alternative dispute resolution would be helpful, the parties shall contact
7 chambers to request mediation, arbitration, or any other form of alternative dispute resolution.
8 Although the Court expects the parties to address settlement at the outset of the case, the Court
9 also expects the parties to understand and commit to their obligation to explore possible
10 settlement options. See LCR 39.1. If the parties settle the case, in whole or in part, the parties
11 shall promptly file a Notice of Settlement and advise the Court how much time is needed to file
12 the dismissal papers.

13 **(8) Professionalism and Courtroom Procedures**

14 Counsel with authority to make scheduling decisions shall appear on behalf of the parties
15 at all court appearances. The Court may allow the parties to present oral argument by phone
16 rather than in person. When the hearing is conducted in person, counsel and pro se parties shall
17 observe traditional courtroom decorum: they shall rise to address the Court and remain at the
18 podium unless granted permission to approach the bench or a witness. When not addressing a
19 witness, counsel and pro se parties shall direct all statements to the Court. All counsel, parties,
20 witnesses, and others involved in the litigation -- in the courtroom and outside of the courtroom -
21 - shall behave and communicate in writing, by phone, and in person with the Court and with one
22 another with utmost courtesy, professionalism, and respect.

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(9) The Clerk of Court is directed to send a copy of this Order to counsel for plaintiff, counsel for defendants, and to any pro se parties.

Dated this _____ day of _____, 2018.

THERESA L. FRICKE
United States Magistrate Judge