

STANDING ORDERS FOR CRIMINAL 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. CRIMINAL WRITS

- An attorney seeking a writ in a criminal case shall hand deliver the application for the writ to the Court in the Court's chambers. The attorney shall call chambers to assure the Court is available to discuss the application prior to delivering the application.

V. 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 shall 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.

• **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.

- **Proposed Orders**
 - Proposed orders must be included in motions for preliminary forfeiture and motions to seal. Proposed orders must be sent in Microsoft Word version via email to watson_chambers@ohsd.uscourts.gov.
 - Counsel need not include proposed orders with other motions unless specifically requested by the Court.
- **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 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**
 - A motion to continue any hearing or to continue the trial date shall be made in writing and filed on the docket at least seven (7) days prior to the scheduled trial date.
 - A motion to continue the trial date shall set forth those factors listed in 18 U.S.C. § 3161(h)(8)(B) which the movant contends support a continuance. The motion shall state whether opposing counsel and/or the defendant consent to the 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. Before filing such a motion, counsel shall first confer with opposing counsel in an effort to determine consent and propose agreed-upon dates for rescheduling.
- **Sealing**
 - Parties wishing to file documents under seal must first seek leave of Court to do so by way of a motion filed on the docket.
 - Counsel shall email a copy of the motion to seal and a copy of the document for in-camera review to watson_chambers@ohsd.uscourts.gov.
- **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, shall be filed separately and at least twenty 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.

VI. PRETRIAL

- **Final Pretrial Conference ("FPTC")**

- The Court will schedule a FPTC via Scheduling Order sufficiently in advance of trial. The timing of the FPTC will vary based on the needs of the case.
- 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.
- The defendant must be present at the FPTC.
- If the Court has not already held a *Lafler* hearing, the Court may do so during 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 joint proposed Final Pretrial Order and the joint statement of facts shall be filed on the docket. The Final Pretrial Order shall comport with the example on the Court'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.

- **Rule 16 Discovery**

- Upon a defendant's request, the Government must disclose all information required by Federal Rule of Criminal Procedure 16(a) within ten (10) days of the defendant's request. If the Government is unable to meet this deadline,

the Government must request an extension of time with the Court.

- **Expert Witness Disclosures**
 - Unless otherwise directed by the Court, pursuant to Federal Rule of Criminal Procedure 16(a)(1)(G)(ii), the Government must disclose to the defendant all information required by Rule 16(a)(1)(G)(iii) as to its expert witnesses at least thirty (30) days prior to the FPTC.
 - Each party shall email a copy of any expert reports to the Court at the same time the report is disclosed. The Court expects expert reports will be substantive and detailed.

VII. TRIAL

- **Speedy Trial**
 - The Government is responsible for keeping track of speedy trial compliance.
 - The Court may, from time to time, order the Government to submit a speedy trial calculation.
- **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, the Government 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 the Government objects. The basis of each party's objection to the other's proposed instructions, and relevant citation to authority, shall be included.
 - The parties shall use the United States Court of Appeals for the Sixth Circuit pattern jury instructions, where appropriate.
 - 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. If Counsel wish to use special verdict forms or to submit interrogatories to

the jury, such 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 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 require and/or permit 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**
 - Except in the case of demonstrative evidence prepared solely for the purpose of closing argument, 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.
- **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

VIII. SENTENCING

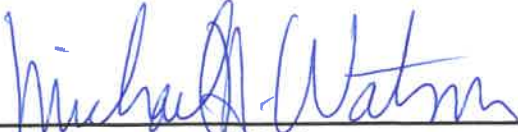
- The Court will schedule criminal sentencings at the earliest practicable time following the issuance of the Final Presentence Investigation Report.
- Sentencing Memoranda must be filed on the docket at least five days prior to sentencing.
 - Failure to timely file sentencing memoranda may result in the Court rescheduling the sentencing hearing.

- At times, there may be cases pending before the Sixth Circuit or other appellate courts that are dispositive of a particular sentencing or guidelines issue. In such cases, the Court may continue the sentencing hearing until a decision is reached in those cases. Any Counsel objecting to this approach may file a written motion on the docket explaining, with citation to authority, why awaiting a decision on the particular issue is not necessary.

IX. DECORUM

- Throughout all stages of a case, Counsel shall maintain a professional and dignified demeanor.
- Counsel and the defendant 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