

## Judge Katherine M. Menendez

### Practice Pointers and Preferences

#### Contact with Chambers

- If you have questions about Judge Menendez's Practice Pointers and Preferences, please contact her Courtroom Deputy, Kathy Thobe, at 612-664-5140.
- Members of 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 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 612-664-5155. You are also directed to the District's [CM/ECF webpage](#), which has a number of useful resources.

#### Courtesy Copies

- Judge Menendez **does not accept courtesy copies** of motion papers and supporting documents, except in the narrow instances outlined below.

#### 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.

## **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 the Court cannot access the sealed filings on CM/ECF, a hard copy or a data storage device (such as a thumb drive or an external hard drive) must be hand-delivered to the Clerk's Office the same day the documents are filed.

## **Telephone Conferences**

- Judge Menendez may schedule a telephonic status conference in your case to discuss the progress of the litigation or an issue that has arisen in a case. Call-in information will be circulated to counsel ahead of the conference. 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.

## **Scheduling Hearings**

- Judge Menendez largely follows the local rules for scheduling dispositive motion hearings. For purposes of scheduling a hearing on a motion, Judge Menendez's staff will need to know when you anticipate being ready to file a motion.
- All motions to be heard by the Court must be scheduled through 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 hearing, the party calling in should have alerted the other side that they will be calling to obtain a hearing date. Judge Menendez prefers to hold hearings no sooner than two weeks after the briefing is completed, unless an expedited proceeding is required.
- Please Note the Following: Parties sometimes call chambers several months in advance of their deadline to file a dispositive motion, or when they call, Judge Menendez's calendar may be so full that a hearing date may not be available for a significant time. We will provide you a hearing date. However, if you call

early or your hearing will not be held for some time, please keep the following things in mind: (1) your scheduling order may include a deadline for filing your motion that is well before the hearing; and (2) Local Rule 7.1's provisions for both dispositive and non-dispositive motions require all documents (motion, notice of hearing, memorandum of law, affidavits, declarations and exhibits, etc.) to be filed "simultaneously." Regardless of when your hearing will take place, you must file your motion by the deadline in your scheduling order, and you must file all documents required by D. Minn LR 7.1(b) or 7.1(c) at the same time.

- When scheduling a motion hearing, the parties should inform Ms. Thobe if there are related cases with related motions.
- Judge Menendez is open to requests to hold proceedings via Zoom. Please make such a request via email to the Court at [menendez\\_chambers@mnd.uscourts.gov](mailto:menendez_chambers@mnd.uscourts.gov), copying opposing counsel on said email. Ideally both sides should agree on the propriety of a remote proceeding, though the Court will entertain requests even if both sides do not agree. Additionally, Judge Menendez may, on her own, suggest or order remote proceedings in appropriate circumstances.
- 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.
- If the parties agree that a motion can be decided on the papers without a hearing, they should file a Notice of Hearing that indicates that agreement. Judge Menendez may still decide to hold a hearing following the completion of briefing, if she feels it would be beneficial.

### **Daubert Motions**

Judge Menendez generally hears *Daubert* motions herself, rather than referring them to the Magistrate Judges. The scheduling of *Daubert* motions varies depending on the nature of the motion:

- Sometimes a party seeks to bring a *Daubert* motion in connection with a dispositive motion. Generally, the party argues that the testimony of an expert witness should be excluded and that, without such testimony, a claim or defense of the opposing party must be dismissed. This type of *Daubert* motion should be brought contemporaneously with the dispositive motion, and both the *Daubert* motion and the dispositive motion should be addressed in the same

memoranda. For purposes of the word-count limit in D. Minn. L.R. 7.1(f), the *Daubert* motion and the dispositive motion are treated as a single motion.

- Sometimes a party seeks to bring a *Daubert* motion that will exclude the anticipated trial testimony of an expert witness but that will not eliminate the need to try a claim or defense. This type of *Daubert* motion should be brought as a motion in limine in accordance with the trial notice.

### **Expedited Proceedings**

- Parties filing papers in an expedited proceeding such as a Motion for a Temporary Restraining Order must email a full set of papers to the Court at [menendez\\_chambers@mnd.uscourts.gov](mailto:menendez_chambers@mnd.uscourts.gov) the same day the motion is filed on ECF. The parties shall properly serve the motion on the other party and must email chambers with the contact information for both sides. The Court will review the moving papers and provide the moving party with a hearing date and briefing schedule.

### **Early Summary Judgment Motions**

- No party may file a Motion for Summary Judgment prior to the discovery deadline without leave of the Court. Additionally, Judge Menendez does not allow any party to file more than one summary judgment motion in any case without permission.

### **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. Judge Menendez is currently located in the Minneapolis courthouse, though she on occasion holds hearings in other courtrooms or courthouses.
- The Court generally does not provide water during hearings, except for witnesses and criminal defendants. However, you may bring beverages in containers with lids.
- 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.

- Judge Menendez reviews the written submissions in advance of any hearing, so keep that in mind when preparing your oral argument. She is very likely to spend the time allotted for a hearing asking questions and having a dialog with counsel, rather than listening to a prepared presentation.
- 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 any special accommodations are needed to allow less experienced attorneys to argue cases (such as dividing time or having an opportunity to consult with experienced counsel during argument), please email ahead of time and those arrangements will be freely made.
- 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. However, Judge Menendez prefers that any such additional material be submitted by email to the Court and opposing counsel at least a day ahead of the hearing.
- If you intend to use visual aids at a hearing, such as PowerPoint or other presentation graphic, please email the Court no later than the day before the hearing with an electronic copy of the material, and copy opposing counsel. **No paper copies are necessary.** However, because Judge Menendez prefers to fill the hearing time with active questioning, please be advised that you may not have an opportunity to present the PowerPoint at all.
- If you plan to use the courtroom technology, please become familiar with it ahead of time. If your device (e.g., your laptop) does not have an HDMI input or other compatible ports, you will ultimately be responsible for ensuring that you have the appropriate adapters to connect that device to the courtroom's technology. Very basic training can be arranged by first calling Judge Menendez's Courtroom Deputy, Kathy Thobe, at 612-664-5140. If you have questions about how to use the courtroom technology, Judge Menendez's staff will attempt to assist you, but you should review the courtroom technology training materials available on the Court's website, which will likely provide you all the information that staff could share. 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.