

CIN General Order 18-01

STANDING ORDER RE CIVIL CASES

**STEPHANIE K. BOWMAN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

FILED
RICHARD W. MACIEL
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U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. COLUMBUS

OPPORTUNITIES FOR NEWER ATTORNEYS

The Federal District Court for the Southern District of Ohio is a teaching court. Each year, scores of law students serve as externs in the chambers of magistrate judges and district judges. The externs are a valuable resource, and through their work at the Court, begin to learn the basics of federal litigation. Judges of the Court also engage in outside educational activities such as lecturing, teaching, and writing.

This Judge encourages less experienced members of legal teams representing clients to argue motions they have helped prepare and to question witnesses with whom they have worked. Opportunities to train newer attorneys in oral advocacy are rare because of the decline of trials. Instead, less experienced lawyers are often silent participants in oral argument proceedings. Where lawyers newer to the practice are familiar with the matter under consideration, but have little experience arguing before a court, they should be encouraged nonetheless to have a speaking role in court. Their law firms should encourage their participation. This Judge is amenable to permitting a number of lawyers to argue for one party if this helps create opportunities for a lawyer newer to the practice to participate. Nevertheless, the ultimate decision of who speaks on behalf of the client is for the client and the lawyer in charge of the case, not for the Court.

To test the Court's ability to foster increased opportunities for oral advocacy by newer lawyers, this Judge is adopting the following procedure relating to oral argument of civil motions:

STANDING ORDER

After a civil motion is fully briefed, any party may forthwith alert the Court by a docketed Notice that, if oral argument is granted, the noticing party intends to have a newer attorney (who has graduated from law school within the past six years) argue the motion (or a portion of the motion). Any other party may file a similar Notice addressing counsel's desire to staff the argument with a newer attorney, but the Court will not entertain opposition briefing or lengthy memoranda.

If such a Notice is docketed, the Court will grant the request for oral argument if it is at all practicable to do so, will schedule it immediately (thereby advancing its expeditious resolution), and will strongly consider allocating more time for oral argument

beyond what the Court may otherwise have allocated, were a newer attorney not arguing the motion. Moreover, the Court will permit other more experienced counsel of record to provide some assistance to the newer attorney who is arguing the motion where appropriate during oral argument. In fact, counsel requesting oral argument by a newer attorney is strongly encouraged, in counsel's independent judgment, to have an experienced lawyer accompany the newer attorney.

If counsel's request for oral argument is granted, opposing counsel is not in any way compelled to send a newer lawyer to argue as well; it remains perfectly acceptable for a seasoned practitioner to argue the opposite side of the motion.

All attorneys, including newer attorneys, will be held to the highest professional standards. All attorneys appearing in court are expected to be adequately prepared, thoroughly familiar with the factual record and the applicable law, and to have a degree of authority commensurate with the proceeding.

The Court recognizes that there may be many different circumstances in which it is not appropriate for a newer attorney to argue a motion. The Court emphasizes that it draws no inference from a party's decision not to have a newer attorney argue a motion before the Court. And the Court will draw no inference whatsoever about the importance of a particular motion, or the merits of a party's argument regarding the motion, from the party's decision to have or not to have a newer attorney argue the motion.


The participation of newer attorneys in all court proceedings – including, but not limited to, preliminary pretrial Rule 16 conferences, pre-motion conferences, hearings on discovery disputes and motions, dispositive motions, final pretrial conferences, and examination of witnesses at trial – is strongly encouraged.

In complex cases, the Court will inquire prior to the Rule 16 conference how the parties intend to provide opportunities for newer lawyers to participate actively in the case, especially in Court, by, *inter alia*, arguing motions, taking depositions, and examining witnesses at trial. Counsel shall also advise the Court whether it would be useful to require client representatives to attend the upcoming case management conference where this subject will be discussed.

The purpose of this Standing Order is to facilitate one generation teaching the next how to argue and try cases and to maintain and strengthen our district's reputation for excellence in trial practice.

IT IS SO ORDERED.

Dated: November 7, 2018


Stephanie K. Bowman
United States Magistrate Judge