

## **MAGISTRATE JUDGE BECKY R. THORSON**

### Practice Pointers and Preferences

*July 2016*

#### **CONTACT WITH CHAMBERS**

- If you have questions about Magistrate Judge Thorson's Practice Pointers and Preferences, please contact Courtroom Deputy Melissa Kruger at 651-848-1210.
- Members of Magistrate Judge Thorson's chambers have been instructed not to provide answers to legal questions including procedural questions that would be governed by the Federal Rules of Civil Procedure, the Local Rules for the District of Minnesota, or the applicable pretrial scheduling order in the case.
- When calling the Court with a question regarding a specific case, please first identify yourself, the party you represent, and have the case name and number ready to provide to chambers.
- If you have a question or seek clarification regarding an order entered by the Court, please do not call chambers. Instead, file a letter on CM/ECF regarding your question or request for clarification.
- If you have a question about how to file a document on CM/ECF, please call the Technical Help Desk in the office of the Clerk of Court at 651-848-1100. You are also directed to the District's CM/ECF webpage, which has a number of useful resources.

#### **TELEPHONE CONFERENCES**

- When calling in for a scheduled telephone conference with Magistrate Judge Thorson, the moving party must have all parties on the line before calling chambers unless a conference bridge call number has been set up by the Court.

#### **TRANSCRIPTS**

- To request a transcript of a hearing, please send an email request to [thorson\\_chambers@mnd.uscourts.gov](mailto:thorson_chambers@mnd.uscourts.gov). Please identify the case name and number,

the date and time of the hearing, and whether you would like the transcript provided within 7, 14, or 30 days.

## **INITIAL PRETRIAL CONFERENCE AND 26(f) REPORT**

- Rule 16 conferences by telephone are disfavored; however, participation by telephone will be considered at the request of a party where attendance in person would impose an undue burden or expense in view of the nature of the case, the amount in issue, and the matters likely to be discussed at the conference. Any request must be made by contacting Courtroom Deputy Melissa Kruger at 651-848-1210 before the Rule 26(f) Report is due.
- In advance of the pretrial conference, the parties must submit a Rule 26(f) Report that conforms with Federal Rule Civil Procedure 26(f), and Local Rules 16.2 and 26.1. The parties' Rule 26(f) Report must also include any information required by the Court's Notice of Pretrial Conference. As set forth in the Local Rules, the Rule 26(f) Report must be in the form prescribed in Form 3 or Form 4 (in patent cases).
- Email a courtesy copy of the Rule 26(f) Report in Word format to chambers at [thorson\\_chambers@mnd.uscourts.gov](mailto:thorson_chambers@mnd.uscourts.gov) when it is filed. A paper copy of the Rule 26(f) Report is not required.
- The parties must discuss whether electronic discovery procedures and practices apply to their case and be prepared to discuss electronic discovery issues at the pretrial conference. The Court refers counsel to "Discussion of Electronic Discovery at Rule 26(f) Conferences: A Guide for Practitioners," developed by the Court's Federal Practice Committee to help attorneys and parties prepare for a meaningful discussion of electronic discovery issues early in the litigation. The Guide is available on the District's website under the Court Forms tab, in the Pretrial, Discovery, and Trial Forms section.
- If any party believes a protective order may be necessary, it must raise the subject with all other parties during the Rule 26(f) meet-and-confer, and attempt to reach agreement as to the terms of the protective order to the extent possible before the Rule 26(f) Report is filed. The proposed protective order should be emailed in Word format to chambers, identifying any areas of disagreement so that they can be discussed at the pretrial conference. (See Protective Orders and Filing Under Seal, below.)

## **PROTECTIVE ORDERS AND FILING UNDER SEAL**

- Any proposed protective order must include the following provision, which does not appear in the forms set forth in the Local Rules:

In connection with any motion filed with this Court, only those portions of a party's submission (e.g., memorandum of law, affidavit, and exhibits) that meet the requirements for treatment of protection from public filing (e.g., because they are subject to the attorney-client privilege or work product doctrine, or meet the standards articulated by Fed. R. Civ. P. 26(c)(1)(G)), shall be filed under seal. Designation of material as confidential or protected by any party pursuant to a protective order as the sole basis for filing the material under seal shall not satisfy this requirement.

- If no protective order is in place, documents may not be filed under seal without first obtaining permission from the Court upon a motion to seal, which demonstrates a compelling reason to justify the requested limitation on access to judicial records. Any motion to seal must be filed at least three days before the related filing is due.
- Any submission filed with the Court that is sealed must be delivered to all parties and hand-delivered to the chambers of Magistrate Judge Thorson the same day the documents are filed on the CM/ECF system.

## **STIPULATIONS AND PROPOSED ORDERS**

- Stipulated proposals to amend a Scheduling Order must include statements that establish good cause for the proposed amendment(s). Agreement between the parties is not sufficient. While a formal motion is not necessary if the parties agree on their proposals, only the Court may modify a scheduling order and the requirements of Local Rule 16.3 must be met.

## **MOTION PRACTICE**

- Before submitting any motion to the Court, check to make sure that you are in compliance with the Local Rules for the District of Minnesota and the case's pretrial scheduling order.
- Your case's pretrial scheduling order may provide for an informal dispute resolution process. If so, please review the applicable scheduling order for the process, limitations, and expectations regarding this option. If informal dispute resolution is an option, the parties are encouraged to confer on whether the issue can be resolved through the process.
- Your case's pretrial scheduling order may require that the parties schedule a telephone conference with the Court before filing any discovery motion.
- If a motion or case is resolved, please notify chambers as soon as possible so that any scheduled hearing can be removed from the calendar. If a motion has been partially resolved, please notify chambers to let the Court know what parts have been resolved and no longer need to be addressed by the Court. If time permits, notification should be by joint stipulation, as provided by Local Rule 7.1.

## **SCHEDULING HEARINGS**

- All motions to be heard by the Court must be scheduled through Magistrate Judge Thorson's Courtroom Deputy Melissa Kruger at 651-848-1210. When scheduling a motion, the parties should work together and inform Ms. Kruger of all motions pending or anticipated so they can be heard at the same time. Also, when scheduling a motion, the party calling in should have alerted the other side that they will be calling in to obtain a hearing date.
- When scheduling a motion, the parties should inform Ms. Kruger if there are related cases with related motions.
- If a hearing date or time must be rescheduled, it is helpful to have counsel for all parties on the line at the same time so that a new date/time can be provided that will work for all parties.

- Even if the parties agree that a motion can be submitted on the papers without oral argument, Ms. Kruger must be contacted to set the date for submission of the matter to the Court (the matter will be deemed submitted upon receipt of the last filing). The Court will determine whether to hold a hearing.

## **WRITTEN SUBMISSIONS**

- Magistrate Judge Thorson follows the word count and format rules set forth in the Local Rules. You must obtain leave from the Court before filing a memorandum of law that exceeds the word count set forth by this Court, the Local Rules, or the Federal Rules of Civil Procedure. Magistrate Judge Thorson permits, but does not require, a table of contents or table of authorities in your memorandum of law supporting motions that will be heard by Magistrate Judge Thorson. The table of contents and table of authorities are not included in the word count.
- Magistrate Judge Thorson strictly follows the form of discovery motions set forth in Local Rule 37.1. For all motions to compel discovery, Magistrate Judge Thorson requires that each discovery request, response, or objection at issue be set forth verbatim within your memorandum of law, followed immediately by your explanation of why the discovery is needed for your case and why the response is inadequate or the objection improper. If, because of the number of requests at issue, this requirement would cause a party to exceed the word count limit set forth in the Local Rules, the party must request relief from the word count limit under Local Rule 7.1 prior to filing the motion.
- Any exhibits filed electronically should be attached to an affidavit or declaration that explains where specific exhibits can be located in the electronic attachments.
- Do not refer to other Court filings in your motion papers and assume the Court has easy access to them. If another pleading or document is important enough to reference in your motion papers, attach it so that your motion and supporting documents are a self-contained bundle.
- Please deliver to chambers two courtesy copies of your motion papers, three-hole punched. If voluminous, please provide them in three-ring binders if possible. If the motion or letter is under five pages total (including exhibits), courtesy copies are not necessary.

- You must obtain leave of Court prior to filing a reply brief not provided for under the Rules of Civil Procedure or Local Rules.

## **IN COURT**

- Arrive early so you are ready to appear as scheduled.
- Double-check the location of the hearing in advance of the hearing date. Magistrate Judge Thorson is located in the St. Paul Courthouse, but on occasion may schedule and hold hearings in the Minneapolis Courthouse.
- Do not bring food or beverages into the courtroom. Water will be provided by the Court at each counsel table.
- Unless otherwise directed by the Court, counsel should address the Court and counsel from the podium and speak directly into the microphone for audio recording. The podium can be adjusted for height.
- Magistrate Judge Thorson reviews the written submissions in advance, so keep that in mind when preparing your oral argument.
- If a party submits additional case law or exhibits at oral argument, counsel must first furnish the additional case law or exhibits to opposing counsel prior to the hearing. Bring two additional copies of any additional case law or exhibits for the Court.
- If you intend to use visual aids at a hearing, such as PowerPoint or other presentation graphic, please bring paper copies for the Court, the law clerk, and opposing counsel. The copy should reference the case name and case number.
- If you plan to use the courtroom technology, please become familiar with it ahead of time. Training can be arranged through the Court's I.S. Department by first calling Magistrate Judge Thorson's Courtroom Deputy, Melissa Kruger, at 651-848-1210. The Court is not responsible for its functioning, so have a back-up plan if the technology is not available.