

## TITLE 4. CIVIL PROCEDURE

### Chapter 4.3

#### PRETRIAL PROCEDURE AND MOTIONS

##### Sections:

- 4.3.1 Pretrial Conference.
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- 4.3.3 Pretrial Statement.
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**4.3.1. Pretrial Conference.** (a) In any civil action, the Court shall, prior to setting a trial date, direct the parties to appear before it for at least one (1) pretrial conference to consider:

(1) Simplification of the issues;

(2) Those facts which are uncontested and those documents which will not need additional proof;

(3) Such other matters as may aid in the disposition or settlement of the action; and

(4) Scheduling of further proceedings, including the time limits which will be placed upon the conduct of discovery. After such discovery cutoff date, further discovery may only take place on motion for further discovery and a showing of good cause and substantial need.

(b) A pretrial conference may be consolidated with a hearing held to enter an oral answer to a complaint. (Res. 94-154 (part), passed Oct. 10, 1994)

**4.3.2. Trial Setting.** A trial date will be set not more than ninety (90) days from the first pretrial conference, unless the parties agree or the Court orders a longer period. (Res. 94-154 (part), passed Oct. 10, 1994)

**4.3.3. Pretrial Statement.** The Court, at its discretion, may require each party to prepare and file or all parties to file jointly, at least forty-five (45) days prior to a jury trial and at least thirty (30) days prior to a nonjury trial, a pretrial statement containing the following information:

(a) A statement of facts;

(b) Admitted facts;

(c) All claims for relief and all defenses advanced by the party submitting the pretrial statement and the type of evidence expected to be offered in support of each claim and defense;

(d) The names, addresses, categories (e.g. lay, eye, investigative), and type (e.g. liability, damages) of all nonexpert witnesses reasonably expected to be called by each party and a general statement concerning the nature of the testimony expected; and

(e) The name, address, and field of expertise of each expert witness expected to testify and a general statement concerning the nature of the testimony expected.

The statement shall also state that discovery is substantially completed or there has been reasonable time to complete discovery. (Res. 94-154 (part), passed Oct. 10, 1994)

**4.3.4. Discovery.** A party may conduct discovery by any of the methods allowed in the *Federal Rules of Civil Procedure*. Limitations on discovery, other than those provided under the federal rules, may be ordered at the Court's discretion where needed to prevent undue harassment or oppression and to promote substantial justice. (Res. 94-154 (part), passed Oct. 10, 1994)

**4.3.5. Motions.** (a) All motions, except when made during a hearing or trial, shall be in writing, shall state the grounds therefor, shall set forth the relief or order sought, and if involving questions of law shall be accompanied by a memorandum in support of the motion. Every motion except one entitled to be heard *ex parte* shall be set for hearing by the clerk of the court, and notice of the hearing given to all parties at least five (5) days prior to said hearing, not counting weekends or holidays, unless otherwise ordered by the Court or unless a different period of notification is required by another section of this code. If the motion requires the consideration of facts not appearing of record, it shall be supported by affidavit.

(b) An opposing party may serve and file counter affidavits and a written statement of reasons in opposition to the motion and of the authorities relied upon, which shall be served and filed not later than forty-eight (48) hours preceding the time set for the hearing, except as otherwise ordered by the Court.

(c) A party who does not oppose or who intends to support a motion or who desires a continuance shall immediately notify the Court and opposing counsel or representative or opposing party if he or she is not represented by counsel or representative. Failure to appear at the hearing may be deemed a waiver of objection to the granting of the motion. (Res. 94-154 (part), passed Oct. 10, 1994)