

STANDING ORDERS FOR CIVIL CASES

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 imposing an appropriate sanction. These Standing Orders are intended to supplement the Southern District of Ohio Local Rules. To the extent these Standing Orders conflict with the Local Rules, the requirements listed in these Standing Orders control.

I. CIVILITY

- Civility not only reflects the good character of attorneys who practice it but 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. Briefs and memoranda shall not contain *ad hominem* attacks.

II. COMMUNICATION WITH THE COURT

- Except in connection with a mediation, *ex parte*, substantive communication with the Court or its staff is strictly prohibited. Counsel shall not call chambers to discuss any issue of substance *ex parte*; the Courtroom Deputy and the law clerks will not answer such questions. Counsel must file a motion on the docket to address any issues of substance.
- Counsel may call and speak with chambers staff *ex parte* regarding procedural issues.

III. MOBILE DEVICES

- Absent permission, the use of mobile devices during court proceedings is strictly prohibited. This includes using a mobile device for text messaging and emailing.

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

IV. MOTIONS

- **Page Limitations**

- All briefs and/or memoranda in any action before this Judge are subject to a twenty-page limit. Counsel shall not exceed the twenty-page limit without leave of Court.
- Counsel shall seek leave 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 deadline. Motions for leave to exceed the page limitation *instanter* will be stricken from the docket, as will the proposed brief/memoranda that accompanies the motion to exceed.
- Requests to exceed the twenty-page limitation must be made by way of a written motion filed on the docket explaining the circumstances requiring an extension.
- Any filings that exceed the page limit without leave of Court will be stricken.

- **Tables of Contents and Authorities and Summary of the Argument**

- Unless otherwise directed by the Court, no briefs or memoranda in any action need contain a table of contents, table of authorities, or summary of the argument.

- **Motions and 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 docket entries.

- **Depositions in Support of Motions**

- If a party cites to a deposition in any motion or memoranda, the party must file the entire deposition electronically on the docket. If necessary, a party shall move for leave to file a redacted version of the deposition along with a completed, sealed version.

- **Citations and Font**

- Citations to authority, the record, or the docket shall be made in the text of the document, not in footnotes. Counsel shall use footnotes sparingly.
- Counsel may use a professional font of their choice. However, in no case may the font be smaller than Times New Roman 12-point font.

- **Standard of Review**
 - Counsel need not include standard of review language in routine motions or responses (e.g., motions to dismiss, motions for judgment on the pleadings, motions for summary judgment) unless the standard is contested.
- **Proposed Orders**
 - Counsel need not include proposed orders unless specifically requested by the Court. If so requested, proposed orders shall be sent in Microsoft Word version via email to watson_chambers@ohsd.uscourts.gov.
- **Extensions 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 shall 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.
- **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, shall 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 dates. Where appropriate, the motion shall include the agreed-upon dates and time for the proposed rescheduled hearing or conference. If counsel are unable to agree upon proposed dates and times, or if opposing counsel does not consent to the request for a continuance, counsel's motion for a continuance shall so state.
- **Sealing**
 - Parties wishing to file documents under seal must first seek leave of Court by way of a motion filed on the docket. Such motion must comply with the strict standard for sealing in the Sixth Circuit.
- **Motions to Strike**
 - The Court disfavors motions to strike unless they address a pleading for the reasons set forth in the Federal Rule of Civil Procedure 12(f).

- **Temporary Restraining Orders**
 - Counsel are responsible for contacting chambers to request an informal scheduling conference after filing a motion for a temporary restraining order.
- **Motions in Limine**
 - Motions in limine shall be filed by the date established by the Court in its Scheduling Order. 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) and Federal Rule of Evidence 702, may be filed separate from the omnibus motion in limine and shall be filed at least thirty days prior to the Final Pretrial Conference. Responses are due ten days after the motion is filed. Replies are not permitted unless ordered by the Court. The Court's twenty-page limitation 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.

V. PRETRIAL

- **Settlement Conference**
 - Pursuant to Federal Rule of Civil Procedure 16(a)(5), the Court may schedule a settlement conference at any time 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.
 - Requests to vacate or reschedule such conferences shall be made directly to the Judge who ordered the conference. The request must be made in writing and filed on the docket with explanation as to why settlement discussions would not be fruitful.
- **Final Pretrial Conference ("FPTC")**
 - An FPTC will be held approximately thirty days prior to the trial date.
 - The FPTC will be held in the Courtroom.

- 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.
- Attorneys must bring a principal with full settlement authority to the FPTC.
- **Joint Proposed Final Pretrial Order**
 - The parties must submit a joint proposed Final Pretrial Order and a joint statement of facts to be read to the jury prior to the FPTC.
 - The Final Pretrial Order shall comport with the example on the Undersigned's website.
 - 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 proposed Final Pretrial Order and the joint statement of facts shall be filed on the docket.
 - The joint proposed Final Pretrial Order shall contain any objections to the use of deposition testimony at trial. Counsel shall 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 proposed 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 if any party objects to portions of a videotaped deposition, any objection in the joint proposed Final Pretrial Order must be accompanied by either a partial or full 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 at trial 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.

VI. TRIAL

- **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.

- **Trial Briefs**

- Trial Briefs are not permitted unless specifically requested by the Court.

- **Jury Instructions**

- Counsel shall submit one set of joint proposed substantive jury instructions by the deadline set in the Court's Scheduling Order. In an appendix, Plaintiff shall submit any additional instructions that it proposed, but to which Defendant objects; and Defendant shall submit any additional instructions that it proposed but to which Plaintiff objects. The basis of each party's objection to the other's proposed instructions, and relevant citation to authority, shall be included.
- All proposed jury instructions shall be filed on the docket and submitted in Microsoft Word version via email to chambers at watson_chambers@ohsd.uscourts.gov. Joint proposed verdict forms and/or interrogatories should be filed at the same time and in the same manner.
- 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.

- **Voir Dire**

- The entire panel of jurors (*i.e.* both those jurors seated inside and outside of the jury box) will be examined together.
- 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 trial. Counsel shall refer to all jurors by their assigned number only.
- The Court will conduct a general voir dire examination tailored to the issues in the case.

- Each party will then have an opportunity to pose limited questions to the entire panel. Counsel may, however, inquire regarding any answer or omission in a juror's answer(s) to the Court's questions or into any area justifiably elicited by information contained in the juror questionnaire. Taking into consideration the complexity of each case, the Court may establish a time limit for Counsel's supplemental voir dire.
- At the conclusion of voir dire examination, the entire panel of jurors shall be challenged for cause outside the presence of the potential jurors.
- The Court will determine the manner in which each side will exercise peremptory challenges. "Passing" on a peremptory challenge constitutes using that challenge.
- The Court may permit and/or require jurors to answer certain questions at a sidebar, depending on the nature of the case.
- **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 instances.
- **Exhibits**
 - Counsel will assemble, mark, and place all exhibits in three-ring binders. No later than one week before trial, unless otherwise directed by the Court, Counsel shall provide the Courtroom Deputy, Jennifer Kacsor, with four sets of Exhibits:
 - One set for the Court;
 - One set for opposing counsel;
 - One set for the law clerk assigned to the case, and;
 - One set of original exhibits to be used during trial and to be given to the jury during deliberations.
 - Joint exhibits shall be marked "J," Plaintiff's exhibits shall be marked "P," and Defendant's exhibits shall be marked "D." Exhibits shall be assigned a number rather than a letter (e.g., "P1"). If there are multiple plaintiffs or defendants, counsel may suggest another marking system.
 - The non-original set 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 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 days before the FPTC. Objections to the use of such evidence shall be made no later than the FPTC.
 - Illustrative aids 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 a video, DVD, or the like, counsel must have a method for pausing the sound or picture.
- **Testing the Video System**
 - If a party wishes to use any electronic or video exhibits at trial, the party shall email the Courtroom Deputy at jennifer_kacsor@ohsd.uscourts.gov to schedule a test of the technology at least five days prior to trial.
- **Objections**
 - Counsel shall stand when making an objection and shall state only "objection" and the grounds for the exception, such as hearsay, foundation, etc.
 - Counsel shall not argue the merits of the objection before the jury. Rather, should argument be necessary, Counsel shall request a sidebar.
 - Only the attorney assigned to question the witness may object during that witness's testimony. Similarly, only the attorney giving the opening statement may object to opposing counsel's opening; only the attorney giving the closing argument may object to opposing counsel's closing argument.
 - The Court highly disfavors objections during opening statements or closing arguments. Such objections shall be made only in rare and extreme circumstances.


- **Closing Argument and Charge Conference**
 - The Court will hold a conference on the record prior to final arguments in jury trials to determine the length of closing arguments. In addition, Counsel may be heard at that time on proposed changes to jury instructions and/or on the tentative instructions submitted by the Court. See Fed. R. Civ. P. 51.
- **For the Court Reporter**
 - A glossary of unusual or complex words, names, or terms that may be used during trial shall be provided to the official Court Reporter at least one week before trial.
- **Transcripts**
 - Should Counsel desire daily transcripts of all or part of the trial testimony, arrangements must be made with the official Court Reporter at least two weeks before trial. Any emergency requests for transcripts of testimony during trial must be approved by the Court.
 - Official Court Reporter: Lahana DuFour: (614) 719-3286.
- **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 this purpose when notice thereof is given to the Court. If requested by the parties, a hearing may be held before such costs are assessed.

VII. DECORUM

- Throughout all stages of a case, Counsel shall maintain a professional and dignified demeanor.
- Counsel and the parties are expected to stand when addressing the Court.
- Colloquy or argument between Counsel during trial will not be permitted.
- Counsel shall not exhibit familiarity with witnesses, jurors, opposing counsel, the Court, or Court staff, and shall avoid the use of first names. In jury trials, no juror shall be addressed individually.
- Appearance, mannerisms, or habits designed to arouse sympathy or prejudice of the jury are an impediment to an impartial trial and will not be permitted.

- Counsel shall remain within one arms' length of the podium while delivering their opening statement and closing argument, and while examining witnesses.
- 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.
- Counsel are reminded that they must speak slowly, clearly, and loudly so the Court Reporter may accurately transcribe the proceedings.
- Counsel are also reminded that the Court Reporter is able to transcribe only one speaker at a time. Accordingly, Counsel must be careful not to speak over one another, witnesses, or the Court.

IT IS SO ORDERED.



MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT