

MAGISTRATE JUDGE JANIE S. MAYERON

Practice Pointers and Preferences

Contact with Chambers

Magistrate Judge Mayeron encourages you to contact her Judicial Assistant, Katie Haagenson, or her law clerks, if you have questions about her practice pointers and preferences.

Members of Magistrate Judge Mayeron's 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 telephone conference with Magistrate Judge Mayeron, the moving party should have all parties on the telephone before contacting chambers.

When contacting the Court with a question regarding a specific case, please have the case name and case file number ready to provide to chambers.

If a party has a question or needs clarification regarding an order filed by the Magistrate Judge Mayeron, please submit a letter to Magistrate Judge Mayeron 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 612-664-5000.

First Pretrial Conference

Pursuant to the Order for Pretrial Conference, the parties must submit in advance of the pretrial conference a Rule 26(f) Report that conforms with Fed. R. Civ. P. 26(f), Local Rules for the District of Minnesota 16.2 and 26.1, and Form 3 or 4 (for patent cases) of the Local Rules. In order to assist counsel in their discussion of electronically stored information, as required by Rule 26(f) and Forms 3 and 4 of the Local Rules, the Court refers counsel to the "Discussion of Electronic Discovery at Rule 26(f) Conferences: A Guide for Practitioners" developed by the Federal Practice Committee to help attorneys prepare for meaningful discussion of electronic discovery issues in Rule 26(f) conferences. This Guide is available on the Court's website, under the Court Forms tab, in the pretrial, discovery, and trial forms section.

Email a courtesy copy of the pretrial conference Rule 26(f) Reports to chambers at mayeron_chambers@ mnd.uscourts.gov in WORD format, when it is filed on the court's CM/ECF system.

In addition to the Rule 26(f) Report, the parties are required to email to Magistrate Judge Mayeron a confidential settlement letter and proposed protective order (if any party believes a protective order is necessary) by the date specified in Order for 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 mayeron_chambers@mnd.uscourts.gov, and should be in WORD format and reference docket numbers to which it relates. Please restate the text of the 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.

The stipulation and proposed order procedure is preferred over the filing of an "unopposed" motion for the relief sought.

Telephone Hearings

Magistrate Judge Mayeron 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 Magistrate Judge Mayeron 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. Magistrate Judge Mayeron will then inform the parties about whether a telephone hearing will be held and set an appropriate schedule.

Motion Scheduling

All motions to be heard by this Court must be scheduled through Magistrate Judge Mayeron's Judicial Assistant, Katie Haagenson. Ms. Haagenson can be contacted at 612-664-5460. Even if the parties to a dispute agree that a motion can be submitted on the papers, Ms. Haagenson 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 pleading).

All motions should be scheduled to be heard by the deadlines set forth in the operative scheduling order. In the event Magistrate Judge Mayeron is unable to schedule the hearing before the deadline bearing on the motion because of conflicts in her schedule, the hearing may take place after the deadline so long as all papers bearing on the motion (initial moving papers, response and reply) are served and filed as if the hearing took place on the deadline.

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. As a general rule, Magistrate Judge Mayeron schedules 30 minutes for nondispositive motions, and one hour for dispositive motions. Please inform Magistrate Judge Mayeron's Judicial Assistant, Katie Haagenson (telephone 612-664-5460), AHEAD OF TIME if you anticipate that more time should be allowed for the motion. This is an important courtesy so that Magistrate Judge Mayeron, the court reporter, court security, and court staff can arrange their schedules.

If a motion or case has been resolved, please contact chambers as soon as possible (by email or in writing) so that it 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.

Before filing a non-dispositive motion on a particular dispute, the parties should consider whether the issue can be resolved through an informal telephone conference with Magistrate Judge Mayeron, rather than through the filing of a formal motion and formal hearing. In order for a matter to be resolved through an informal telephone conference, all parties to the dispute must agree to conduct the dispute in that fashion. However, before Magistrate Judge Mayeron will agree to proceed with this informal resolution mechanism, the "meet and confer" required by Fed. R. Civ. P. 37(a)(1) and L.R. 7.1(a) must have taken place, and all parties to the dispute must agree to use this informal resolution process as the very nature of the process is such that the parties are giving up rights they would otherwise have (e.g. the dispute is heard over the phone; there is no recording or transcript of the phone conversation; no briefs, declarations or sworn affidavits are filed). If the parties do agree to use this informal resolution process, one of the parties should contact Judicial Assistant Katie Haagenson (612-664-5460) to schedule the conference. The parties may (but are not required to do so) submit to Magistrate Judge Mayeron, and counsel for the other parties, short letters, with or without a limited number of documents attached, prior to the conference to set forth their respective positions. Magistrate Judge Mayeron will read the written submissions of the parties before the phone conference, hear arguments of counsel at the conference, and will issue her decision at the conclusion of the phone conference or shortly after the conference. Depending on the nature of the dispute, the Magistrate Judge Mayeron may or may not issue a written order. If there is no agreement to resolve a dispute through this informal resolution process, then the dispute must be presented to the Court via formal motion and hearing.

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 specific case pretrial scheduling order. For example:

- the parties are required to conduct the “meet and confer” required by Fed. R. Civ. P. 37(a)(1) and L.R. 7.1(a) for all non-dispositive motions;
- all motions to modify the pretrial scheduling order require compliance with Local Rule 16.3; and
- Local Rule 37.1 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. In addition, Magistrate Judge Mayeron requires that immediately after setting forth verbatim each request, response, and objection at issue, you must explain the reason the discovery is needed for your case, and why the response is inadequate or the objection improper. Magistrate Judge Mayeron will not address discovery disputes relating to interrogatories, document requests, or requests for admission that are not raised in this manner. If the motion raises an issue with a substantial number of discovery requests and citing all of them verbatim will cause a party to exceed the word-count limit set forth in the Local Rules, the parties must request relief from the word-count limit under Local Rule 7.1(f)(1)(D).

Magistrate Judge Mayeron strictly follows the word count and format rules set forth in the Local Rules.

Magistrate Judge Mayeron allows a reply memorandum for nondispositive motions so long as the reply does not exceed 1750 words (including footnotes) and the total word count for the original and reply memorandum does not exceed 12,000 words. For those parties registered on the court’s CM/ECF system, replies must be served, filed and delivered to the chambers of this Court no later than 4 days after filing of a response to the nondispositive motion (note, you receive notice of filing through the court’s CM/ECF system). For those cases involving parties who are not on the court’s CM/ECF system (i.e. pro se litigants), the Magistrate Judge Mayeron will set a date by which any reply is to be served and filed.

Magistrate Judge Mayeron follows the type-size conventions set forth in Local Rule 7.1(e). 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.

Please remember that parties are to send to chambers (by U.S. mail or hand delivery) one paper hard copy, three hole punched, of all pleading (i.e., motions, memoranda, responses, etc.) pursuant to the Local Rules. Please carefully index and paginate any exhibits or attachments. The submission of such materials in a three-ring notebook with tabbed documents and exhibits, particularly if they are voluminous, is very much appreciated by Magistrate Judge Mayeron. 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.

Do not refer to other pleadings in your motion papers that are not attached to the motion papers, and assume that the Court has easy access to them. If another pleading is important enough to be referenced in your motion papers, then attach it, so that your motion is a self-contained bundle.

When making a motion to amend a pleading, the moving party must submit a "red-lined" version of the proposed amended pleading showing the differences between the original and the proposed amendment.

Protective Orders and Sealed Documents

If any party believes that any of documents or information should be restricted in access or use during the pendency of the case, then the parties are encouraged to get a protective order in place at the inception of the case. If no such protective order is in place at the time any such documents are to be produced, these documents shall not withheld on the basis that no protective order is yet in place. Instead, the producing party shall produce these documents to opposing counsel for the attorney's review only and after the protective order is entered, the producing party shall designate the documents under the protective order.

In connection with any nondispositive or dispositive motion filed with this Court, only those portions of a party's submission (e.g., memorandum of law, affidavit and exhibits) which meet the requirements for treatment of protection from public filing (e.g., because they are subject to the attorney-client privilege or work product doctrine, they meet the standards articulated by Fed. R. Civ. P. 26(c)(1)(G), or a statute, rule or regulation prohibits their disclosure), shall be filed under seal. Designation of material as confidential or protected by any party pursuant to a protective order as the sole basis for filing the material under seal shall not satisfy this requirement. If a party in connection with any motion submits a document designated by another party as protected pursuant to a protective order believes that such document should not be filed under seal, then the submitting party shall follow the procedures set forth in the operative protective order to address this issue.

With respect to any submission filed with the court that is sealed and posted on the court's CM/ECF system with a placeholder, the sealed submission shall be

sent electronically or hand delivered to all parties and Magistrate Judge Mayeron on the same day the documents are posted on the court's CM/ECF system.

In-Court Proceedings

Stand at the podium when addressing Magistrate Judge Mayeron and counsel. The podium can be adjusted with up and down arrows for height. Address Magistrate Judge Mayeron and opposing counsel with civility and formality.

Direct your oral arguments to Magistrate Judge Mayeron, not to the law clerk or other court personnel.

Magistrate Judge Mayeron 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 party'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.

Settlement Conferences

Read and comply with the 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 statement addressing several issues.

Parties should be prepared to spend the entire day (and even the evening) at a settlement conference, if Magistrate Judge Mayeron 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.