

## **Special Rules for the Pilot Expedited Civil Litigation Track**

### **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.
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 and in the Sixth Judicial District in St. Louis County in Duluth on or after July 1, 2013, shall be assigned to the ELT and managed pursuant to these Special Expedited Litigation Track 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, all civil matters having the case type indicator Consumer Credit Contract, Other Contract, Personal Injury, or Other Civil;

(2) 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, 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.

**(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. 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. 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, 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 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. 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 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.

**ELT Assignment and Case  
Management Conference Order**

\_\_\_\_\_, Defendant

\_\_\_\_\_

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