

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

**ORDER AMENDING
RULES 26, 77 and 107 OF THE
SUPERIOR COURT RULES OF CIVIL PROCEDURE**

This 25th day of September, 2015, **IT IS SO ORDERED** that:

(1) Superior Court Civil Rule 26(b) is amended by adding a new section (7) which states:

(7) Claims of Privilege or Protection of Trial Material. – When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

(2) Superior Court Civil Rule 107(g) and (h) are amended by adding the underlined text and deleting the strikethrough text:

(g) If an unreported or memorandum opinion unavailable on either Westlaw or Lexis is cited, a copy thereof shall be attached to the brief, and the case number in which it was filed shall be stated. If the opinion does not contain a sufficient statement of the facts to demonstrate its pertinency to the pending argument, a statement of the facts shall also be attached to the brief. If the citation is first

made in a reply brief, the opposing party may discuss the opinion at oral argument or, upon application made at oral argument, may be given the opportunity to do so in writing.

- (h) Length of briefs. – Without leave of Court, an opening or answering brief shall not exceed a total of 40 ~~35~~ pages and a reply brief shall not exceed 25 ~~20~~ pages, exclusive of appendix. In the calculation of pages, the material required by paragraphs (e)(1) and (2) of this rule is excluded and the material required by paragraphs (e)(3) through (5) of this rule is included.

(3) Superior Court Civil Rule 107(i) is amended by deleting the rule in its entirety and substituting in lieu thereof the following new Rule 107(i):

- (i) Briefing on Dispositive Motions. – When briefing a dispositive motion, parties may utilize the briefing guidelines set forth in this Rule when permitted to do so under the terms of the Civil Case Management Plan in effect in the pertinent county, in compliance with any Standing Order for actions proceeding in the Complex Commercial Litigation Division, or when granted leave of Court to do so. Unless otherwise ordered, the responsive papers shall be in the form adopted by the moving party; i.e., if the moving party files a motion accompanied by a brief the responsive paper should be a brief.

(4) Superior Court Civil Rule 77(h)G is amended by adding the underlined text:

G. In addition to all other fees, the Prothonotary shall collect a Court Security Assessment of \$10.00 upon all initial civil case filings for which the filing fee is \$190.00 or greater.

(5) These amendments shall take effect October 1, 2015.

oc: Prothonotaries
cc: Superior Court Judges
Superior Court Commissioners
Hon. Matthew Denn
Hon. Brendan O'Neill
Court Administrator
Law Libraries
Margaret Derrickson
File