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RULES OF THE SUPERIOR COURT OF THE STATE OF NEW HAMPSHIRE

PRETRIAL PROCEDURES AND PRETRIAL SETTLEMENT CONFERENCES

62. (I) Initial Structuring Conference

(A) The Clerk shall schedule a Structuring Conference for each case entered on the civil and equity dockets unless otherwise ordered by the court. The Structuring Conference shall be held within forty-five (45) days after the return date or at such other time as the court may order.

(B)(1) Participation in Structuring Conference. Unless otherwise ordered by the court, structuring conferences shall be held at the courthouse and shall require the personal attendance of counsel, or parties if unrepresented. However, any counsel, or party if unrepresented, desiring to participate in the structuring conference telephonically may file a motion to do so at least fifteen (15) days prior to the structuring conference, indicating in said motion whether or not a record is requested. Although such motions should generally be granted, the court may consider the following factors, among others, in ruling on a request for telephonic participation: the complexity of the case; whether there has been an objection to the request for telephonic participation; whether the parties have reached agreement on all matters specified in section (I) (C) of this rule and have filed the comprehensive stipulation described in section (I)(D) of this rule; whether any party is unrepresented; the distance counsel, or parties if unrepresented, must travel to attend the conference in person; and the potential for successful resolution or settlement of the case at the initial screening conference.

(2) Counsel, or parties if unrepresented, shall participate in the Structuring Conference and shall be prepared and authorized to discuss the issues and set schedules for discovery and other case preparation, including additional conferences with the court, Alternative Dispute Resolution, Summary Jury Trial, and settlement or trial.

(3) The record, if any, for any telephonic conference will be taken by electronic recording device or such other method as may be approved by the court.

(C) No later than twenty days prior to the Structuring Conference counsel for all parties, or parties if unrepresented, shall either meet and confer personally or by telephone to discuss the claims, defenses and counterclaims and to attempt to reach agreement on the following matters: (1) a proposed date for trial and an estimate of the length of the trial; (2) an election to proceed either under standard discovery or fast track discovery; (3) a discovery schedule, including dates for the disclosure of each party's experts and experts' reports, and deadlines for the filing of pretrial motions of various kinds; (4) the scope of discovery, including particularly with respect to information stored electronically or in any other medium, the extent to which such information is reasonably accessible, the likely costs of obtaining access to such information and who shall bear said costs, the form in which such information is to be produced, the need for and the extent of any holds or other mechanisms that have been or should be put in place to prevent the destruction of such information, and the manner in which the parties propose to guard against the waiver of privilege claims with respect to such information; and (5) if the case is subject to ADR under Rule 170, a proposed agreement relating to Alternative Dispute Resolution (ADR), including an agreement upon the ADR process, the neutral to be used, and the schedule for mediation.

(D) Ten days prior to the Structuring Conference the parties shall file a comprehensive written stipulation, signed by all counsel, or by parties if unrepresented, addressing all of the foregoing matters on which agreement was reached. If the parties have been unable to reach agreement on one or more issues, each party shall submit a proposed order on those matters as to which agreement has not been reached with the exception of ADR. If the parties are unable to reach an agreement on ADR, the specifics of the ADR process shall be determined in accordance with Rule [170\(B\)](#). At the same time, all parties shall file summary

statements necessary to support their respective claims, defenses or counterclaims. This summary statement shall be comprehensive and made in good faith, but shall not be admissible at trial. The purpose of the summary statement is to apprise the court of the nature of the claims, defenses, and legal issues likely to arise.

(E) At the initial structuring conference, after consultation with counsel, or with parties if unrepresented, the court shall order that the case proceed under one of the following discovery options: (1) fast track; or (2) standard. In determining which discovery option shall be employed, the Court shall consider the following:

(a) the likely amounts in dispute;

(b) the nature and complexity of the issues presented;

(c) the resource equality of the parties; and

(d) the importance to a just adjudication of permitting discovery beyond that generally permitted under the fast track option.

Cases selected for standard discovery shall be governed by the Superior Court Rules other than Rule 62(II) below. Cases selected for fast track discovery shall be governed by the Superior Court Rules including Rule 62(II).

At or immediately after the initial structuring conference the court shall, and with the approval of the presiding justice the clerk may, issue a STRUCTURING CONFERENCE ORDER. Said order may approve the stipulation(s) reached by the parties, may adopt the proposals made by one or more of the parties, or may establish such other trial and pretrial dates and schedules as the court deems appropriate.

(II) Fast Track Discovery

In those cases selected for fast track discovery, the parties shall file disclosure statements with the court within ninety (90) days of the date of such selection. The disclosure statements shall contain the following:

(a) the factual bases of the claim or defense;

(b) the legal theories upon which the claim or defense is based;

(c) identification of witnesses and other persons known to have information relevant to the action and a brief summary of their expected testimony or information;

(d) copies of any written or recorded statements made by those persons listed in response to subparagraph (c) above;

(e) the names and addresses of experts, which shall be limited to one expert per side, together with the disclosures required by RSA 516:29-b;

(f) a list of all exhibits intended to be used at trial; and

(g) a list of all documents and things known by a party to exist and which the party believes may be relevant to the case, whether or not such documents or things are in the party's possession or are intended to be offered in evidence at trial.

Interrogatories shall be limited to thirty (30) per side and each sub-part of an interrogatory shall be counted as an interrogatory.

Requests for admissions shall be limited to twenty-five (25) per side.

Requests for production of documents shall be limited to ten (10) per side.

Depositions shall be limited to the parties and their experts and no such deposition shall exceed four (4) hours.

The court may vary the requirements governing fast track discovery for good cause shown.

(III) Pretrial Statements

If a pretrial statement is ordered it shall include, by numbered paragraphs, a detailed, comprehensive, and good faith statement, setting forth, if applicable:

1. Uncontested issues of fact.
2. Contested issues of fact.
3. Applicable law.
4. Disputed issues of law.
5. Specific claims of liability by the party making the claim.
6. Defendant's specific defenses.
7. Itemized special damages.
8. Specification of injuries with a statement as to which, if any, are claimed to be permanent.
9. The status of settlement negotiations.
10. A list of all exhibits to be offered in the direct case of each party. The parties, or their counsel, shall bring exhibits, or exact copies of them, to the clerk's office on the day of the trial management conference for examination by opposing parties or their counsel.
11. A list of all depositions to be read into evidence.
12. A waiver of claims or defenses, if any.
13. A list of the names and addresses of all witnesses who may be called.
14. Whether there will be a request for a view and, if so, who shall pay the cost in the first instance.
15. The names and addresses of the trial attorneys.

Except for good cause shown, only witnesses listed in the pretrial statement will be allowed to testify and only exhibits, so listed, will be received in evidence.

(IV) Trial Management Conference

In every case scheduled for trial the clerk shall schedule a trial management conference at which counsel shall have their clients present or available for contact by telephone and shall be prepared to discuss and effectuate settlement and, if necessary, conduct of the trial.

In jury cases requests for instructions shall be submitted in writing at the trial management conference provided such requests pertain to unusual or complex questions of law and are not the ordinary and usual instructions given by the court. Such requests shall include an extra copy for the court. Requests shall not be submitted after the commencement of the trial except for good cause shown.

In non-jury cases, unless otherwise ordered for good cause shown, all requests for findings of fact and rulings of law shall be submitted in writing to the presiding justice at trial no later than the close of the evidence.

Failure to comply with this rule shall constitute grounds for sanctions, including entry of nonsuit, default or such other order as justice may require.

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