

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

**ORDER AMENDING RULES
OF THE
SUPERIOR COURT RULES OF CIVIL PROCEDURE**

This 4th day of September, 2014, **IT IS SO ORDERED** that:

(1) Superior Court Civil Rule 6 is amended by deleting paragraph (e) and by substituting in lieu thereof the following new paragraph (e):

(e) Additional time after service by mail. Whenever a party has the right to or is required to do some act or take some proceeding within a prescribed period after being served and service is by mail, 3 days shall be added to the prescribed period. The additional 3-day period applies only to actions taken by parties and does not apply to actions taken by the Court.

(2) Superior Court Civil Rule 16 is amended by adding the following new subparagraph (b)(5)(a):

(b)(5)(a) *Scheduling Order Deadlines.*

(i) A party, upon reasonable notice to other parties and all persons affected thereby, who proposes a change to a deadline contained in a scheduling order entered by the Court in accordance with this Rule shall make an application to the Court for such a change pursuant to Rule 7(b) or by written stipulation and order. Subsection (i) shall not apply to deadlines that are not contained in the scheduling order.

(ii) The Court may be promptly notified if a party does not comply with a deadline contained in a scheduling order. The Court may be notified by any party through a motion to compel, a proposal to amend the scheduling order or a request for a

**ORDER AMENDING RULES OF THE
SUPERIOR COURT RULES OF CIVIL PROCEDURE
September 4, 2014**

conference. A party may avail itself of any Rule of this Court (including but not limited to Rule 37) for a party's failure to comply with a deadline contained in a scheduling order.

(iii) Unless manifest injustice would result, a party's failure to promptly notify the Court of another party's failure to comply with a deadline contained in a scheduling order may result in a waiver of that party's right to contest any late filings by the offending party from that time forward.

(iv) This Rule shall not prevent the Court, upon motion or its own initiative, from making any orders to enforce compliance with a scheduling order.

(3) Superior Court Civil Rule 26 is amended by deleting paragraph (b)(5) and by substituting in lieu thereof the following new paragraph (b)(5) and by adding the following new subparagraph (b)(6):

(5) Protection for draft reports or disclosures - Rule 26(b)(3) protects drafts of any report or disclosure required under Rule 26 regardless of the form in which a draft is recorded.

(6) Protection of communication between a party's attorney and expert witnesses. - Rule 26 protects communications between the party's attorney and any witness required to provide an opinion under Rule 26(b)(4) regardless of the form of the communications, except to the extent that communications:

**ORDER AMENDING RULES OF THE
SUPERIOR COURT RULES OF CIVIL PROCEDURE
September 4, 2014**

- (i) relate to compensation for the expert study or testimony;
- (ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or
- (iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

(4) Superior Court Civil Rule 78 is amended by striking the Rule and replacing it with a new Superior Court Rule 78 as follows:

(a) *Motion days.* Unless otherwise ordered by the Court, motions shall be held by the Court as follows:

- (1) New Castle County. Motions in cases assigned to a Judge shall be presented as directed by the Judge. All other motions shall be presented to the Court on Fridays at 1:30 p.m.
- (2) Kent County. Motions in cases assigned to a Judge shall be presented as directed by the Judge. All other motions, except motions assigned to a Commissioner, shall be presented to the Court on Fridays at 11 a.m. Motions assigned to a Commissioner shall be heard on Thursday at 2:00 p.m.
- (3) Sussex County. Motions in cases assigned to a Judge shall be presented on the 1st and 3rd

**ORDER AMENDING RULES OF THE
SUPERIOR COURT RULES OF CIVIL PROCEDURE
September 4, 2014**

Fridays of each month at 11:00 a.m.

(b) *Motions.* Motions shall not exceed 6 pages in length on paper approximately 8 1/2 inches by 11 inches in size. Responses in opposition to any motion shall be filed no later than four days prior to the hearing on the motion and shall not exceed 6 pages in length on paper approximately 8 1/2 inches by 11 inches in size. All motions and responses must be double spaced and typeset in Times New Roman 14-point type with two spaces between sentences. Case names shall be italicized or underlined. Footnotes shall be single-spaced and typeset in Times New Roman 12-point type with two spaces between sentences.

(c) *Oral argument.* There will be no oral argument unless scheduled by the Court, except as may be otherwise expressly provided by statute or rule.

(d) *Scheduling.* Arguments scheduled will be scheduled as to date and time by the assigned judge.

(5) Superior Court Civil Rule 107 is amended by deleting paragraph (b) and by substituting in lieu thereof the following new paragraph (b):

(b) Type of print for briefs, motions and other papers. All briefs must be double spaced and typeset in Times New Roman 14-point type with two spaces between sentences. Case names shall be italicized or underlined. Footnotes shall be single-spaced and typeset in Times New Roman 12-point type with two spaces between sentences.

(6) The following new Rule 140 - Historical Society of the Superior Court of Delaware is approved:

**ORDER AMENDING RULES OF THE
SUPERIOR COURT RULES OF CIVIL PROCEDURE
September 4, 2014**

(a) There shall be a Historical Society of the Superior Court of Delaware (“Society”). Its purpose shall be to preserve the history of the Delaware Superior Court, its members, and its administration of justice in Delaware and to educate and inform others periodically about such matters.

(b) The society shall consist of the present judges of the Superior Court and such others members of the Delaware bench and bar as may from time to time be designated by the President Judge, with the concurrence of a majority of the Judges.

(2) These amendments shall take effect September 4, 2014.