

**PROCEDURES ON**  
**MOTION TO TAX COSTS AND AWARD ATTORNEY'S FEES**

Pending before this Court is \_\_\_\_\_'s *Motion to Tax Costs and Award Attorney's Fees* and to ensure an orderly and efficient presentation and/or resolution of this issue, counsel for the parties are directed to comply as follows:

A. Mediation:

1. This case is hereby referred to mediation. The parties will agree upon a mediator and a date for the mediation conference. In the event the parties cannot agree, the Court will select a mediator. Counsel for the moving party shall take the lead in coordinating the mediation and submit a proposed mediation order. Mediation shall be completed prior to the continued hearing on Custom Closet's Motion to Tax Costs and Award Attorney Fees.
2. The costs of the mediation shall be shared equally by the parties involved in the pending motion.

B. Review Costs and Fees:

3. Within ten (10) days of this **ORDER**, counsel for the non-moving party shall respond in writing to each item of costs and each fee entry. This response shall state whether counsel agrees or objects to said item. For each objection, counsel shall state the basis and cite the supporting authority.
4. Within ten (10) days of receipt of said objections, the moving party shall respond in writing to each objection, stating whether said party concurs with the objection and if not, cite the contrary authority.
5. In the event there is an agreement to a particular cost item or fee request, but disagreement with the amount, the non-moving party shall state the objection and the amount believed to be reasonable.
6. *The Statewide Uniform Guidelines for Taxation of Costs in Civil Actions* shall be used in an attempt to resolve disputes over taxation of costs.
7. Not later than 10 days immediately preceding the mediation, the attorneys shall meet and review the disputed items, reduce any stipulation to writing and provide an Order at the scheduled hearing.

C. Expert Affidavits:

8. Each party shall disclose their experts' opinions in affidavit form 10 days prior to the mediation.

D. Setting of the Hearing:

9. Upon completion of the mediation requirement set forth above, counsel shall provide to the Court, and file with the clerk, in writing, the following:
  - a- A list of the items of costs or attorney's fees<sup>1</sup> that remain in dispute.
  - b- A list of all non-experts witnesses that will testify and the subject matter about which they will testify to at the hearing,
  - c- A list of each expert who will testify at the hearing and the specific opinions he/she will render, if not already contained within the affidavit previously filed.<sup>2</sup>
  - d- Whether experts will testify by affidavit or live.
  - e- The timeframe within which discovery on this matter will be completed and when each side will be ready for hearing on the issue of fees and costs,,
  - f- A good faith estimate of the total amount of time needed (in hours) for both sides to complete the hearing.<sup>3</sup>

E. Good Faith:

10. Counsel and the parties are directed to exercise good faith in complying with the terms of this **ORDER**. The court may consider appropriate sanctions with regard to unreasonable requests for taxation of costs, and requests for attorney's fees, objections thereto, or failure to comply with this **ORDER**.

F. Hearing Briefs:<sup>4</sup>

11. Any memorandums of law must be filed no later than three (3) business days before the date of the hearing and a copy provided directly to the court.
12. Any case law must be submitted with the memorandum and highlighting is not only permitted but also appreciated.

G. Order:

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<sup>1</sup> Which specific attorney's fee issues remain such as: the attorney's hourly rate, number of hours, hourly rates of paralegal and associates, application of and entitlement to a multiplier, etc.

<sup>2</sup> Opinions not expressed within the affidavits, or by a supplemental submittal under (D)(9)(c) above, will not be permitted at the hearing.

<sup>3</sup> The Judicial Assistant will assist in selecting a date for the hearing depending on the amount of time requested.

<sup>4</sup> The Court will usually rule at the conclusion of the hearing and, therefore, would like to review any case law and argument prior to the start of the hearing.

13. A proposed order should be brought to the hearing for entry at the conclusion of the hearing.

JMK April 2015