

STANDING ORDERS

The Honorable Michael H. Watson
United States District Court
Southern District of Ohio—Eastern Division

Counsel¹ is expected to comply with the following standing orders, and in the event of non-compliance, the Court will consider the imposition of appropriate sanctions.

I. REQUIREMENTS APPLICABLE TO CIVIL AND CRIMINAL CASES

- **Civility:** Civility not only reflects the good character of attorneys who practice it, but it also plays a key role in the efficient and fair administration of justice in this District. Counsel shall read the Statement of Civility in the local rules for the Southern District of Ohio and conduct themselves in accordance therewith. The Court will not tolerate rudeness or bullying toward opposing counsel or parties, and briefs and memoranda shall not contain *ad hominem* attacks.
- **Motions for Extension of Time:** All requests for an extension of deadlines—including requests for extension of filing deadlines—must be made by way of a written motion filed on the docket. The motion should indicate the grounds for the request and whether opposing counsel consents to the request. Counsel may call chambers to notify the Court that such a motion has been filed.
- **Motions for Continuance:** Requests for a continuance of a hearing or conference shall be made by way of a written motion filed on the docket. The motion shall state the grounds for the request, and if the reason is a conflicting court proceeding, state the caption, case number, and judge assigned to that case. Before filing such a motion, counsel shall first confer with opposing counsel in an effort to propose agreed-upon alternative dates. Where appropriate, the motion shall include the agreed-upon dates and times for the proposed rescheduled hearing or conference. If counsel are unable to agree upon proposed dates and times, or if

¹The requirements herein referencing counsel apply equally to any party proceeding *pro se*.

opposing counsel does not consent to the request for a continuance, counsel's motion for a continuance shall so state.

- **Page Limitations:** All briefs and/or memoranda filed in any action before this Judge are subject to a twenty-page limit. Counsel shall not exceed the twenty page limitation without leave of Court.
 - Requests to exceed the twenty-page limitation must be made by way of a written motion filed on the docket explaining the extraordinary circumstances requiring an extension. Parties must seek leave of Court sufficiently in advance of the deadline for filing the motion to permit the Court to rule on the motion to exceed the page limitation before the filing deadline.
 - Notwithstanding Local Rule 7.2(a)(3), in cases where the Court grants leave to exceed the page limits, the parties shall not include a table of contents, table of authorities, or summary of argument, unless the Court orders otherwise.
- **Motions/Memoranda in Support:** motions and the memoranda in support or opposition to such motions shall be filed as one submission on the docket. In other words, counsel shall not file a motion and the brief supporting the motion as separate entries.
- **Motions to Strike:** The Court disfavors motions to strike unless they address a pleading for the reasons set forth in Federal Rule of Civil Procedure 12(f).
- **Filing of Depositions in Support of Motions/Memoranda:** If a party cites to a deposition in any motion or memoranda, the party must file the entire deposition electronically on the docket. If a deposition contains sealed material, the party citing to the deposition must move to file the deposition under seal.
- **Final Pretrial Conference:** A final pretrial conference ("FPTC") will be held within approximately thirty days prior to the trial date. One week before the FPTC, counsel shall submit a joint proposed Final Pretrial Order and a joint statement of facts to be read to the jury. The Final Pretrial Order shall comport with the example in the Undersigned's Standing Orders. It is counsel's duty to confer, in person or by telephone, in a good faith effort to reach an agreement on all items referred to in the Final Pretrial Order in an effort to resolve all disputed items prior to the FPTC.

- The joint Final Pretrial Order and the joint statement of facts shall be filed on the docket.
- All trial counsel shall be present at the FPTC; attorneys not present at the FPTC may not participate at trial without approval of the Court. In civil cases, attorneys must bring a principal with full settlement authority to the FPTC.
- The Joint Final Pretrial Order shall contain any objections to the use of deposition testimony at trial. Counsel will confer in advance of the FPTC and attempt to resolve all objections regarding the use of deposition testimony at trial by agreement. If counsel cannot agree, any objections shall be contained in the Joint Final Pretrial Order by designation to the page and line number of the deposition testimony accompanied by a short statement of the grounds for objection. This procedure applies to both written and videotaped depositions except that the Joint Final Pretrial Order including objections to videotaped depositions must be accompanied by either a full or partial transcript of the videotaped deposition. If the Court sustains an objection to the use of any portion of a videotaped deposition at trial, that portion of the videotaped deposition must be edited out. In any event, counsel are encouraged to excerpt (by agreement) the pertinent parts of depositions to minimize the presentation of unnecessary or extraneous matters.
 - Failure to comply with this requirement will be deemed a waiver of any objection not properly brought to the Court's attention.
- **Motions in Limine:** There is a presumption that contemporaneous objections are preferable to motions in limine. Nonetheless, motions in limine shall be filed by the date established by the Court at the FPTC, or, if none is established, no later than one week after the FPTC. Each party may file one omnibus motion in limine, not to exceed ten pages except upon leave of Court.
- **Daubert Motions:** Notwithstanding the above order regarding motions in limine, any such motion addressed to the admissibility of expert testimony under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 113 S. Ct. 2786 (1993), if not included in a previously filed motion for summary judgment, shall be filed at least forty-five days prior to the FPTC. Responses shall be filed no later than thirty-five days prior to the FPTC. Replies are not permitted unless ordered by the Court. The Court's twenty-page limit

applies to briefing on *Daubert* motions. Depending on the nature of the *Daubert* challenge, the Court may conduct a hearing to voir dire the proposed expert prior to ruling on the motion.

- **Jury Instructions:** Counsel shall confer regarding their respective proposals for jury instructions prior to submission. Upon deadline established by the Court, the parties shall submit three sets of jury instructions: one set of instructions that both parties agree upon; one set of instructions that the government/plaintiff wishes to use but the defense opposes; and one set of instructions which the defense wishes to use but the government/plaintiff opposes.
 - All proposed instructions shall be supported by citations to authority.
 - In criminal cases, the parties shall use the United States Court of Appeals for the Sixth Circuit pattern jury instructions where practical.
 - All such proposed jury instructions shall be filed on the docket and submitted in Microsoft Word version emailed to chambers at watson_chambers@ohsd.uscourts.gov. If counsel wish to use special verdict forms or submit interrogatories to the jury, such should be filed at the same time and in the same manner. The original of the request for special verdict forms or interrogatories must be filed with the Clerk of Court, prior to presentation to the Court.
 - Counsel may submit supplemental requests for instructions during the trial or at the conclusion of evidence on matters that could not be reasonably anticipated by the submission deadline.
- **Trial Schedule:** Ordinarily, trials will be held Monday through Friday beginning at 9:00 a.m. and adjourning at 5:00 p.m. The Court will typically take a morning and afternoon recess and adjourn for lunch. Any scheduled civil trial may be preempted by the Court's criminal docket.
- **Voir Dire:** In a jury trial, the entire panel of jurors (i.e. both those seated inside and outside of the jury box) will be examined in one continuous examination. Each prospective juror will be assigned a number by the Jury Clerk, and jurors will be seated in the order of their assigned numbers. Counsel will be provided with a list of the jurors' names and numbers on the Friday afternoon preceding the commencement of trial.

- The Court will conduct a general voir dire examination tailored to the issues in the case. Counsel are encouraged to submit, one week prior to trial, questions they would like the Court to include in its voir dire. Counsel shall serve copies of such questions on opposing counsel prior to submitting them to the Court and shall indicate whether opposing counsel has an objection to the proposed questions.
- After the Court conducts a general voir dire, counsel may each conduct a limited voir dire. Counsel must address their questions to the entire panel as opposed to a specific potential juror. Counsel may, however, inquire regarding any omission in a juror's answer(s) to the questionnaire or, upon permission by the Court, may inquire into any area justifiably elicited by information contained in the questionnaire. Taking into consideration the complexity of each case, the Court will establish a time limit for counsel's supplemental voir dire.
- At the conclusion of voir dire examination, the entire panel (i.e. both those seated inside and outside of the jury box) shall be challenged for cause outside of the presence of the potential jurors.
- The Court will determine the manner in which each side will exercise peremptory challenges at the FPTC. Peremptory challenges shall be made on the record at a sidebar. "Passing" on a peremptory challenge constitutes using that challenge.
- In criminal cases, fourteen prospective jurors will be sworn in, with the thirteenth and fourteenth jurors designated as alternates. See Federal Rule of Criminal Procedure 24(b) and (c) for further information regarding peremptory challenges in criminal cases.
- **Examination of Witnesses:** The Court typically permits only direct examination, cross examination, and re-direct examination. The Court permits re-cross examination only in rare circumstances where, in the Court's view, the scope of re-direct examination exceeded the scope of cross examination.
 - Each counsel may qualify his or her own expert witnesses.
- **Exhibits:** Counsel will assemble, mark, and place all exhibits in three-ring binders. No later than three business days prior to trial, Counsel will provide the Courtroom Deputy, Jennifer Kacsor, with four sets of exhibits:

one set to be used during trial, one set for the Court, one for opposing counsel, and one for the law clerk assigned to the case.

- The non-original sets of exhibits may contain Xeroxed or equivalent sets of photographs.
- Joint exhibits are strongly encouraged. To that end, the same document, even if used by both parties, should only be marked and used once.
- Any exhibits produced for the first time during trial shall be properly marked and shown to opposing counsel before posing a question to the witness.
- Counsel shall seek the Court's permission before approaching a witness to tender an exhibit.
- Either party may offer any marked exhibit into evidence, regardless of which party marked it.
- **Demonstrative Evidence:** Counsel must show to opposing counsel any sketches, models, diagrams, or other demonstrative evidence to be used during trial no later than five business days before the FPTC. Objections to the use of such evidence shall be made no later than the FPTC. Demonstrative evidence prepared solely for the purpose of closing argument shall be shown to opposing counsel at the earliest possible time.
- **Video Evidence:** In jury trials, if counsel wishes to present evidence in the form of video, DVR, or the like, counsel must have a method for pausing the sound or picture from the jury to permit the Court to rule on objections.
 - In civil cases, a typewritten transcript must be provided to the Court and opposing counsel prior to the first day of trial.
- **Court Reporter:** A glossary of unusual words, names, or terms that may be used during trial shall be provided to the official court reporter at least one week before trial. Should counsel desire daily transcripts of all or part of the trial testimony, arrangements must be made with the official court reporter:

Lahana DuFour at (614) 719-3286

at least two weeks prior to trial. Any emergency requests for transcripts of testimony during trial must be approved by the Court.

- **Objections:** Counsel shall stand when making an objection and shall make the objection only to the Court. Counsel shall state only that he or she is objecting, and if requested by the Court, state the grounds. Speaking objections are not permitted; rather, should an explanation of the objection be necessary, counsel shall request a sidebar. Argument in response to an objection is permitted only upon the Court's permission or request.
- **Closing Argument Conference:** The Court will hold a conference on the record prior to final arguments in jury cases to determine the length of final arguments to the jury. In addition, counsel may be heard at that time on proposed jury charges presented by either side and/or on the tentative charges submitted by the Court. See Fed. R. Civ. P. 51.
- **Decorum:** Throughout all stages of a case, opposing counsel shall maintain a professional and dignified atmosphere. To that end:
 - Colloquy or argument between counsel during trial will not be permitted.
 - Counsel shall not exhibit familiarity with witnesses, jurors, or opposing counsel and shall avoid the use of first names. In jury trials, no juror shall be addressed individually.
 - Appearance, mannerisms, or habits designed to arouse the sympathy or prejudice of the jury are an impediment to an impartial trial and will not be permitted.
 - Counsel shall remain seated and quiet during opening statements and closing arguments so as not to divert the attention of the Court or jurors.
 - Any request to have a question and answer read back shall be made to the Court, not the court reporter.

II. REQUIREMENTS APPLICABLE TO CIVIL CASES ONLY

- **Settlement Conference:** Pursuant to Federal Rule of Civil Procedure 16(a)(5), the Court may schedule a settlement conference at any time in

order to facilitate settlement. In addition, counsel may request the Court schedule a settlement conference at any time. Attorneys attending settlement conferences must bring the party or a principal with full settlement authority. Under extraordinary circumstances, the Court may permit such principals to be available by telephone. Failure to comply with this requirement will result in sanctions.

- Requests to vacate such conferences—including participation in Settlement Week—(or to reschedule more than thirty days in the future) shall be made directly to the Undersigned, in writing, filed on the docket, with explanation as to why settlement discussions would not be fruitful. Requests to reschedule the conference within thirty days may be made to the magistrate judge assigned to the case.
- **Costs of Summoning Jury:** Should a case settle after 12:00 p.m. on the business day immediately preceding the trial date, the Court may assess against either or both parties the costs of summoning a jury. A case will be considered settled for the purposes of this provision when notice thereof is given to the Court. If requested by the parties, a hearing may be held before such costs are assessed.

III. REQUIREMENTS APPLICABLE TO CRIMINAL CASES ONLY

- An attorney seeking a writ in a criminal case shall hand deliver the application for the writ to the Undersigned in the Undersigned's chambers. The attorney shall call chambers to assure the Undersigned is available to discuss the application prior to delivering the application.
- The Government is responsible for keeping track of speedy trial compliance.

**MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT**