

STATE OF RHODE ISLAND

KENT, SC.

SUPERIOR COURT

PROTOCOL FOR KENT COUNTY CIVIL MOTION CALENDAR

DISPOSITIVE MOTIONS/NON-DISPOSITIVE MOTIONS

UNTIL FURTHER ORDER OF THE COURT, THE FOLLOWING PROCEDURES SHALL TAKE EFFECT IMMEDIATELY AND SHALL BE OBSERVED WHEN FILING DISPOSITIVE OR NON-DISPOSITIVE MOTIONS IN KENT COUNTY. THE PREVIOUS PROTOCOL ENTERED ON NOVEMBER 19, 2019 IS VACATED.

**HEARING DATES**

The Motion Calendar and the Dispositive Motion Calendar (*i.e.*, motions for summary judgment filed pursuant to Super. R. Civ. P. 56 or motions to dismiss filed pursuant to Superior Court R.P. 12(b) or (c) are heard the Second and Fourth Monday of the month (excepting holidays). If a Motion Calendar falls on a court holiday, the Calendar will be heard the following business day. The Motion Calendar is called promptly at 9:30 a.m., via WebEx. The Dispositive Motion Calendar is called promptly at 11:00 a.m., via WebEx. In-person hearings may be scheduled by the Court, if necessary (See page 3).

**DISPOSITIVE MOTIONS**

**Assignment and Filing of Dispositive Motions**

Dispositive motions shall be filed no later than forty-five (45) days prior to the hearing. The assignment of dispositive motions is made by the clerk in charge of the Civil Calendar.

To obtain a date for a hearing of a dispositive motion, the moving party must contact the civil courtroom clerk to obtain the next available date and file the following documents: (1) an omnibus calendar assignment form; (2) the motion; (3) supporting memorandum of law with legal authority; and (4) all supporting documents (*i.e.*, pleadings, depositions, answers to interrogatories, responses to requests for admission, or affidavits).

Duplicate paper copies of the motions, supporting memorandum of law, and supporting documents must be forwarded to the judge at the time of filing. The duplicate copy of the memorandum, which is for the trial justice's use, shall have attached to it copies of significant cases principally relied upon by the moving party. Counsel shall direct the Court's attention to relevant portions of those cases by marginal brackets or highlighting.

The motion will not be assigned for hearing unless all of the above are provided at the time of filing the application for a hearing date.

**DISPOSITIVE MOTIONS (CONTINUED)**

The clerk will complete the omnibus form by assigning a date for hearing upon electronic receipt of the above documents.

The omnibus form, this protocol, the motion, memorandum, and all supporting documents shall be e-served immediately on opposing counsel or mailed to the party(ies) directly if not represented by counsel.

**OBJECTIONS TO DISPOSITIVE MOTIONS**

Objections to dispositive motions shall be served and filed promptly, no later than twenty-one (21) days prior to the scheduled hearing date. The objections must be accompanied by a supporting memorandum of law and all supporting documents, if any (*i.e.*, pleadings, depositions, answers to interrogatories, responses to requests for admission, or affidavits). A duplicate paper copy of the objections, supporting memorandum, and any supporting documents, which are for the trial justice's use, must be delivered to the clerk no later than twenty-one (21) days prior to the scheduled hearing. The duplicate copy of the memorandum shall have attached to it copies of significant cases principally relied upon in support of the objection. Counsel shall direct the Court's attention to relevant portions of those cases by marginal brackets or highlighting.

Reply memoranda and any supplemental filings should be served and filed no later than seven (7) days prior to the scheduled hearing date.

**NON-COMPLIANCE WITH ORDER**

Dispositive motions that are not filed in accordance with this Order will not be scheduled by the Court.

Responses that are not filed in accordance with this Order will not be considered by the Court at the time of the hearing.

**REQUEST FOR CONTINUANCE/WITHDRAWAL OF MOTIONS**

Requests for continuances may be arranged through the clerk up to fourteen (14) days prior to the assigned hearing date.

Requests for continuances made less than fourteen (14) days prior to the assigned hearing date will be granted only by special permission of the motion calendar justice. Because of the time commitment required for the Court to prepare for a hearing on dispositive motions, requests for continuances will not be given, absent a compelling reason. A request for a continuance on the date of the hearing is disfavored and will be granted only for the most compelling reasons. (N.B. "we are discussing settlement" is not a compelling reason). If a continuance is granted, it will be to the next available dispositive motion date, depending upon the number of previously scheduled motions.

**REQUEST FOR CONTINUANCE/WITHDRAWAL OF MOTIONS (CONTINUED)**

If a case in which a dispositive motion is pending is settled, or if a moving party desires to withdraw the motion, the motion calendar justice should be notified as far in advance of the assigned hearing date as possible so that the Court can avoid unnecessary expenditure of time.

**RULE 41 MOTIONS**

In cases wherein the moving party files a Rule 41 Motion to Dismiss based upon the expiration of five years without activity in said file and the case was filed prior to the implementation of the electronic filing system, it is the responsibility of counsel for said moving party to make arrangements with the clerk's office to have the file available on the date set for the hearing of the motion.

**NON-DISPOSITIVE MOTIONS**

Whenever counsel elects to file supporting memoranda of law on the motion calendar, the memoranda shall be filed with the hearing date clearly printed or typed on the top of the first page above the caption of the case no later than ten (10) days before the date scheduled for the hearing date. Paper copies shall be provided to the Court.

**RULE 37 CERTIFICATION**

Motions shall include a Rule 37 Certification, providing proof that counsel tried to resolve the issue prior to Court intervention. Failure to provide a Rule 37 Certification constitutes grounds for the Court to refuse to hear the Motion.

**EMERGENCY MATTERS—IN-PERSON MOTIONS AND HEARINGS—SELF-REPRESENTED LITIGANTS.**

All matters involving in-person motions/hearings shall be scheduled by the Civil Clerk to ensure compliance with appropriate distancing and other safety protocols. All cases involving self-represented litigants shall require in-person hearings unless otherwise approved by the Court. Emergency matters will be scheduled through the Civil Clerk to ensure compliance with appropriate distancing and safety protocols. If more than one in-person hearing is scheduled for the same date, they will be appropriately staggered to ensure proper distancing and the safety of all participants including Court personnel.

ENTERED:

BY ORDER:

/s/ Brian Van Couyghen

/s/ Dayna Beretta

Brian Van Couyghen

Dayna Beretta

Associate Justice

Clerk

Dated: November 23, 2021

Dated: November 23, 2021