

SUSSEX COUNTY

CIVIL CASE

MANAGEMENT PLAN

****Modified May 22, 2003****

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I. GENERAL FILING INFORMATION

1. At the time of filing, most civil cases are individually assigned to a specific Judge who will handle all aspects of the assigned case.
2. The Plaintiff when filing the Complaint and the Defendant when filing a response to the Complaint must file a Case Information Statement (CIS). Any unusual issues which could affect judicial assignment (e.g., companion case) or case management (e.g., elderly Plaintiff with terminal illness) should be noted on the CIS.
3. Receipt for filing fee will reflect civil action number and Judge's initials.
4. Judge's initials must appear at the end of each civil action number on all future filings.

Example: 00C-08-001 THG

5. Fax communications are limited to emergency purposes, to be followed by a hard copy.
6. To ensure proper docketing, originals should be filed with Prothonotary and a copy sent to chambers, if necessary.

II. JUDICIAL ASSIGNMENT CATEGORIES

1. Unless otherwise specially assigned by the President Judge, the following civil case types are assigned to all Judges at the time of filing on a rotating basis within categories.

A. COMPLAINTS

1. Debt/Breach of Contract (CDBT)
2. Malpractice (CMAL)
3. Personal Injury:
 - * Personal Injury Auto (CPIA)
 - * Personal Injury (CPIN)
4. Products Liability (CPRL)
5. Class Action (CACT)
6. Other:
 - * Auto Arbitration Appeals (CAAA)
 - * Foreign & Domestic Attachment (CATT)
 - * Transfer from CCP (CCCP)
 - * Transfer from Chancery (CCHA)
 - * Condemnation (CCON)
 - * Defamation (CDEF)
 - * Civil Fraud Enforcement (CFRD)
 - * Declaratory Judgment (CDEJ)
 - * Ejectment (CEJM)
 - * Foreign Judgment (CFJG)
 - * Interpleader (CINT)
 - * Libel (CLIB)
 - * Property Damage (CPRD)
 - * Replevin (CPRV)
 - * Best Implant Cases (CSBI)
 - * Summary Proceedings (CSPD)
 - * Tax Appeal (CTAX)

II. JUDICIAL ASSIGNMENT CATEGORIES - continued

B. MORTGAGES/MECHANIC LIENS (MORT/LIEN)

C. APPEALS FROM BOARDS, AGENCIES, COMMISSIONS AND COURTS INCLUDING CERTIORARIES

- * Administrative Agency (AADM)
- * Court of Common Pleas (ACCP)
- * Certiorari (ACER)
- * Family Court (AFAM)
- * Industrial Accident Board (AIAB)
- * Public Service Commission (APSC)
- * Unemployment Insurance Appeal Board (AUIB)

2. THE FOLLOWING CASES ARE NOT ASSIGNED INDIVIDUALLY BUT ARE REFERRED TO THE CIVIL OFFICE JUDGE

A. Miscellaneous matters referred to Civil Office Judge at time of filing:

- * Appointment of Counsel (MAAT)
- * Cease and Desist Order (MCED)
- * Complaints Requesting Order (MCRO)
- * Consent Orders (MCTO)
- * Issuance of Subpoena/Material Witness (MISS)
- * Petitions for Out-of-State Deposition (MOUT)
- * Applications for Forfeitures (MAFF)
- * Bail Forfeitures (MBAL)
- * Road Resolution (MROD)
- * Road Vacations (MVAC)
- * Tax Ditches (MTAX)
- * Writs of Prohibition (MPRO)
- * Expungements (MIND)
- * Habeas Corpus (MHAC)
- * Sell Real Estate for Property Tax (MSEL)
- * Hazardous Substance Cleanup (MTOX)
- * Civil Penalty (MCVP)
- * Set Aside Satisfaction of Mortgage (MSEM)
- * Tax Intercept (MREF)
- * Mandamus (MMAN)
- * Intercept of Forfeited Money (MFOR)

II JUDICIAL ASSIGNMENT CATEGORIES - continued

3. MISCELLANEOUS MATTERS REFERRED TO CIVIL OFFICE JUDGE AT FRIDAY MOTION HOUR:

- * Appointment of Guardianship where no underlying tort case has been filed. (MGAR)
- * Return dates of Petitions to Compel Satisfaction of Judgment (MSOJ)
- * Return dates of Petitions to Satisfy a Mortgage (MSAM)
- * Return dates of Writs of Possession (MPOS)
- * Petitions to Stay/Vacate a Sheriff Sale (MSSS)
- * Petitions to Set Aside Mortgage (MSEM)

4. THE FOLLOWING VARIOUS CIVIL CASE CATEGORIES WILL BE ASSIGNED AS FOLLOWS:

- * CLAD Cases – Assigned by President Judge
- * Asbestos Cases (CASB) – Assigned by President Judge
- * Applications to Carry a Concealed Deadly Weapon – Resident Judge
- * Involuntary Commitments (INVC) – Approval of Commissioner’s Recommendations and Fee Applications - Civil Office Judge
- * Civil Contempt/Capias (MCON) – Civil Office Judge
- * Failure to appear for jury duty – Civil Office Judge
- * Judgment Hearings – Civil Office Judgment
- * Tax Refund Intercept Cases (MREF) – Civil Office Judge
- * Seized Currency Cases (MFOR) – Civil Office Judge

5. INVOLUNTARIES

- * Will be handled by the Commissioner

III. GENERAL SCHEDULING PROCEDURES

1. Case Scheduling Orders will be issued by the Commissioner:
 - * after all defendants have answered
2. Before a Case Scheduling Order is issued, a Scheduling Conference shall be held by the Commissioner or her designee.
3. Case Scheduling Orders may include the following significant dates:
 - * Arbitration completion date (if applicable)
 - * Filing of Motions to Add or Amend
 - * Discovery Cutoff date
 - * Filing of Dispositive Motions
 - * Trial fee payment date – payable by plaintiff – non refundable
 - * Pretrial Conference
 - * Motion In Limine
 - * Trial
4. Unless otherwise ordered by a Superior Court Judge, all trials will be scheduled for a trial date within 365 days of the case filing date.
5. Lead counsel and local counsel will attend all Scheduling, Status and Pretrial Conferences unless excused by the Court.
6. Any request to review the scheduling order and/or continue the trial must be sent to the assigned judge. Any requests to revise the scheduling order must include the existing scheduling order in the motion and the proposed new order. If the revision has the potential of causing the trial to be continued, counsel or pro se litigant must note this in the motion. The parties may not stipulate to changes in the scheduling order without the judges' approval.

IV. MOTION PROCEDURE FOR ASSIGNED CIVIL CASES

1. DISPOSITIVE MOTIONS

A. SCHEDULING OF MOTION:

1. Dispositive Motions filed pursuant to a scheduling order do not need to be presented in open court because the brief schedule is contained in the scheduling order.
2. If counsel or pro se litigant did not make application for dispositive motion at the scheduling conference, then counsel or pro se litigant must seek leave of the Court to amend the scheduling order prior to the filing of the dispositive motion.
3. Dispositive motions shall be noticed for presentation to the Court twenty (20) days prior to the presentation. Motions are scheduled the 1st and 3rd Fridays of every month at 11:00 a.m.

B. FILING OF MOTION:

1. Original motion shall be filed with Prothonotary's Office.
2. Motion shall have NOTICE page indicating date and time of hearing.
3. Motion shall not exceed 4 pages.

C. RESPONSE TO MOTION:

1. Original response shall be filed with Prothonotary's Office.
2. Response is due to the Court and opponent no later than 4 days prior to the hearing date. If no response is filed by the due date, the motion may be deemed opposed. Example. If motions are scheduled on Friday, response should be filed by noon on Monday.
3. Response shall have NOTICE page indicating date and time hearing is scheduled.
4. Response shall not exceed 4 pages.

IV. MOTION PROCEDURES FOR ASSIGNED CIVIL CASES - continued

5. Counsel or pro se litigant shall promptly notify the Court and opposing party if a noticed motion is to be passed. Counsel or pro se litigant will then have the responsibility of re-noticing.
6. As a courtesy to Court staff and opposing counsel, if counsel or pro se litigant does not oppose the motion, counsel or pro se litigant should notify the Court in a timely fashion.

2. ROUTINE MOTIONS:

- A. Motions are routinely scheduled on the 1st and 3rd Fridays of each month at 11:00 a.m. and include but are not limited to the following:

- * Motion for Default Judgment Pursuant to Rule 55(b)(2)
- * Motion for Enlargement of Time
- * Motion for Independent Medical Examination
- * Motion for Protective Order
- * Motion for Psychiatric Examination
- * Motion to Amend
- * Motion to Compel
- * Motion to Consolidate
- * Motion to Expedite Proceedings
- * Motion to File Counterclaim/Crossclaim
- * Motion to Intervene
- * Motion for Leave to file a Third Party Complaint
- * Motion to Lift Stay
- * Motion to Modify Order
- * Motion to Satisfy Judgment
- * Motion to Sever
- * Motion to Stay
- * Motion to Strike
- * Motion to Substitute Parties
- * Motion to Vacate Default Judgment
- * Motion to Vacate Foreign Judgment
- * Motion to Withdraw as Counsel
- * Motion for Extension of Time to file Alias Praecipe
- * Motion to Revise Briefing Schedule

3. **Any application to revise the scheduling order and/or continue the trial date must be sent to the assigned Judge.**

IV. MOTION PROCEDURES FOR ASSIGNED CIVIL CASES - continued

4. **Motions to Consolidate should be filed in each case and the order must reflect the new civil action number of the oldest case.**
5. **A Motion for Default judgment pursuant to Civil Rule 55(b)(2) should normally include notice by mail to default defendant.**
6. Motion must be filed 10 days prior to the noticed date and shall not exceed 4 pages.
7. Response is due no later than 4 days prior to the hearing date. If no response is filed by the due date, the motion will be deemed unopposed.
8. **A motion presented by stipulation may be filed with the Prothonotary's Office for submission to the Civil Office Judge for signature (no presentation date required)**

A. STIPULATED MOTIONS AND ADDITIONAL MOTIONS WHICH CAN BE PRESENTED WITHOUT SCHEDULING:

1. Additional motions that may be filed with the Prothonotary's Office for submission to the Civil Office Judge for signature (no presentation date required) include:
 - * Motion for Admission Pro Hac Vice
 - * Motion for Distribution of Funds
 - * Motion for Entry of Judgment pursuant to Arbitrator's Order
 - * Motion for Guardian Ad Litem
 - * Motion for Publication
 - * Motion for Rule to Show Cause
 - * Motion for Special Process Server
 - * Motion to Compel Compliance with an Administrative Subpoena
 - * Motion to Confirm an Award
 - * Motion to Take Deposition in an Out-of-State case
2. Additional motions that may be filed with the Prothonotary's Office for submission to the Assigned Judge for consideration (no presentation date required) include:
 - * Motion for Reargument
 - * Motion for New Trial

IV. MOTION PROCEDURES FOR ASSIGNED CIVIL CASES - continued

- * Motion for Costs
- * Motion for Expert Witness Fees
- * Motion In Limine

B. MOTION TO BE HEARD BY COMMISSIONER

- * Motion to Proceed In Forma Pauperis

C. MOTIONS IN RULE 16.1 (b)(2) ARBITRATION CASES

1. Any non-dispositive motion filed prior to the last responsive pleading will be heard by the Civil Office Judge on a routine motion day.
2. After the last responsive pleading or the expiration of time pursuant to Superior Court Civil Rule 16.1 (b)(2), the case is referred to arbitration and all motions, including dispositive motions, will be considered by the Arbitrator appointed, with the exception of the following motions which will be heard by Civil Office Judge:
 - * Motion to Bypass Arbitration and any related Motion
 - * Motion to Waive an Arbitration Fee
 - * Motion to Withdraw as Counsel
 - * Motion to Dismiss for Lack of Subject Matter Jurisdiction
3. Pursuant to Superior Court Civil Rule 16.1 (f)(1) the Arbitration Hearing shall be scheduled and held by the Arbitrator within 40 days of the appointment, after consultation with parties; except that, where an answering party has requested an independent physical examination, pursuant to subsection (c)(2), the hearing shall be scheduled and held within 40 days of the receipt of the physician's report by the arbitrator.
4. Any arbitration hearing which has not been heard within 40 days of the appointment may be referred to the Commissioner for a Status Conference.

IV MOTION PROCEDURES FOR ASSIGNED CIVIL CASES - continued

D. INCARCERATED LITIGANT MOTIONS

Motions by incarcerated litigants are filed with the Prothonotary's Office, without a date and time for presentation.

1. The Judge or Commissioner will review the motion and determine if a response by opposing party is necessary. If so, the Judicial Case Manager will send a letter to opposing party instructing the party that a response must be filed within 10 days or the motion will be deemed unopposed.
2. Upon the expiration of 10 days, the Judicial Case Manager will send motion and response, if any, and file to the assigned Judge.
3. Judge will review pleadings and decide motion or schedule a hearing.
4. If a hearing is necessary, assigned Judicial Case Manger will schedule.

V DISMISSAL NOTICES

1. Rule 41(e) Court Dismissal Letters will be issued monthly, following six (6) months of no activity.
2. Rule 4(j) 120 Day Letters will be issued for all cases that have not had service effected within 90 days of issuance of summons.
3. Confirmation of Settlement letter shall be issued by the Court for all cases having been reported as settled.

**THE ABOVE PLAN IS HEREBY ADOPTED BY THE PRESIDENT JUDGE OF
THE SUPERIOR COURT OF THE STATE OF DELAWARE IN AND FOR
SUSSEX COUNTY THIS _____ DAY OF _____, 2003.**

President Judge

Resident Judge

Judge

Judge