

# Civil Motion Practice

## A. AUTHORITY TO HEAR MOTIONS:

Pursuant to 28 U.S.C. § 636 (b)(1)(A) and (B) and an order of reference from the district judge, motions will be decided either by Report & Recommendation or Order. Dispositive motions may be referred by the district judge for Opinion and Order on consent of the parties. 28 U.S.C. § 636(c).

## B. MEET AND CONFER REQUIREMENT:

Except in pro se prisoner cases, no motion should be filed or considered unless the moving party or counsel has conferred in good faith by telephone or in-person with all other relevant parties or counsel in an effort to resolve the dispute, or has made a reasonable attempt to so confer. The parties and counsel are expected to make a meaningful effort to resolve disputes and otherwise cooperate in complying with these guidelines and applicable rules. If the conference with the relevant parties or counsel has not resolved the dispute, the moving party or counsel must inform the opposing parties or counsel during the conference that the moving party intends to seek relief from the Court regarding the dispute. If the conference cannot reasonably be held then the moving party must inform all opposing parties or counsel by letter, prior to filing a motion, that the moving party intends to seek relief from the court. The moving party must thereafter promptly file their motion with the Court. See Local Civil Rules 7.1 and 37.1. The motion must state the date of the conference or list the reasonable efforts to hold the conference and indicate the reason or reasons why the conference was not held. The motion must also include a statement of the unresolved issues and provide the adversary's position as to each issue in controversy as stated by the adversary during the pre-motion conference.

## C. BRIEFING SCHEDULE ON MOTIONS:

In instances where the Court has ordered a briefing schedule on a motion, that schedule applies. In all other instances, the parties should follow Local Civil Rule 7.1(d) and any required extension may be sought in accordance with these guidelines. Where no court order as to a briefing schedule is in effect, leave of the Court is not required to effectuate an agreement between the parties to extend the deadlines once for no more than fourteen days for filing papers. Such agreements, however, must be disclosed to the Court in a letter. Otherwise, extensions must be by leave of the court.

## D. PLEADINGS:

A party objecting to a request for production of documents as unduly burdensome must submit affidavits or other evidence to substantiate its objections. *In re Heparin Prods. Liab. Litig.*, 273 F.R.D. 399, 410-411 (N.D. Ohio 2011); *Sallah v. Worldwide Clearing, LLC*, 855 F. Supp. 2d 1364, 1376 (S.D. Fla. 2012); *Convertino v. U.S. Dep't of Justice*, 565 F. Supp. 2d 10, 14 (D.D.C. 2008). A brief must accompany all motions and responses thereto. Unless prior permission has been granted, briefs in support of motions or responses are limited to 25 pages and reply briefs are limited to 7 pages, including footnotes and signatures.

## E. ORAL ARGUMENT ON MOTIONS:

Parties may request oral argument by letter at the time the motion or response is filed. The Court will determine whether argument will be heard and, if so, will advise counsel of the argument date. If oral argument is scheduled, counsel may request to appear by conference call

or video teleconference and this is generally permitted. Oral argument is not normally held in pro se prisoner cases.

**F. STATEMENT OF RESOLVED AND UNRESOLVED ISSUES:**

The parties and counsel are expected to continue to discuss resolution of their dispute after the motion is filed. If the parties are unable to resolve their differences prior to oral argument, the moving party shall prepare a written statement of Resolved and Unresolved Issues of no more than 5 **double-spaced** pages certifying that good faith efforts to resolve the matters in controversy have been undertaken and listing the issues with respect to which an agreement has been reached as well as the issues yet to be resolved. This statement must be filed with the court clerk with a copy faxed to the judge's chambers no later than 5 business days prior to the scheduled hearing date. Failure to timely submit the statement may result in adjournment or dismissal of the motion as appropriate. In the event that all disputed issues are resolved prior to the hearing, the moving party shall either withdraw the motion or prepare a stipulation incorporating the agreement of the parties prior to the scheduled hearing date.

**G. COURTESY COPIES:**

Courtesy copies of the motion are not normally necessary. However, if a motion, response or reply includes exhibits totaling more than 20 pages, then in addition to the electronically filed copy, a hard copy of the motion and exhibits, appropriately tabbed, shall be delivered to the Court's chambers within 5 business days of the e-filing of the motion.

