

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

NEWPORT, SC.

SUPERIOR COURT

CIVIL MOTION CALENDAR

ORDER
EFFECTIVE September 2, 2008

DISPOSITIVE MOTIONS

UNTIL FURTHER ORDER OF THE COURT, THE FOLLOWING PROCEDURES MUST BE OBSERVED WHEN FILING DISPOSITIVE MOTIONS:

The Calendar

Dispositive motions (i.e., motions for summary judgment filed pursuant to R.I. Super. Ct. R. Civ. P. 56 or motions to dismiss filed pursuant to R.I. Super. Ct. R. Civ. P. 12(b) or (c) are heard the first Monday of the month (excepting holidays). If a Motion Day falls on a legal court holiday, the Motion Calendar will be heard the following business day. The Motion Calendar is called promptly at 9:30 a.m. in Courtroom 4, 2nd Floor, Florence Murray Judicial Complex, 45 Washington Square, Newport, RI (or in such other courtroom as may be designated).

Assignment and Filing of Dispositive Motions

Dispositive motions shall be filed **no later than thirty (30) days prior to the hearing.** The assignment of dispositive motions is made by the Clerk.

To obtain a date for hearing of a dispositive motion, the moving party must present to the clerk the following documents **at the time of application for a hearing date:** (1) an omnibus calendar assignment form; (2) duplicate copies of the motion; (3) a supporting memorandum of law; and (4) all supporting documents (i.e. pleadings, depositions, answers to interrogatories, responses to requests for admission or affidavits).

The duplicate copy of the memorandum, which is for the trial justice's use shall have attached to it copies of significant cases principally relied upon by the moving party. Counsel shall direct the Court's attention to relevant portions of those cases by marginal brackets or underscoring.

THE MOTION WILL NOT BE ASSIGNED FOR HEARING UNLESS ALL OF THE ABOVE ARE PROVIDED AT THE TIME OF APPLICATION FOR A HEARING DATE.

The clerk will complete the omnibus form by assigning a date for hearing. The original omnibus form, motion, memorandum and any supporting documents shall then be filed immediately with the Superior Court Clerk's Office. Copies of the omnibus form, motion, memorandum and all supporting documents, together with a copy of this Order, shall be served immediately on opposing counsel, or to the party(ies) directly if not represented by counsel.

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Objections to Dispositive Motions

Objections to dispositive motions should be served and filed promptly, and ***not later than fourteen (14) days prior to the scheduled hearing date.*** The objection must be accompanied by a supporting memorandum of law and all supporting documents, if any (i.e., pleadings, depositions, answers to interrogatories, responses to requests for admission or affidavits). A duplicate copy of the objection, supporting memorandum, and any supporting documents, which is for the trial justice's use, must be delivered to the clerk no later than fourteen (14) days prior to the scheduled hearing. The duplicate copy of the memorandum shall have attached to it copies of significant cases principally relied upon in support of the objection. Counsel shall direct the Court's attention to relevant portions of those cases by marginal brackets or underscoring.

Response memoranda and any supplemental filings should be served and filed no later than seven (7) days prior to the scheduled hearing date.

Non-compliance with Order

Dispositive motions that are not filed in accordance with this Order will not be heard by the Court.

Responses that are not filed in accordance with this Order will not be considered by the Court at the time of hearing.

Requests for Continuance/Withdrawal of Motions

Requests for continuances may be arranged through the clerk up to **14 days** prior to the assigned hearing date.

Requests for continuances made **less than 14 days** prior to the assigned hearing date will be granted only by special permission of the motion calendar justice. Because of the time commitment required for the Court to prepare for hearings on dispositive motions, requests for continuances will not be given, absent a compelling reason.

If a case in which a dispositive motion is pending is **settled**; or if a moving party elects to **withdraw or pass** the motion, the motion calendar justice should be notified as far in advance of the assigned hearing date as is possible so that the Court can eliminate its review of the matter. Where the parties **fail to appear** for the assigned hearing without arranging with the Court for a continuance, withdrawal or passing of the motion, the Court may deem the parties to have rested on their pleadings and may render a decision at its convenience.

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Requests for Continuance/Withdrawal of Motions (cont'd)

Requests for continuance on the date of the hearing are disfavored and will be granted only for the most compelling reasons. (N.B. "We are discussing settlement.." is not a compelling reason). If a continuance is granted, it will be only to the next available dispositive motion date. The Court will, in its discretion, proceed to render a decision in all cases called on the dispositive motion day, unless a continuance has been granted prior to that date. Neither the trial justice nor the clerk will call attorneys who fail to answer the call of the Calendar.

IN CASES WHEREIN THE MOVING PARTY FILES A RULE 41 MOTION TO DISMISS BASED UPON THE EXPIRATION OF FIVE YEARS WITHOUT ACTIVITY IN SAID FILE, IT IS THE RESPONSIBILITY OF COUNSEL FOR SAID MOVING PARTY TO MAKE ARRANGEMENTS WITH THE CLERKS' OFFICE TO HAVE THE FILE AVAILABLE ON THE DATE SET FOR THE HEARING OF THE MOTION.

Non-Dispositive Motions

Whenever counsel elects to file a supporting memorandum of law on this calendar, the memorandum shall be delivered to the clerk with the hearing date clearly printed or typed on the top of the first page above the caption of the case no later than ten (10) days before the date scheduled for hearing.

The reply memoranda shall be submitted with the hearing date clearly printed or typed on the top of the first page above the caption of the case no later than five (5) days before the hearing date.

NOTE: Orders submitted by agreement of the parties shall clearly so delineate in the body of the Order.

ENTERED:

BY ORDER:

**Edward C. Clifton
Associate Justice
August 8, 2008**

**Jane M. Anthony
Clerk**