

## **Magistrate Judge Kate Menendez**

### **Practice Pointers and Preferences**

#### **Contact with Chambers**

- If you have questions about Magistrate Judge Menendez's Practice Pointers and Preferences, please contact her Courtroom Deputy, Kathy Thobe, at 612-664-5140.
- Members of Magistrate Judge Menendez's chambers will not provide answers to legal questions. This includes 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.
- Members of Magistrate Judge Menendez's chambers will not communicate with members of the media about any matters before the Court.
- When calling the Court with a question regarding a specific case, please first identify yourself and 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 612-664-5000. You are also directed to the District's [CM/ECF webpage](#), which has a number of useful resources.

#### **Courtesy Copies**

- Magistrate Judge Menendez **does not** require courtesy copies of motion papers and supporting documents. In the vast majority of cases, she **prefers** that the parties do not provide courtesy copies to chambers except as outlined below. If Magistrate Judge Menendez deviates from this preference, her staff will contact counsel to request submission of one or more courtesy copies.

## **Resources for Pro Se Litigants**

- Pro se litigants can find free, online access to the Federal Rules of Civil Procedure [here](#), and the Local Rules can be found [here](#). Additionally, the District's [website](#) has a number of other useful resources for pro se litigants.

## **First Pretrial Conference and Rule 26(f) Report**

- Rule 16 conferences by telephone are generally disfavored. 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 at issue, and the matters likely to be discussed at the conference. Any request to participate by phone should be made by contacting Courtroom Deputy, Kathy Thobe, at 612- 664-5140 before the Rule 26(f) Report is due. If counsel for one side seeks to participate by phone, Magistrate Judge Menendez may order the entire proceeding to be held telephonically.
- Before 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. Magistrate Judge Menendez's [website](#) has downloadable PDF and Word versions of Rule 26(f) templates for general civil, patent, and ERISA cases.
- Please email a courtesy copy of the Rule 26(f) Report in Word format to chambers at [menendez\\_chambers@mnd.uscourts.gov](mailto:menendez_chambers@mnd.uscourts.gov) when it is filed.
- 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 [here](#) and 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.

## **Filing Under Seal**

- Any materials filed under seal in civil cases must comport with the procedure set forth in Local Rule 5.6.
- No courtesy copies are needed for any sealed filing that is viewable to the Court through the CM/ECF system. If sealed materials are filed in a criminal case or if the Court cannot access the sealed civil filings on CM/ECF for any reason, two hard copies must be hand-delivered to the chambers of Magistrate Judge Menendez the same day the documents are filed.

## **Stipulations and Proposed Orders**

- Stipulated proposals to amend a Scheduling Order must include statements that establish good cause for the proposed amendment. Agreement between the parties is not sufficient. While a formal motion is not necessary if the parties agree on the proposal, the requirements of Local Rule 16.3 must be met before Magistrate Judge Menendez will grant the modification.

## **Telephone Hearings**

- When calling in for a scheduled telephonic status conference or telephonic hearing with Magistrate Judge Menendez, the Court will generally use a conference bridge. Chambers staff will provide the necessary call-in information to counsel via email.
- Magistrate Judge Menendez may periodically schedule a telephonic status conference in your case to discuss the progress of the litigation and whether the parties could use the Court's assistance in reaching a mediated resolution. If counsel or a pro se litigant has a scheduling conflict with a scheduled status conference, please contact Courtroom Deputy, Kathy Thobe, at 612-664-5140 or email [menendez\\_chambers@mnd.uscourts.gov](mailto:menendez_chambers@mnd.uscourts.gov) to request that the status conference be rescheduled.

## **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.

- Parties are encouraged to use the Court’s informal dispute resolution process wherever possible. One or both parties can contact the Court via phone or email to set a prompt (usually within two to three business days) telephone conference to discuss the issues. The day before the hearing, the parties shall email (not file) the Court either a joint letter setting forth their respective positions or separate letters. If the parties submit separate letters, they must serve a copy on the opposing side unless they have received prior permission from the Court to submit the letters ex parte. In the event an ex parte submission is requested, the requesting party must make the opposing side aware of the request. Letters should be concise and focus on narrowing the issue in dispute as much as possible.
- If a pending motion 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.
- Please obtain leave from the Court **prior to** filing a reply brief not provided for under the Rules of Civil Procedure or Local Rules or filing a brief exceeding the word count or page limits. Any request to deviate from the formatting, word count, or page limit rules should be made according to the process set forth in Local Rule 7.1.
- When filing a motion to amend a pleading, the moving party should submit a “redlined” version of the proposed amended pleading showing the differences between the original and the proposed amendment as required by the Local Rules.

### **Scheduling Hearings**

- All motions to be heard by the Court must be scheduled through Magistrate Judge Menendez’s Courtroom Deputy, Kathy Thobe, at 612-664-5140. When scheduling a motion, the parties should inform Ms. Thobe 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 to obtain a hearing date.
- When scheduling a motion, the parties should inform Ms. Thobe 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 or 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. Thobe 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.

### **Settlement Conferences**

- Read and comply with any Order for Settlement Conference issued by the Court. Among other items, this Order requires the parties to send the Court a confidential letter addressing several issues in advance of the conference.
- All parties with power to settle the case must attend in person, and parties should be prepared to spend the entire day (and evening, if necessary) at a settlement conference, if the Court deems that the parties are making progress at the conference. Therefore, attorneys and their clients or client representatives should be prepared to change other events they have planned for the day or evening, and their travel plans, if necessary.
- Parties and counsel are welcome to bring food and drink to settlement conferences.

### **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 Menendez is located in the Minneapolis Courthouse.
- Do not bring food or beverages into the courtroom for hearings. 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 center podium and speak directly into the microphone for audio recording. The podium can be adjusted for height.
- Magistrate Judge Menendez reviews the written submissions in advance of any hearing, so keep that in mind when preparing your oral argument.

- The Court strongly encourages litigants to be mindful of opportunities for newer lawyers to conduct hearings before the Court, particularly for motions where the lawyer drafted or contributed significantly to the underlying motion or response. The Court believes it is crucial to provide substantive speaking opportunities to newer lawyers and that the benefits of doing so will accrue to newer lawyers, clients, and the profession generally.
- 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 Menendez's Courtroom Deputy, Kathy Thobe, at 612- 664-5140. Magistrate Judge Menendez and her staff are not responsible for the courtroom technology's functioning, so have a back-up plan if the technology is not available.