IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN RE: AMENDMENT TO SUPERIOR COURT RULES TO AMEND RULES 5(g), 37(e) AND CREATING RULES 141-146

This 13th day of March, 2026, **IT IS HEREBY ORDERED** that:

1. Superior Court Civil Rule 5 (g) is amended by adding the underlined text and deleting the strikethrough text:

Rule 5. Service and filing of pleadings and other papers.

(g) *Sealing of Court records*.

(1) Except as otherwise provided by statute or rule, including this Rule 5(g) and Rule 26(c), all pleadings and other papers of any nature filed with the Prothonotary, including briefs, appendices, letters, deposition transcripts and exhibits, answers to interrogatories and requests for admissions, responses to requests for production or certificates and exhibits thereto ("Court Records"), shall become a part of the public record of the proceedings before this Court.

(2) *Filing of Complaints Under Seal*: A plaintiff may file a complaint and any related documents under seal without first obtaining an order as required by this Rule according to the following procedure:

(A) The plaintiff shall file under seal (i) the complaint and any related documents and (ii) a cover letter addressed to the Prothonotary that certifies the filer will comply with this Rule;

(B) Upon the filing of the Complaint and related documents, the filer should give notice contemporaneously and must give notice not later than 3:00 p.m. on the next day to each person who could have a legitimate interest in designating information in the foregoing materials to remain under seal. The notice shall not be filed with the Prothonotary. If the person has a registered agent in this State, the plaintiff shall both give notice to the registered agent and use its best efforts to give notice to the person at its principal place of business, through counsel, or in accordance with the notice provision in any

agreement giving rise to the confidentiality obligation. The notice shall refer to this Rule and a proposed public version of the complaint and any related documents redacting only the information that the plaintiff believes qualifies as requiring confidential treatment ("plaintiff's public versions"). The notice shall state that the plaintiff's public versions shall be filed in compliance with this Rule if no one designates any confidential information in response to the notice by 3:00 p.m. on the third day after the giving of notice;

(C) The plaintiff shall file public versions of the complaint and any related documents within three days after filing of the complaint. If no one has designated confidential information to remain under seal by 3:00 p.m. on the third day after giving of notice, then the public versions filed shall be the plaintiff's public versions; otherwise, the public versions filed shall be versions that redact only the plaintiff's confidential information and the confidential information designated in response to the notice.

(3) *Filing of Other Documents Under Seal:* With the exception of complaints, Court Records or portions thereof shall not be placed under seal unless and except to the extent that the person seeking the sealing thereof shall have first obtained, for good cause shown, an order of this Court specifying those Court Records, categories of Court Records, or portions thereof which shall be placed under seal; provided, however, the Court may, in its discretion, receive and review any document in camera without public disclosure thereof and, in connection with any such review, may determine whether good cause exists for the sealing of such documents; and provided further that, unless the Court orders otherwise, the parties shall file within 30 days redacted public versions of any Court Record where only a portion thereof is to be placed under seal.

~~(3)~~ (4)The provisions of paragraph (2) of this Rule 5(g) notwithstanding, the Court may, in its discretion, by appropriate order, authorize any person to designate Court Records to be placed under seal pending a judicial determination of the specific Court Records, categories, or portions thereof to which such restriction on public access shall continue to apply.

~~(4)~~ (5) Any person who objects to the continued restriction on public access to any Court Record placed under seal pursuant to paragraphs (2) or (3) of this Rule 5(g) shall give written notice of his or her objection to the person who designated the Court Record for filing under seal and shall file such written notice with the Court. To the extent that any person seeks to continue the restriction on public access to such Court Record, he or she shall serve and file an application within 7 days after receipt of such written notice setting forth the grounds for such continued restriction and requesting a judicial determination whether good cause exists therefor. In such circumstances, the Court shall promptly make such a determination.

~~(5)~~ (6) The Prothonotary shall promptly unseal any Court Record in the absence of timely compliance with the provisions of this Rule 5(g), if applicable. In addition, ~~30~~ 90 days after final judgment has been entered without any appeal having been taken therefrom, the Prothonotary shall send a notice, return receipt requested, to any person who designated a Court Record to be placed under seal that such Court Record shall be released from confidential treatment if required to be kept by the Prothonotary or, if not required to be kept, returned to the person at the person's expense or destroyed, as such person may elect, unless that person makes application to the Court within ~~30~~ 45 days after notice from the Prothonotary for further confidential treatment for good cause shown.

2. Superior Court Civil Rule 37 (e) is amended by adding the underlined text and deleting the strikethrough text:

Rule 37. Failure to make discovery: Sanctions.

(e) *Presentation of motions*. All motions which are filed pursuant to Rule 26(c), 26(d) or 37 of the Superior Court Civil Rules, with the exception of motions filed during the pendency of an oral deposition, shall be presented to the Court as follows:

(1) No motion shall be filed pursuant to Rule 26(c), 26(d) or 37 of the Superior Court Civil Rules, and no such motion shall be accepted by the Prothonotary, unless such motion shall include a certification by the moving party detailing the dates, time spent,

and method of communication in attempting to reach agreement on the subject of the motion with the other party or parties and the results, if any, of such communication, provided that the certification shall not be required for motions filed pursuant to Rule 37(d) of the Superior Court Civil Rules.

(2) The motion shall be filed at least 10 days prior to the date noticed for presentation of the motion to the Court. The motion shall not exceed 4 6 pages of letter size paper (81/2″ x 11″) and shall contain all authorities and facts which the moving party desires to bring to the attention of the Court.

(3) At least 4 days prior to the date noticed for presentation of the motion, if any other party to the action desires to oppose or take any position with respect to the motion, such party shall file a responsive pleading which shall not exceed 4 6 pages of letter size paper (81/2″ x 11″). The responsive pleading shall contain all authorities and facts which the responding party desires to present to the Court. Failure to file a responsive pleading shall constitute a waiver of any opposition to the motion.

(4) There shall be no written reply to the responsive pleading to the motion.

(5) There shall be no further briefing on any motion filed pursuant to Rule 26(c), 26(d) or 37 of the Superior Court Civil Rules, except upon order of the Court for good cause shown at oral argument.

(6) Oral argument on any motion filed pursuant to Rule 26(c), 26(d) or 37 of the Superior Court Civil Rules shall be limited to no more than a total of 15 minutes which time shall be divided equally. At the argument any party may apply for further briefing and the Court shall rule on the application at that time.

(7) Whenever possible, the Court shall decide the motion at the oral argument. The Court hearing the oral argument may reserve decision or in the Court's discretion may schedule such further proceedings as the Court shall deem necessary.

(8) If the attorney for the moving party or an attorney for a party opposing the motion filed pursuant to Rule 26(c), 26(d) or 37 of the Superior Court Civil Rules shall fail to appear at the oral argument on said motion, the motion shall be summarily denied or granted as the case may be and an attorney's fee in an amount not less than $100 shall be assessed against the nonappearing attorney. The sum shall be paid to the Prothonotary and the Prothonotary shall promptly forward it to the appearing party. The Prothonotary shall not accept further filings of any type in the action from the attorney who did not appear until the attorney's fee is paid.

3. Superior Court Civil Rules 141-146 are added specifically to apply to cases pending in Superior Court's Complex Commercial Litigation Division. Superior Court Civil Rules 141-146 are attached as Exhibit A and incorporated by reference.

4. These Rule change shall take effect March 20, 2026.

BY THE COURT:

/*s*/ Eric M. Davis
President Judge

oc: Prothonotaries
cc: Superior Court Judges
Superior Court Commissioners
Kathleen M. Jennings, Attorney General
Kevin O'Connell, Public Defender
Court Administrators
Michael Ferry, Director of Operations
Charlene Wickman, Lexis Nexus
Law Libraries
File

EXHIBIT A

XVI. RULES GOVERNING ACTION FILED IN THE SUPERIOR COURT'S COMPLEX COMMERCIAL LITIGATION DIVISION ("CCLD")

Rule 141. Scope of Complex Commercial Division Rules

(a) These rules shall govern the procedure in the Superior Court of the State of Delaware in actions filed in the Court's Complex Commercial Litigation Divisions ("CCLD").

(b) Any case that includes a claim asserted by any party (direct or declaratory judgment) with an amount in controversy of $1 Million or more (designated in the pleadings for either jury or non-jury trials), or involves an exclusive choice of court agreement or a judgment resulting from an exclusive choice of court agreement, or is so designated by the President Judge, qualifies for assignment to the CCLD.

(c) Excluded cases include any case containing a claim for personal, physical or mental injury; mortgage foreclosure actions; mechanics' lien actions; condemnation proceedings; and any case involving an exclusive choice of court agreement where a party to the agreement is an individual acting primarily for personal, family, or household purposes or where the agreement relates to an individual or collective contract of employment.

(d) Identification of a qualifying case will be made by any party by stating the letters CCLD for the Civil Case Code and Complex Commercial Litigation for the Civil Case Type on the Case Information Statement. A party opposing identification of a case as a qualifying case will do so by motion filed before the Rule 16 scheduling conference, or at such other time as the assigned Panel Judge may direct. The filing of such a motion shall not affect the time for filing any pleading, motion, or required response under the Court's rules. If the assigned Panel Judge determines that the case is not a qualifying case, the Judge will notify the Prothonotary who will reassign the case within the appropriate Civil Case Type Category as determined by the Prothonotary.

(e) Unless otherwise expressly provided for in the CCLD Rules, the Superior Court Civil Rules shall continue to apply in all CCLD action.

Rule 142. Public Access to Documents Filed with the Court in CCLD Actions

This rule replaces Superior Court Civil Rule 5(g) for all actions filed or pending in the CCLD

(a) General Principles of Public Access.

(1) Court proceedings are matters of public record.

(2) Trials, hearings, and conferences are open to the public, unless the Court orders otherwise.

(3) Papers filed with the Prothonotary ("Filed Documents") must be available to the public, except as provided in this rule.

(4) CCLD Rule 142 does not apply to materials exchanged during discovery that do not become Filed Documents. The Court may enter orders establishing protections for those materials.

(5) If necessary to rule on confidential or privileged material, the Court may review materials in chambers, without subjecting that material to public access.

(b) Confidential Information.

(1) Public access to a Filed Document may be limited only if the Filed Document contains Confidential Information.

(2) "Confidential Information" means information:

(A) that is maintained confidentially;

(B) that is not otherwise publicly available;

(C) where public access to the information will cause particularized harm; and

(D) where the magnitude of the harm from public access to the information outweighs the public interest in the information.

(3) Confidential Information includes:

(A) trade secrets;

(B) sensitive personal information such as medical records; and

(C) personally identifying information such as social security numbers, complete financial account numbers, dates of birth, and the names of minor children.

(c) Confidential Filings.

(1) The Prothonotary must maintain a docket system that permits a Filed Document containing Confidential Information to be filed confidentially (a "Confidential Filing").

(A) The docket system must allow the Court to restrict access to a Confidential Filing to the Court, the filer, persons served with the Confidential Filing, and persons otherwise given access to the Confidential Filing by Court order.

(B) The docket system must provide public access to the title of the Confidential Filing, the identity of the filer, the persons served, and any order giving other persons access to the Confidential Filing.

(2) Every Confidential Filing must have a cover page that contains only the following information:

(A) The caption of the action, the title of the Confidential Filing, and the following statement:

YOU ARE IN POSSESSION OF A CONFIDENTIAL FILING FROM THE SUPERIOR COURT OF THE STATE OF DELAWARE

If you are not authorized to view this document under CCLD Rule 142 or by Court Order, read no further than this page and contact the following person:

[Filer's Name]

[Filer's Firm]

[Filer's Address]

[Filer's Telephone Number]

(B) The following additional statement, if a public version must be filed:

A public version of this document will be filed on or before [DATE].

(3) Except for voluminous exhibits, every page of a Confidential Filing must have a footer stating: THIS DOCUMENT IS A CONFIDENTIAL FILING. ACCESS IS PROHIBITED EXCEPT AS AUTHORIZED BY CCLD RULE 142 OR BY COURT ORDER.

(d) Making a Confidential Filing.

(1) A person may make a Confidential Filing if the person believes that the paper contains Confidential Information.

(2) A person must make a Confidential Filing if the person believes that another person would contend that the paper contains Confidential Information.

(3) By making a Confidential Filing, the filer certifies compliance with this rule.

(e) Notice of Confidential Filing.

(1) *Obligation to Give Notice*. After making a Confidential Filing, the filer must use best efforts to give notice to any person who has designated information in the Confidential Filing as Confidential Information or who the filer believes could have a legitimate interest in designating information in the filing as Confidential Information.

(2) *Notice to a Person Who Has Appeared*. If the person has appeared, the filer must provide the notice to the person's attorney or to the person, if unrepresented.

(3) *Notice to a Person Who Has Not Appeared*. If the person has not appeared, the filer must attempt to provide actual notice. A filer may provide notice:

(A) in accordance with the notice provision in any agreement giving rise to a confidentiality obligation governing the Confidential Information;

(B) to the person at the person's principal place of business;

(C) to the person's registered agent, if the person has a registered agent in this State; or

(D) to an attorney who represents the person in connection with the Confidential Information, if the identity of that attorney is known to the filer.

(4) *Contents of the Notice*. The notice must refer to this rule and include a proposed public version of each Confidential Filing for which a public version is required. The proposed public version may redact information that the filer believes constitutes Confidential Information or that the filer believes another person would contend constitutes Confidential Information. The notice must identify the date and time by which this rule requires the recipient of notice to identify any additional information for redaction.

(5) *Notice Not Filed*. The notice is not filed with the Prothonotary.

(6) *Designating Confidential Information for Redaction in Response to Notice*.

(A) Any recipient of notice may designate additional information for redaction if the person believes in good faith that the information qualifies as Confidential Information or that another person would contend that it qualifies as Confidential Information.

(B) The recipient of notice must identify any additional information for redaction within the time period set by this rule.

(C) A person designating information for redaction certifies compliance with this rule.

(7) *Timing of Notice and Designation of Confidential Information for Redaction*.

(A) When the Confidential Filing contains an original complaint, the filer should give notice contemporaneously with the Confidential Filing and must give notice not later than 3:00 p.m. on the next day. Any recipient must designate any additional information for redaction by 3:00 p.m. on the third day after the filing.

(B) Otherwise, the filer should give notice contemporaneously with the Confidential Filing and must give notice not later than 3:00 p.m. two days after the filing. Any recipient must designate any additional information for redaction by 3:00 p.m. on the fifth day after the filing.

(f) Filing a Public Version.

(1) *Public Version Required*. A public version is required for every Confidential Filing, except for an exhibit or lodged deposition.

(2) *Timing of Public Version*. The filer must file a public version of every Confidential Filing that was the subject of a CCLD Rule 142(e) notice the day after the deadline for

designating additional information for redaction. The public version must contain the redactions in the proposed public version and any additional information designated for redaction in response to the notice unless the filer and a person receiving notice agree to make fewer redactions.

(g) Challenging a Confidential Filing.

(1) *Right to Challenge*. Any person may challenge the confidential treatment of a Confidential Filing.

(2) *The Challenge Notice*. To challenge the confidential treatment of a Confidential Filing, the challenger must file a challenge notice with the Prothonotary. The challenge notice must identify each challenged Confidential Filing by docket number, Transaction ID, title, or other identifying information.

(3) *Timing*. Unless the Court orders otherwise, a challenge notice cannot be filed until ten days after the filing of the Confidential Filing.

(4) *If a Required Public Version Does Not Exist*. If CCLD Rule 142(f) required the filing of a timely public version of the challenged Confidential Filing, and if a public version of the challenged Confidential Filing was not filed before the filing of the challenge notice, then the Prothonotary must make the Confidential Filing publicly available.

(5) *If a Public Version Does Not Exist and Was Not Previously Required*. If CCLD Rule 142(f) did not require the filing of a public version of the challenged Confidential Filing and a public version does not exist, then the filer of the Confidential Filing must file a public version. The timely filing of a public version satisfies the challenge notice. The filer must follow the procedures in CCLD Rule 142(e) and CCLD Rule 142(f), except that:

> (A) the filer must give notice within five days after the filing of the challenge notice; and
>
> (B) any recipient of notice must designate any additional information for redaction within ten days of the filing of the challenge notice.

(6) *If a Public Version Exists*. If a public version of the challenged Confidential Filing has been filed before the filing of the challenge notice, then the Prothonotary must make the Confidential Filing publicly accessible unless a person timely moves for an order maintaining its confidential treatment.

(A) *Moving to Maintain Confidential Treatment*. Any person seeking to maintain confidential treatment must move within five days after the filing of the challenge notice. The motion must be served on the challenger.

(B) *Opposing a Motion*. Any person who opposes confidential treatment must file an opposition within five days after the filing of the motion. If a timely opposition is not filed, the challenge is deemed withdrawn.

(C) *Further Proceedings*. The Court will determine whether further filings or proceedings are warranted.

(D) *Burden of Persuasion*. The person seeking to maintain confidential treatment bears the burden of persuading the Court that confidential treatment is warranted.

(E) *Fees and Expenses*. The Court may award fees and expenses if the Court determines that the motion to maintain confidential treatment or the opposition lacked sufficient justification.

(h) Expiration of Confidential Treatment. Unless the Court orders otherwise, confidential treatment expires three years after the final disposition of the action, and the Prothonotary must make any Confidential Filing publicly accessible unless a person files a timely motion to extend confidential treatment.

(1) *Expiration Notice*. At least 90 days before the expiration date, the Prothonotary must file a notice on the docket advising the parties of the expiration of confidential treatment.

(2) *Moving to Extend Confidential Treatment*. Any person may move to extend confidential treatment within 45 days after the filing of the expiration notice.

(A) The movant must demonstrate that the particularized harm from public disclosure of the Confidential Filing clearly outweighs the public interest in access to Court records. The movant must provide evidentiary support for the particularized harm.

(B) The Court will determine whether additional proceedings are warranted.

(i) Rule 6(e) Inapplicable. The additional time after service by mail does not apply to this rule, regardless of the method of service.

RULE 143 (Amended and Supplemental Pleadings in CCLD)

(a) Amendments Before Trial.

(1) *Amendments as a Matter of Course.* A party may amend the party's pleading once as a matter of course without leave of Court:

(A) at any time before a responsive pleading is served; or

(B) if the pleading is one to which no responsive pleading is required and the action has not been set for trial, no later than 20 days after the pleading is served.

(2) *Other Amendments.* In all other cases, a party may amend its pleading only with the opposing party's written consent or the Court's leave. The Court should freely give leave when justice so requires.

(3) *Form of Amendments.* A party must file an amended pleading with the Court, even if the Court has granted a motion for leave to file the amended pleading. A party filing an amended pleading must also file a document indicating plainly how the amendment differs from the pleading that it amends.

(4) *Effect of an Amended Pleading on Other Parties' Claims.* An amended pleading has no effect on another party's counterclaims, crossclaims, or third-party claims, which are preserved and do not need to be re-filed.

(5) *Time to Amend After Certain Motions and Consequence of Not Amending.*

(A) If a party wishes to amend the party's complaint in response to a motion to dismiss under Rule 12(b)(6), the party must amend the party's complaint – or seek leave to amend – either:

(i) Before the party's response to the motion is due; or

(ii) If the case has been transferred from another court, within 30 days after the transfer, even if the party responded to the motion in the other court.

If a party neither amends nor moves to amend by the time set forth in Rule 143(a)(5)(A), a dismissal under Rule 12 (b)(6) shall be with prejudice – but only as to the named party – unless the Court for good cause shown dismisses the complaint without prejudice.

(6) Time to Respond to Amended Pleading. Unless the Court orders otherwise, any required response to an amended pleading must be made within the time remaining to respond to the original pleading or within 10 days after service of the amended pleading, whichever is later.

(b) Amendments During and After Trial.

(1) *Based on an Objection at Trial.* If, at trial, a party objects that evidence is not within the issues raised in the pleadings, the Court may permit the pleadings to be amended. The Court should freely permit an amendment when doing so will aid in presenting the merits and the objecting party fails to satisfy the Court that the evidence would prejudice that party's action or defense on the merits. The Court may grant a continuance to enable the objecting party to meet the evidence.

(2) *For Issues Tried by Consent.* When an issue not raised by the pleadings is tried with the parties' express or implied consent it must be treated in all respects as if raised in the pleadings. A party may move – at any time, even after judgment – to amend the pleadings to conform to the evidence and to raise an unpled issue. But failure to amend does not affect the result of the trial of that issue.

(c) Relation Back of amendments. An amendment to a pleading relates back to the date of the original pleading when:

(1) The law that provides the applicable statute of limitations allows relation back;

(2) The amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out – or attempted to be set out – in the original pleading; or

(3) The amendment changes the party or the naming of the party against whom a claim is asserted, if Rule 143(c)(2) is satisfied and within 120 days of the filing of the complaint, or such additional time the Court allows for good cause shown, the party to be brought in by amendment:

(A) has received such notice of the institution of the action that the party will not be prejudiced in maintaining a defense on the merits; and

(B) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against the party.

(d) Supplemental Pleadings. On a motion the Court may permit a party to serve a supplemental pleading setting out any transaction, occurrence or event that happened after the date of the pleading to be supplemented. The Court may permit supplementation even though the original pleading is defective in stating a claim or defense. If the Court permits the supplemental pleadings, the opposing party must respond within 10 days after service of the pleading.

Rule 144. Additional Procedures for Filing Discovery Motions in CCLD

Presentation of Motions. All motions which are filed pursuant to Rule 26(c), 26(d) or 37 of the Superior Court Civil Rules, with the exception of motions filed during the pendency of an oral deposition, shall be presented to the Court as follows:

> No motion shall be filed pursuant to Rule 26(c), 26(d) or 37 of the Superior Court Civil Rules, and no such motion shall be accepted by the Prothonotary, unless such motion shall be accompanied by a certification of counsel for the moving party that a reasonable effort has been made to reach agreement with the opposing party on the matters set forth in the motion, detailing the dates, time spent, and method of communication in attempting to reach agreement, provided that the certification shall not be required for motions filed pursuant to Rule 37(d) of the Superior Court Civil Rules. Unless otherwise ordered, failure to so certify may result in dismissal of the motion. For purposes of this Rule, "a reasonable effort" must include oral communication that involves Delaware counsel for any moving party and Delaware counsel for any opposing party.

Rule 145. CCLD Motions.

(a) *In General.* Except where provided elsewhere, a request for a Court order must be made by motion. Unless made during a hearing or trial, a motion must be made in writing.

Form and Content. A written motion, opposition, or reply must contain numbered paragraphs and should attach a form of order providing for the relief sought.

(b) *Length of Motions.*

(1) Any written motion the movant will be supporting with an opening brief may not exceed 500 words. The opening brief must be filed with the motion. Briefs may only be filed with motions under Rules 12, 41, and 56 of the Superior Court Civil Rules. Briefing on such motions shall be governed by Superior Court Civil Rule 146.

(2) Any written motion the movant will not be supporting with an opening brief may not exceed 3,000 words. The opposition to the motion may not exceed 3,000 words. The reply may not exceed 2,000 words. No other submissions containing argument may be filed unless the Court permits.

(3) The caption, title, signature block, and any markings included for purposes of filing under seal under Superior Court Civil Rule 5 do not count toward the word limitations.

(c*) Default Schedule.* Unless otherwise agreed on by the parties in writing or ordered by the Court, any opposition to a written motion must be filed within seven days of the motion, and any reply must be filed within five days of the opposition.

Rule 146. CCLD Briefs.

(a) *Form*. Superior Court Civil Rule 107 shall apply to all briefs filed in CCLD.

(b) *Default Schedule and Argument.* Unless otherwise agreed on by the parties in writing or ordered by the Court: (1) a responsive brief (with all supporting authority) shall be filed no later than 30 days after the filing of the opening brief, and (2) a reply brief shall be filed no later than 15 days after the response. Any party may request a hearing following the filing of an opening brief. The Court may grant the request or rule without a hearing.