

FILED

November 3, 2015

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM10-8051

ADM09-8009

ADM04-8001

ORDER RELATING TO THE CIVIL JUSTICE
REFORM TASK FORCE, AUTHORIZING MODIFICATIONS
TO EXPEDITED CIVIL LITIGATION TRACK PILOT PROJECT

By order filed May 8, 2013, the court authorized a pilot project in the First Judicial District in Dakota County and the Sixth Judicial District in St. Louis County in Duluth to test whether certain expedited processes improve the way trial courts process civil cases in order to secure the just, speedy, and inexpensive determination of every civil action (“Pilot Project”). The court also promulgated Special Rules for the Pilot Expedited Civil Litigation Track to govern the Pilot Project. The district courts are willing to increase the scope of the Pilot Project cases, and the Fourth Judicial District is willing to participate in the Pilot Project on a limited basis.

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. The First Judicial District in Dakota County, the Fourth Judicial District, and the Sixth Judicial District in St. Louis County in Duluth (“Pilot District Courts”) are hereby authorized to conduct a pilot project (“Pilot Project”) under the Special Rules for the Pilot Expedited Civil Litigation Track.

2. The Pilot Project shall continue to test whether the expedited processes authorized by the Special Rules for the Pilot Expedited Civil Litigation Track improve the way that trial courts process civil cases in order to secure the just, speedy, and inexpensive determination of every civil action. The Pilot District Courts shall, with the assistance of the State Court Administrator, evaluate the Pilot Project and report to this Court within twelve months after the date of this order, and as often thereafter as this Court shall direct. The report shall examine the Pilot Project processes in light of the core principles that support the establishment of a mandatory Expedited Civil Litigation Track, and determine whether the efficiency and effectiveness in which the Pilot District Courts process civil cases are improved.

3. The Fourth District's participation in the Pilot Project and the attached amendments to the Special Rules for the Pilot Project shall be effective January 1, 2016, and shall apply to all civil actions identified therein that are filed on or after the effective date. The Pilot Project shall continue until further order of the court. To the extent of any conflict between the terms of this order and the amended Special Rules for the Pilot Expedited Civil Litigation Track, and the provisions of the Rules of Civil Procedure and the General Rules of Practice for the District Courts, the terms of this order and its attached Special Rules for the Pilot Expedited Civil Litigation Track shall prevail.

Dated: November 3, 2015

BY THE COURT:



Lorie S. Gildea
Chief Justice

Special Rules for the Pilot Expedited Civil Litigation Track

[Note: In the following amendments, deletions are indicated by a line drawn through the words and additions are indicated by a line drawn under the words.]

Preface

The purposes of the Expedited Litigation Track (ELT) are to promote efficiency in the processing of certain civil cases, reduce cost to the parties and the court system, maintain a system for resolution of claims that is relevant to the parties, and provide a quick and reduced-cost process for obtaining a jury trial when civil actions cannot be resolved by judicial decision (dispositive motions) or by settlement.

The core principles that support the establishment of a mandatory Expedited Litigation Track include:

1. Most civil actions can be resolved by court decision or settlement upon a sharing of basic facts regarding the claims and defenses of the parties;
2. Timely and assertive judicial attention to matters results in the resolution of actions that can be resolved through settlement and provides for customized discovery and trial procedures that will be most cost-effective for the court and the parties;
3. Attorneys and parties are hesitant to voluntarily elect expedited procedures, thus a mandatory system is required;
4. Extensive discovery through interrogatories, requests for production, and depositions is often unnecessary, unproductive, and leads to protracted litigation and unnecessary litigation costs;

5. A compact discovery schedule will reduce the time and cost of litigation for courts and litigants;
 6. Mandatory disclosure of relevant information, rigorously enforced by the court, will result in disclosure of facts and information necessary to evaluate the anticipated evidence for purposes of settlement and to allow parties to prepare for trial; ~~and~~
 7. Expedited cases should be completed within 4-6 months;
 8. Having a trial date or week certain is key to minimizing cost and delay;
- and
9. Assignment of an expedited case to a single judge is also highly desirable, but district courts may need flexibility to ensure that trial dates are observed. This may involve assignment of a case to a pool of judges for trial or the use of adjunct judicial officers to handle case management conferences. Where possible district courts should avoid assigning judges on the day of trial to prevent the last minute striking or removal of judges that necessitates a continuance.

RULE 1. MANDATORY ASSIGNMENT OF CERTAIN ACTIONS TO THE EXPEDITED LITIGATION TRACK

(a) General; Effective Date. Unless excluded by an order of the court made pursuant to Rule 1(c) herein, all civil actions identified in Rule 1(b) that are filed in the First Judicial District in Dakota County, the Fourth Judicial District, and ~~in~~ the Sixth Judicial District in St. Louis County in Duluth on or after ~~July 1, 2013,~~ January 1, 2016,

shall be assigned to the ELT and managed pursuant to these Special Expedited Litigation Track Rules (ELT Rules).

(b) Actions Included. The following civil actions shall be assigned to the ELT, unless excluded pursuant to Rule 1(c) herein:

(1) in the Sixth Judicial District in St. Louis County in Duluth and in the First Judicial District in Dakota County, all civil matters having the case type indicator Consumer Credit Contract, Other Contract, Personal Injury, ~~or~~ Other Civil, or Conciliation Appeal;

(2) in the ~~First~~Fourth Judicial District ~~in Dakota County~~, all civil matters having the case type indicator Consumer Credit Contract and Conciliation Appeal, and, where designated by the presiding judge by assignment to ELT (referred to in these rules as “Assignment to ELT”), matters having the case type indicator Other Contract, Personal Injury, or Other Civil; provided that this shall not prevent the Fourth Judicial District from initially requiring any Conciliation Appeal to first proceed with mediation before Assignment to ELT, and having been randomly assigned such as by a court assigned case file number ending in an even number or some other random selection process at filing with notice to the parties;

(3) Any action where all the parties voluntarily agree to be governed by the ~~Special~~ ELT Rules by including an “ELT Election” in the civil cover sheet filed under the General Rules of Practice or by jointly filing an ELT Election certificate with the court, and the court has accepted such agreement by Assignment to ELT.

(c) Initial Motion for Exclusion from ELT. A party objecting to the mandatory assignment of a matter to the ELT must serve and file a motion setting forth the reasons that the matter should be removed from the ELT. Said motion papers must be served and filed within 30 days of the filing of the action or, where applicable, Assignment to ELT. The motion shall be heard during the Case Management Conference, if any, under Rule 3 of these rules or at such other time as the court shall direct. The factors that should be considered by the court in ruling on said motion include:

- (1) Multiple parties or claims;
- (2) Multiple or complex theories of liability, damages, or relief;
- (3) Complicated facts that require the discovery options provided by the Minnesota Rules of Civil Procedure;
- (4) Substantial likelihood of dispositive motions; or
- (5) Any factor that demonstrates that assignment to the ELT would substantially affect a party's right to a fair and just resolution of the matter (e.g., timing of obtaining discovery from a third party, estimated damages significantly exceeding \$100,000).

(d) Subsequent Motion for Exclusion from ELT. After the time for bringing a motion under Rule 1(c) of this rule has expired and no later than the trial date, a party may by motion request that the case be removed from the ELT for good cause shown related to a new development that could not have been previously raised.

RULE 2. AUTOMATIC DISCLOSURES OF INFORMATION

(a) **Content; Timing.** Each party shall prepare and serve an Automatic Disclosure of Information within 60 days after filing of the action or, where applicable, filing of the ~~ELT Election~~Assignment to ELT. The Automatic Disclosure of Information shall include the following:

(1) A statement summarizing each contention in support of every claim or defense which a party will present at trial and a brief statement of the facts upon which the contentions are based.

(2) The name, address, and telephone number of each individual likely to have discoverable information—along with the subjects of that information and any statement from such individual—that the disclosing party may use to support its claims or defenses. However, no party shall be required to furnish any statement (written or taped) protected by the attorney/client privilege or work-product rule.

(3) A copy—or description, by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses.

(4) If a claim for damages is being made, a description of the precise damages being sought by the party and the method for calculation of said damages. If the party has any liability insurance coverage providing coverage for the claims being made by another party, the name of the insurance company, the limits of coverage, and the existence of any issue that could affect the availability of coverage.

(5) A brief summary of the qualifications of any expert witness the party may call at the time of trial together with a report or statement of any such expert which sets forth the subject matter of the expert witness's anticipated testimony, the substance of the facts and opinions to which the expert is expected to testify, and a brief summary of the grounds for each opinion.

(6) Any offers of stipulation of any fact that is relevant to any claim or defense in the matter.

(7) An estimate of the number of trial days that it will take to complete trial of the matter.

(b) Filing Disclosures; Privacy Considerations. Automatic disclosures under this rule need not be filed with the court unless otherwise ordered by the court. If a court directs the filing of automatic disclosures, the party filing such disclosures shall take necessary and appropriate steps to protect the privacy interests (such as, without limitation, addresses and telephone numbers) of individuals identified in the disclosures.

RULE 3. CASE MANAGEMENT CONFERENCE

(a) Timing; Scope. Within 45 to 60 days of the date of filing of an action, or where applicable, within 30 days of filing of the ~~ELT Election~~ Assignment to ELT, the court shall convene a Case Management Conference (CMC). All counsel and parties, whether represented or unrepresented, must participate in the CMC. At the CMC, the court and the parties shall address the following subjects:

(1) Any motion to exclude the matter from the ELT Rules made pursuant to ELT Rule 1(c) of these rules;

(2) The prospects for settlement via mediation, arbitration, court-conducted settlement conference, or other form of ADR;

(3) Any request for modification of the abbreviated discovery process required by the ELT Rules;

(4) The setting of a day or week certain trial date to begin no later than 120 to 180 days following filing of the action or, where applicable, the Assignment to ELT-Certification;

(5) The setting of a deadline for the filing of all trial documents, including witness lists, exhibit lists, jury instructions, special jury verdict forms, trial briefs and motions in limine; and

(6) The setting of the date for completion of hearing of any motions.

(b) Format; Alternative Judicial Intervention. The court may conduct the CMC by telephone or may substitute other judicial intervention (including but not limited to one or more telephone discussions or issuing a scheduling order based on information supplied by the parties in their civil cover sheet) that addresses the above subjects.

RULE 4. LIMITATIONS ON DISCOVERY

(a) Time Period Limited. The period for conducting discovery shall continue for a period of 90 days from the Case Management Conference, if one is held, or from the scheduling order, or for a different period established by court order. Upon a request of the parties, the court, for good cause shown, may extend the period for conducting discovery for up to an additional 30 days.

(b) Written Discovery Limits; Motions to Compel. Written discovery shall be limited to 15 interrogatories, 15 requests for production of documents and things, and 25 requests for admissions. Written discovery by each party must be served within 30 days of the date of the CMC, if one is held, or from the scheduling order, or for a different period established by court order, and responses thereto must be served within 30 days of the date of service. Motions to compel responses to written discovery shall be made within 15 days of the date a response was due and shall be made pursuant to the modified discovery motion procedure set forth in Rule 4(d) of these rules.

(c) Depositions. Depositions are permitted as a matter of right of the parties only but must be taken within the deadline established by the court. Except as otherwise ordered by the court, a deposition of a non-party witness shall be allowed only if the deposition is being taken in lieu of in-person trial testimony.

(d) Meet and Confer Requirement. Prior to any motion to compel discovery, the party seeking the discovery and the party from whom responses are being sought must, by and through their counsel (or a pro se litigant if unrepresented by counsel), confer in an attempt to resolve the dispute. If the dispute is not resolved, the party seeking the discovery shall contact the court and schedule a telephone conference with the court, and provide notice of the date and time of the telephone conference to all adverse parties. No later than 5 days prior to the date of the discovery dispute telephone conference, each party shall serve and file with the court a letter not exceeding 2 pages in length setting forth the party's position on the discovery dispute and providing copies of

the disputed discovery. The court, in its discretion, may allow additional argument at the telephone conference. The court shall promptly rule on the discovery dispute.

APPENDIX OF SAMPLE FORMS

The forms appended hereto are set forth as samples that may be used in the Expedited Litigation Track Pilot Project.

Appendix A: Sample Expedited Litigation Track Assignment Order

STATE OF MINNESOTA
COUNTY OF _____

DISTRICT COURT
_____ JUDICIAL DISTRICT

CASE TYPE: _____

_____, Plaintiff

File Number: _____

v.

_____, Defendant

**ELT Assignment and Case
Management Conference Order**

It is ORDERED:

1. This case is assigned to the pilot project (ELT Pilot”) under the Special Rules For a Pilot Expedited Civil Litigation Track (“ELT Rules”);
2. A party objecting to this assignment must make a formal motion under ELT Rule 1(c) or (d), for removal from the ELT Pilot;
3. Each party shall provide the Automatic Disclosure Of Information required under ELT Rule 2;
4. A Case Management conference shall be held on : _____, and each party shall attend the conference prepared to discuss the subjects identified in ELT Rule 3; and
5. The Limitations on Discovery set forth in ELT Rule 4 apply.

Dated: _____

BY THE COURT:

Judge of District Court

Appendix B: Sample Expedited Litigation Track Case Management Order

STATE OF MINNESOTA
COUNTY OF _____

DISTRICT COURT
_____ JUDICIAL DISTRICT

CASE TYPE: _____

_____, Plaintiff

File Number: _____

v.

ELT Case Management Order

_____, Defendant

It is ORDERED:

1. Each party shall provide the Automatic Disclosure Of Information required under Rule 2 of the Special Rules For a Pilot Expedited Civil Litigation Track (“ELT Rules”)
2. ADR will/will not be used, and if used the deadline and form of ADR shall be: _____;
3. The Limitations on Discovery set forth in ELT Rule 4 apply;
4. All motions shall be heard by: _____;
5. The day or week certain for trial is: _____;
6. The deadline for submitting all trial documents, including witness lists, jury instructions, special verdict forms, trial briefs, and motions in limine is: _____.

Dated: _____

BY THE COURT:

Judge of District Court

Appendix C: Sample Expedited Litigation Track Case Scheduling Order (No CMC)

[Note: all of Appendix C is new but is not underlined to improve readability]

STATE OF MINNESOTA
COUNTY OF _____

DISTRICT COURT
_____ JUDICIAL DISTRICT

CASE TYPE: _____

_____, Plaintiff

File Number: _____

v.

ELT Scheduling Order

_____, Defendant

Appearances:

[Name], Title for the [Plaintiff]

[Name], [Title or Law Firm] for the [Defendant]

This case shall be governed by the Special Rules For a Pilot Expedited Civil Litigation Track (“ELT Rules”) as modified herein. The parties are reminded that ELT Rule 2(a) requires initial automatic disclosures to be made within 60 days from the date of filing of the action or, where applicable, filing of the Assignment to ELT.

1. Joinder of additional parties, by amendment or third party practice, shall be accomplished on or before [plus 30 days].

2. Discovery shall be completed – that is, all depositions completed, all interrogatories answered, all requests for production responded to and all responsive documents produced, all requests for admission propounded and responded to, and any privilege logs exchanged-and all discovery-related motions shall be scheduled to be heard on or before [plus 60 days].

3. No discovery dispute may be brought before the court unless the parties have conferred and made a good faith effort to settle their dispute as contemplated by Minn. R. Civ. P. 37.01(b) and Minn. Gen. R. Prac.115.10. The party raising an unresolved discovery issue shall first arrange a telephone conference with the court and the other party or parties to determine if the dispute can be resolved without a formal motion. In the event a telephone conference is

scheduled, the party requesting the telephone conference may submit to the Court, seventy-two hours before the conference, a letter, no longer than two pages outlining with specificity the issues to be addressed with the Court. The other party or parties may submit a responsive letter subject to the same length and specificity conditions twenty-four hours before the conference. The correspondence must be filed with the Court as well as courtesy copied by email to [CLERK'S EMAIL HERE]. No motion or submission other than these letters shall be filed before the telephone conference. Only if the telephone conference does not resolve the dispute may a formal motion be scheduled.

4. All other non-dispositive motions (including motions to amend the pleadings) shall be scheduled to be heard on or before [plus 60 days].

5. Dispositive motions shall be scheduled with the Court's clerk to be heard on or before [plus 110 days]. The scheduling of a dispositive motion requires as much as two or three months advance notice to the Court's clerk.

6. All dispositive and non-dispositive motions are subject to the following requirements:

a. A copy of the memorandum (in pdf) and all exhibits (in pdf) shall be sent to the [CLERK'S EMAIL HERE]. If an exhibit exceeds the maximum allowable size for an attachment to email (currently 30MB), it shall be delivered on CD, DVD, or USB-Drive to the Court within three business days of filing. The hardware will not be returned. A copy of the proposed order, in word, shall be sent to [CLERK'S EMAIL HERE].

b. A paper courtesy copy of each memorandum shall be delivered to the Court in person or by mail. The Court requires paper courtesy copies of exhibits only under the following circumstances: when the exhibits include color, photographs, oversized documents (like plans or schematics) or other material that is not suitably reproduced within the e-filing system, those specific exhibits should be delivered in person or by mail. The court may later request paper copies of exhibits, but parties should not provide them as a default unless they meet the exception just described.

c. The Court requires that, for any memorandum citing deposition testimony, the entire deposition transcript shall be courtesy copied to the Court in pdf format via email, USB-drive, or CD. Media will not be returned.

d. Nothing should ever be sent to the Court by fax.

e. No motion will be heard unless the parties have conferred either in person or by telephone in an attempt to resolve their difference before the scheduled hearing. The moving party shall initiate such communications. The moving party shall certify to the Court, before the time of the hearing, compliance with this order or any reason for not complying. Whenever any pending motion is settled, the moving party shall promptly advise the Court.

7. Any party that wishes to request a pre-trial or settlement conference (after the mediation date) may do so by making a written request, copying the other parties, to the Court's clerk.

8. The case will be considered ready for trial during the court's civil trial block [INSERT TRIAL DATE OR BLOCK 4-6 MONTHS FROM FILING]. An order for trial will follow closer to the trial date. **If an attorney or party** has a conflict which cannot be resolved during this period, it must be made known to the Court and the other parties within 15 days of this order.

Other matters

9. The clerk for this case is [NAME, CLERK'S EMAIL HERE, (612) xxx-xxxx].

10. Counsel shall immediately notify the Court of any final disposition of this matter or any final disposition of this matter as to any party. A signed stipulation and a proposed order for dismissal shall follow as soon as possible.

11. All documents filed with the Court Administrator must be e-filed in accordance with Minnesota Supreme Court Order and rules adopted on May 24, 2012. **All attorneys representing a party in this matter are required** to add themselves immediately to the electronic Master Service list for this case. (Unrepresented parties are excluded from this

requirement.) The Court will issue and distribute all orders in this matter electronically. The Court will not send attorneys or represented clients a hard-copy of documents filed by the Court. Questions regarding signing up for the electronic case service list may be directed to the District court on its E-File Help Line at 651-227-2002.

12. In accordance with Rule 6.04(b) of the Minnesota Rules of Civil Procedure, weekend days and legal holidays shall be excluded when computing time periods of less than seven days. For example, in the case of a Monday motion hearing with no legal holiday during the preceding week, the reply memorandum is due on the preceding Wednesday.

13. Parties needing an interpreter for court hearings shall immediately, upon receipt of this Order, notify the Court of the need for an interpreter and of the language requested.

14. **No adjustments to this scheduling order** may be made by stipulation of the parties without approval of the Court. **No changes to this scheduling order may be sought** without filing a motion [WITHIN 30 DAYS OF THE DATE OF THIS ORDER]. The Court will not entertain requests to amend the scheduling order telephonically or by email. As with all motions, the non-moving party must be consulted before any such motion is filed. If there is an objection to the motion, the moving party shall so state in its moving papers. A motion which has been objected to must be served at least by email or fax on any other party in the case who is not registered to receive e-filing notifications. **A party objecting to a motion to modify the scheduling order shall have three business days** to make its response. Requests for amendments to this scheduling order will be granted only for good cause.

15. If it appears by notice of motion and motion or otherwise that a party has failed to comply with a provision of this Order, the party will be subject to appropriate sanctions, including attorney's fees and costs, striking of pleadings, preclusion of evidence, default judgment, dismissal of the case, or any other relief deemed appropriate by the Court.

16. All corporate parties must be represented by an attorney.

17. Counsel and their clients are reminded of Minn. R. Civ. P. 1, as amended effective July 1, 2013, which reads as follows:

These rules govern the procedure in the district courts of the State of Minnesota in all suits of a civil nature, with the exceptions stated in Rule 81. They shall be construed and administered to secure the just, speedy, and inexpensive determination of every action.

It is the responsibility of the court and the parties to examine each civil action to assure that the process and the costs are proportionate to the amount in controversy and the complexity and importance of the issues. The factors to be considered by the court in making a proportionality assessment include, without limitation: needs of the case, amount in controversy, parties' resources, and complexity and importance of the issues at stake in the litigation.

Dated: _____

BY THE COURT:

NAME, Judge of District Court