

**STANDING ORDER IN CIVIL CASES  
ASSIGNED TO JUDGE JASON PULLIAM**

The disposition of civil cases will be controlled by the following order:

**1. MOTIONS FOR SUMMARY JUDGMENT**

**a. Generally**

**1. Statement of Grounds and Undisputed Facts**

All motions for summary judgment must begin with a STATEMENT OF GROUNDS AND UNDISPUTED FACTS, which must include the following: (1) a summary or list of undisputed facts relative to the motion, stated in separately numbered paragraphs with citations to the record; (2) the cause(s) of action challenged; (3) a short statement of the specific ground(s) or basis for the motion (e.g., Plaintiff cannot establish a prima facie case of discrimination in violation of Title VII because Plaintiff cannot show Defendant's actions were based upon Plaintiff's protected trait/status under the law).

Any nonmovant shall begin its response to a motion for summary judgment with the same STATEMENT OF GROUNDS AND UNDISPUTED FACTS, which responds to each numbered paragraph in the moving party's Statement and includes: (1) admitting or denying whether each fact contained in the moving party's Statement is undisputed and/or material; (2) setting forth the basis for any denial, with appropriate reference to the record; and (3) setting forth in separately numbered paragraphs any other material facts that are allegedly at issue, and/or that the nonmoving party asserts are necessary for the Court to determine the motion for summary judgment.

The statements of undisputed facts should set forth *only* the facts essential for the Court to decide the motion for summary judgment which the moving party contends are undisputed and material. This list should designate any facts which are assumed to be true for purposes of the summary judgment motion.

**2. Citations to the Record**

The facts set forth in any party's Statement shall be stated in separately numbered paragraphs. A party **must** cite to a particular pleading, deposition, answer to interrogatory, admission on file or other part of the record supporting the party's statement, acceptance, or denial of the material fact.

All positions and statements contained with the body of motions for summary judgment and responses **must** contain specific cites to any evidence in the record which support a position. The Court will not search the record for evidence and may not consider any evidence that is not specifically cited in the parties' briefs.

### **3. Appendix**

Documents referenced in the STATEMENT OF GROUNDS AND UNDISPUTED FACTS and in the body of the motion shall be included in an appendix with a table of contents. Such documents should not be filed in their entirety unless necessary. Instead, the filing party may extract and highlight the relevant portions of each referenced document.

If a referenced document is contained in another party's Appendix, the party may simply cite to that Appendix. The document should not be filed again in that party's Appendix. Any additional excerpts may included if needed for completeness.

#### **b. Federal Tort Claims Act and Bench Trial Cases**

Motions for summary judgment are highly disfavored in any case in which the Court will serve as the factfinder and in any case asserting a cause of action under the Federal Tort Claims Act, in which parties do not have a right to a jury trial under 28 U. S. C. § 2402 and *Carlson v. Green*, 446 U.S. 14, 22 (1980).

Basis for any motion for summary judgment in these cases should be restricted to purely legal issues (e.g., whether a legal duty exists, the affirmative defense of statute of limitations, or failure to exhaust administrative remedies).

The moving party's motion and any nonmovant's response should be filed in the same format stated previously.

### **2. DISCOVERY & ELECTRONICALLY STORED INFORMATION (ESI)**

The parties shall conform to the principles set forth in the Addendum to this Order, regarding the request for, and exchange of, ESI.

### **3. STIPULATED ORDER REGARDING INADVERTENT PRODUCTION**

The Court encourages the parties to consider filing a proposed agreed order, pursuant to Fed. R. Civ. P. 26(c), that a party does not waive the attorney-client privilege or the attorney work-product privilege by inadvertently producing privileged or work-product documents.

### **4. REDACTION OF CERTAIN MATERIAL**

With regard to any paper filed, Counsel are reminded that compliance with Fed. R. Civ. P. 5.2 is mandatory. Accordingly, counsel should ensure appropriate redactions are made.

## **ADDENDUM REGARDING DISCOVERY**

The purpose of this Addendum is to secure the just, speedy, and inexpensive determination of every civil case, and to promote, whenever possible, the early resolution of discovery disputes without Court intervention.

An attorney's zealous representation of a client is not compromised by conducting discovery in a cooperative manner. The failure of counsel or the parties to cooperate in facilitating and reasonably limiting discovery requests and responses raises litigation costs.

The proportionality standard set forth in Fed. R. Civ. P. 26(b)(1) should be applied in each case when formulating a discovery plan. To further the application of the proportionality standard in discovery, requests for production and related responses should be reasonably targeted, clear and as specific as practicable.

The parties and counsel should come to the meet and confer conference prepared to discuss the claims and defenses in the case including specific issues, time frame, potential damages, and targeted discovery that each anticipates requesting. In addition, the parties and counsel should be prepared to discuss reasonably foreseeable preservation issues that relate directly to the information that the other party is seeking. At the Rule 26(f) Conference (and thereafter as necessary), counsel should also discuss the following:

- (1) the identification of relevant discovery (including electronically stored information);
- (2) the scope of ESI to be preserved by the parties;
- (3) the formats for preservation and production of ESI;
- (4) the potential for conducting discovery in phases or stages as a method for reducing costs and burden;
- (5) the procedures for handling inadvertent production of privileged information and other privilege waiver issues under Federal Rule of Evidence 502;
- (6) whether duplicative ESI may be deleted and whether such elimination will occur only within each particular custodian's data set or whether it will occur across all custodians;
- (7) filtering data based on file type, date ranges, sender, receiver, custodian, search terms, or other similar parameters; and
- (8) keyword searching, mathematical or thesaurus-based topic or concept clustering, or other advanced culling technologies.

Disputes regarding ESI will be resolved more efficiently if, before meeting with opposing counsel, the attorneys for each party review and understand how their client's data is stored and

retrieved in order to determine what issues must be addressed during the Rule 26 meet and confer conference.

The information sought to be preserved through the use of a preservation letter request or order should be reasonable in scope and mindful of the factors set forth in Rule 26(b)(1).

All parties and their counsel are responsible for taking reasonable and proportionate steps to preserve relevant ESI within their possession, custody or control. Determining which steps are reasonable and proportionate in particular litigation is a fact specific inquiry that will vary from case to case. The parties and counsel should address preservation issues at the outset of a case, and should continue to address them as the case progresses and their understanding of the issues and the facts improves. If the parties are unable to resolve a preservation issue, then the issue should be raised promptly with the Court.

The following categories of ESI generally are not discoverable in most cases, and if any party intends to request the preservation or production of these categories, then that intention should be discussed at the meet and confer or as soon thereafter as practicable:

- (1) "deleted," "slack," "fragmented," or "unallocated" data on hard drives;
- (2) random access memory (RAM) or other ephemeral data;
- (3) on-line access data such as temporary internet files, history, cache, cookies, etc.;
- (4) data in metadata fields that are frequently updated automatically, such as last-opened dates;
- (5) backup data that is substantially duplicative of data that is more accessible elsewhere; and
- (6) other forms of ESI whose preservation requires extraordinary affirmative measures that are not utilized in the ordinary course of business.