

MAGISTRATE JUDGE JEFFREY J. KEYES

Practice Pointers and Preferences

CONTACT WITH CHAMBERS

- Magistrate Judge Keyes encourages you to contact his Judicial Assistant, Jackie Phipps, or his Law Clerks at 651-848-1180 if you have questions about his practice pointers and preferences.
- Members of Magistrate Judge Keyes' chambers have been instructed not to provide answers to legal questions over the telephone. This includes procedural questions that would be governed by the Federal Rules of Civil Procedure or the Local Rules for the District of Minnesota.
- When arranging for a scheduled telephone conference with Magistrate Judge Keyes, the moving party should have all parties on the line before contacting chambers, unless a Conference Bridge call has been set up by the Court.
- When contacting the Court with a question regarding a specific case, please have the case name and number ready to provide to chambers.
- If a party has a question or needs clarification regarding an order submitted by the Court, please submit a letter via ECF or email to Magistrate Judge Keyes asking for clarification. Do not call chambers asking for clarification.
- If you have a question about how to file a document on ECF, please call the Clerk's Office at 651-848-1100.

FIRST PRETRIAL CONFERENCE

- Email a courtesy copy of the pretrial conference Rule 26(f) Reports to chambers at keyes_chambers@mnd.uscourts.gov in WORD 2010 format, when it is filed on ECF. A hard copy of the 26(f) Report is not required.
- Rule 16 conferences by teleconference are disfavored.

- In patent cases, Magistrate Judge Keyes uses a specific pretrial scheduling order. The Report shall be in the format of Form 4 Rule 26(f) Report (Patent Cases) attached to the Local Rules of the United States District Court, District of Minnesota. Please submit to the Court in advance of the pretrial conference.

STIPULATIONS AND PROPOSED ORDERS

- Counsel should be cognizant of the electronic filing rules relating to submission of stipulations and proposed orders. Stipulations should be filed electronically. Proposed orders should be a separate document emailed to chambers at keyes_chambers@mnd.uscourts.gov, and should be in WORD 2010 (.docx) format and reference docket numbers to which it relates. Please restate the text of a protective order within the proposed order.
- For nondispositive motions, specifically identify the relief you are seeking in your proposed order (*e.g.*, for motions to compel, identify each discovery request for which you are seeking relief and the relief sought). Do not merely request that the motion be granted or denied.
- Counsel should remember to set forth the information required by Local Rule 16.3 when submitting stipulations to amend the scheduling order.
- The stipulation and proposed order procedure is preferred over the filing of an “unopposed” motion for the relief sought.

TELEPHONE HEARINGS

- Magistrate Judge Keyes will hold telephone hearings by special permission only. If an attorney wants to have a telephone hearing on any matter, the attorney should send a short letter (no longer than two pages) via email to the Court and other counsel of record explaining why a telephone hearing should be held and suggesting a time frame. Other counsel may promptly respond with a short letter (no longer than two pages) explaining the other party’s position on the telephone hearing. The Court will then inform the parties about whether a telephone hearing will be held and set an appropriate schedule.

MOTION PRACTICE

- All motions to be heard by the Court must be scheduled through Magistrate Judge Keyes' Judicial Assistant, Jackie Phipps, at **651-848-1180**. Even if the parties to a dispute agree that a motion can be submitted on the papers, Ms. Phipps must be contacted to set the date for submission of the matter to the Court (the matter will be deemed submitted upon receipt of the last submission). The Court ultimately will determine whether to hold a hearing on the matter or not.
- As a general rule, Magistrate Judge Keyes schedules half-hour hearings for nondispositive motions and one-hour hearings for dispositive motions. Please inform Magistrate Judge Keyes' Judicial Assistant, Jackie Phipps (telephone 651-848-1180), **AHEAD OF TIME** if you anticipate that more time should be allowed for the motion. This is an important courtesy so that the Court, the court reporter, court security, and court staff can arrange their schedules.
- Once a motion date and time has been reserved, do not add additional motions without contacting the Judicial Assistant to make sure there is enough time scheduled for all of the motions.
- If a motion or case has been resolved, please contact chambers as soon as possible (by telephone or via email) so that any hearing on the matter resolved may be removed from the calendar. Even if a motion has only been partially resolved, please contact chambers to let the Court know what parts of the motion have been resolved.

WRITTEN SUBMISSIONS

- Before submitting any motion to the Court, check to make sure that you are in compliance with the Local Rules for the District of Minnesota and the case's pretrial scheduling order. For example, all motions to modify the pretrial scheduling order require compliance with Local Rule 16.3. Local Rule 37.2 requires, for all motions to compel dealing with interrogatories, document requests and requests for admission, that the discovery response and objection at issue be stated verbatim within your memorandum of law.
- Obtain leave from the Court **prior to** filing a reply brief not provided for under the Rules of Civil Procedure or Local Rules or filing a brief exceeding the word count or page limits.
- Please remember that parties are to send to chambers (via mail or hand delivery) two courtesy copies, collated and stapled, of all

pleadings and motion papers (*i.e.*, briefs, motions, memoranda, responses, etc.) pursuant to the Local Rules. Please carefully index and paginate any exhibits or attachments. **The submission of both sets of such materials in three-ring notebooks with tabbed documents and exhibits, particularly if they are voluminous, is very much appreciated by the Court.** Make sure that when there is a reference to an exhibit or attachment in a brief or memorandum the Court can quickly and easily find the specific page of the referenced exhibit or attachment. Please make sure that each page of these two courtesy copies has the Court docket number and page number at the top of each page. This will substantially assist the Court in working with these documents.

- When filing exhibits electronically, they should be attached to an affidavit that explains where specific exhibits can be found in the electronic attachments.
- Do not use tiny footnotes in your briefs. They are difficult to read and suggest that the information contained in them is not very important. Judge Keyes follows the type-size conventions set forth in D. Minn. Loc R. 7.1(e).
- Magistrate Judge Keyes strictly follows the word count and format rules set forth in the Local Rules.
- When filing a motion to amend a pleading, the moving party should submit a “redlined” version of the proposed amended pleading showing the differences between the original and the proposed amendment.
- Do not refer to pleadings in your motion papers and assume that the Court has easy access to them. If another pleading is important enough to reference in your motion papers, then attach it, so that your motion is a self-contained bundle.

SETTLEMENT CONFERENCES

- Read and comply with any Order for Settlement Conference issued by the Court. Among other items, this Order requires the parties to send to the Court, in advance of the conference, a confidential letter addressing several issues.
- All parties with power to settle the case must attend in person, and parties should be prepared to spend the entire day (and even the

evening) at a settlement conference, if the Court deems that the parties are making progress at the conference. Therefore, attorneys and their client representatives should be prepared to change other events they have planned for the day or evening, and their travel plans, if necessary.

IN-COURT

- Be prompt.
- Stand at the podium when addressing the Court and counsel, speaking directly into the microphones. The podium can be adjusted with up and down arrows for height. Address the Court and opposing counsel with civility and formality.
- Direct your oral arguments to the Court, not to the Law Clerk or other court personnel.
- Magistrate Judge Keyes reads all written submissions in advance, so keep that in mind when preparing your oral argument.
- Rather than repeating the arguments stated in your submission, focus oral argument on responding to the opposing side's arguments.
- If a party submits additional case law or exhibits at oral argument, counsel must first furnish the additional case law or exhibits to opposing counsel. Bring two additional copies of cases or any other handouts used in oral argument for the Court.
- Magistrate Judge Keyes is located in the St. Paul Courthouse, Courtroom 6A, but on occasion holds hearings in Minneapolis. Many hearings have been delayed because counsel go to the wrong courthouse. **Please make sure to verify the location of the hearing in advance of the hearing date.**

TRIAL

- In jury trials, the parties must submit trial statements, exhibit lists, witness lists, deposition designations, motions in limine, proposed *voir dire* questions, and proposed jury instructions ten days before trial. Responses to motions in limine are due three days before trial.

- Exhibits should be marked prior to trial and should correspond to the exhibit list.
- The Court expects the parties to submit a joint proposed statement of the case that can be read to the jury during *voir dire*.
- The parties are required to meet and confer in advance of trial and then jointly submit to the Court the proposed jury instructions on which they agree.
- On any jury instruction that cannot be agreed upon, which should be very few, the proposed instructions should be submitted in different colors corresponding to the different parties (i.e., Plaintiff's proposed instruction in red; Defendant's proposed instruction in blue).
- Parties must include citations with proposed jury instructions.
- The parties should consider submitting preliminary instructions that will preview the substantive legal issues in the case.
- If videotaped depositions are to be used at trial, attorneys must confer and edit the tapes to get to the heart of the matter. Any dispute over use of videotapes should be raised in limine prior to trial.