



THE BUSINESS COURT OF TEXAS, EIGHTH DIVISION

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**JUDGE-SPECIFIC REQUIREMENTS FOR JUDGE STAGNER**

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These requirements are adopted pursuant to a court's inherent authority to manage its docket and to control the disposition of cases. The requirements are intended to supplement the Texas Rules of Civil Procedure (TRCP) and the Texas Business Court Local Rules (BCLR).

**1. Early Case Deadlines.** Within 30 days of any defendant's appearance in the case, the parties must file both a proposed scheduling order and an initial case status report.

A. Proposed Scheduling Order. A scheduling order template is available on the Eighth Division's website and may be modified as needed. The proposed order must provide for (i) a trial date within 13 months of the date the lawsuit was first filed in or removed/transferred to this court, (ii) the close of discovery at least four months before trial, and (iii) a final pre-trial hearing at least ten days before trial.

Parties must work in good faith to reach agreement on all aspects of the proposed scheduling order. If disagreements persist, the parties must request a setting for entry of a scheduling order and must file their competing versions of the proposed scheduling order at least five days before the setting.

B. Initial Case Status Report. An initial case status report template is available on the Eighth Division's website. Parties must cooperate in good faith to complete and timely file the report.

**2. Status Conferences.** The judge will schedule periodic conference calls to discuss the parties' progress in the case and to address any issues that threaten to delay the trial. Lead counsel for all parties must participate in the conferences.

### 3. Discovery.

- A. Discovery Control Plan. All cases shall be deemed Level 3 under TRCP 190.4.
- B. Protective Orders. A protective order template is available on the Eighth Division's website. Unless materially modified, proposed protective orders based on the template will be deemed acceptable to the judge. However, the parties are free to modify the template as they deem appropriate.
- C. ESI. Counsel should consider entering into an ESI protocol for the identification, preservation, collection, and production of electronically stored information. The judge recognizes that an ESI protocol is not necessary in all cases. Where applicable, an ESI protocol should address at least the following subjects:
- (1) the specific sources, location, and estimated volume of ESI;
  - (2) whether ESI should be searched on a custodian-by-custodian basis and, if so, the identity and number of custodians and relevant search parameters;
  - (3) plans and schedules for any rolling production;
  - (4) deduplication of data;
  - (5) whether any devices need to be forensically examined and, if so, a protocol for the examination;
  - (6) the production format of documents;
  - (7) the fields of metadata to be produced; and
  - (8) how data produced will be transmitted to other parties (e.g., in read-only media; encrypted or password protected).

If the parties wish to have an ESI protocol but cannot agree to its terms, they should request a setting for entry of an ESI protocol. In such cases, the parties must file their competing versions of an ESI protocol at least five days before the setting.

- D. Document Preservation. As soon as practicable, but not later than 14 days after the filing of the proposed scheduling order, counsel must discuss with their clients:

- (1) which custodians might have discoverable ESI;
- (2) the sources and locations of potentially discoverable ESI;
- (3) the duty to preserve potentially discoverable ESI; and
- (4) the logistics, burden, and expense of preserving and collecting those materials.

These requirements do not supplant any substantive preservation obligations that might exist under other law.

- E. Motions to Compel. The judge will not consider a motion to compel unless the relevant requests and objections/responses are attached. Before filing such motion, parties are required to confer on each disputed request or objection. *See* BCLR 4. In the motion, movants must identify the elements of any claims or defenses that will be aided by discovery of the requested information.
- F. Discovery Sanctions. Abusive discovery tactics will not be tolerated. Written discovery must be specific to the unique circumstances of each case. Similarly, objections to discovery must be tailored to the request; general or boilerplate objections are inappropriate. Attorney's fees may be awarded against any party abusing discovery, even upon the first instance of such conduct.

#### **4. Motion Practice.**

- A. Formatting. Parties must follow the requirements of BCLR 5. In addition, all written submissions must be in 12-point font or larger, except footnotes may be in 11-point. The judge's preferred format is 13-point font, double spaced, and fully justified. Page numbering must start on the first page and continue through the last page, including attachments or exhibits. Written submissions longer than ten pages must include a table of contents and a table of authorities.
- B. Responses. Unless otherwise provided by law, responses to motions must be filed no later than five days before the motion is set for oral hearing or submission.
- C. Replies. Unless otherwise provided by law, replies in support of motions must be filed no later than two days before the motion is set for oral hearing or submission. Replies should address only those matters raised in the response.

- D. Sur-replies. Sur-replies are permitted only with leave of court. A party filing a sur-reply should notify the court manager via email (BCDivision8B@txcourts.gov) to ensure the sur-reply is brought to the judge's attention before the setting.
- E. Proposed Orders. All motions require a proposed order in Microsoft Word format (not .pdf) and must be emailed to the judge's court manager (BCDivision8B@txcourts.gov) with the case number and title of the motion in the subject line.
- F. Length. Parties must adhere to the word limits in BCLR 5. Absent leave of court, all parties jointly represented by the same counsel must join in a single filing that does not exceed word limits.
- G. Requests to Exceed Word Limits. Parties may request leave of court to exceed the word limits imposed by BCLR 5, but must do so at least two days before the filing deadline. Word limits will be expanded only upon a convincing showing of need.
- H. Courtesy Copies. Courtesy copies are appreciated for motions, responses, or replies that exceed 25 pages (inclusive of appendices). Courtesy copies should be received at least three days before the hearing or submission date and should be double-sided, tabbed, and either spiral bound or three-hole punched and placed in binders.

## **5. Hearings.**

- A. Settings. Promptly after filing a motion, if the motion is contested, the movant shall obtain a setting for the motion. Available dates for both oral hearings and written submissions can be obtained from the court manager. Parties must confer on dates before setting any matter. Scheduling disputes should be brought to the judge's attention via email [BCDivision8B@txcourts.gov](mailto:BCDivision8B@txcourts.gov).
- B. Notice of Oral Hearing. The movant is required to file and serve on all parties a notice of oral hearing that sets forth the date, time, and location of the hearing, and whether the hearing is evidentiary. Unless otherwise specified by the judge, all oral hearings will be held in-person.
- C. Notice of Submission. Motions may be set for written submission (i.e., without an oral hearing) upon agreement of the parties, unless the judge, in his discretion, requests oral hearing. The movant is required

to file and serve on all parties a notice that sets forth the date of submission. Unless a different period is prescribed by law or by agreement of the parties, submission dates shall be no earlier than ten days from the date a motion is filed.

D. Settings Not Required. Orders on the following motions may be entered without need of a setting, provided that a proposed order is e-filed as a separate document at the same time as the motion:

- (1) motions for substitute/alternative service;
- (2) motions for default judgment;
- (3) motions for admission pro hac vice; and
- (4) agreed or unopposed motions.

## **6. Conduct Before the Court.**

A. Addressing the Judge. Counsel should speak from a standing position behind the counsel table or the podium. Counsel should not approach the bench without the judge's request or permission.

B. Examination of Witnesses and Jurors. Counsel must examine witnesses and jurors from behind the counsel table or podium, except as otherwise permitted by the judge. Counsel may approach a witness only for purposes of presenting an exhibit or examining the witness about an exhibit.

C. Professionalism. Lawyers are officers of the court. It is imperative they treat others with respect and maintain courteous interactions with court staff, opposing counsel, and witnesses.

D. Participation of Junior Attorneys. The judge encourages the participation of less experienced attorneys in all proceedings, particularly where the attorneys played a substantial role in drafting the underlying filing or preparing the relevant witness. The judge is amenable to permitting more than one attorney to argue for a party if this creates an opportunity for a junior attorney to participate.

E. Electronic Presentations. Electronic presentations are encouraged, but only if they meaningfully aid the judge's understanding of key issues. Counsel should limit the use of paper handouts at court proceedings. Any handout that a party provides to the judge must also be provided to counsel for all parties, the court reporter or manager, and staff attorney.

- F. Courtroom Technology. Parties may bring their own technology or may use the systems available in each courtroom. Parties are responsible for consulting in advance with courthouse personnel about security, power, and other logistics associated with the use of external hardware.
- 7. Motions to Extend Time.** A motion to extend a deadline or time period must demonstrate good cause. If the judge denies the motion, the filing is due (or the act must be completed) no later than 5:00 p.m. Central Time on the first business day after the judge issues his order, unless the judge’s order provides a different deadline.
- 8. Open Courts.** Parties who appear before the court should strive to file documents that are open to public inspection and should file a motion to seal only if necessary. No party shall file documents under seal without having first complied with the requirements of TRCP 76a.
- 9. Mediation and Settlement.**
- A. Mediation. The judge favors mediation, especially at the early stages of the case. The judge may order more than one mediation. Normally, parties will be given time to agree on a mediator. If the parties cannot agree, the judge will appoint a mediator. Absent leave of court, party representatives must mediate in person.
- B. Settlement. Counsel must promptly notify the judge in the event of a settlement. The judge will not remove a trial setting due to settlement until one of the following occurs:
- (1) the filing of a non-suit or agreed dismissal signed by each party with affirmative claims;
  - (2) the filing of an agreed judgment signed by all parties; or
  - (3) the filing of a notice of settlement signed by all parties.
- 10. Trial.**
- A. Continuances. Trial continuances will be granted only for good cause shown. There is no such thing as a “first free continuance,” and all trial dates should be treated accordingly.
- B. Trial Time. All trials will be subject to time limitations to be set at the pre-trial hearing. Parties should be prepared to address the time needed for their case calculated in hours.

- C. Pre-Trial Hearing. At least seven days before the scheduled pre-trial hearing, the parties must submit a proposed pre-trial order. A pre-trial order template is available on the Eighth Division's website. The parties must engage in a good faith effort to submit an agreed order. The judge will address any unresolved issues at the pre-trial hearing.
  - D. Motions in Limine. Motions in limine must not include boilerplate requests that are not tailored to a case-specific matter.
  - E. Proposed Jury Charge. Proposed jury questions and instructions must cite supporting legal authorities. In addition to filing proposed jury charges, parties must email Word versions to the judge's court manager (BCDivision8B@txcourts.gov).
  - F. Final Judgment After Verdict. Upon return of a jury verdict, the parties have 30 days to e-file either a single judgment agreed as to form or competing versions for the judge's consideration. The parties may request an oral hearing on the form of the judgment any time before judgment is entered.
  - G. Final Judgment After Bench Trial. Following notification of the judge's rulings, the parties have 30 days to e-file either a single judgment agreed as to form or competing versions for the judge's consideration. The parties may request an oral hearing on the form of the judgment any time before judgment is entered.
  - H. Findings of Fact and Conclusions of Law. Within ten days after any party timely files a request for findings of fact and conclusions of law, parties wishing to submit proposed findings or conclusions should email Word versions to the judge's court manager (BCDivision8B@txcourts.gov). Parties may but are not required to e-file proposed findings or conclusions.
- 11. Written Opinions.** Where the issuance of a written opinion is discretionary, a party must request an opinion no later than the first day of the hearing, setting, or trial during which the matter is to be decided. Failure to request an opinion timely may result in denial of the request.