

STANDING ORDER RE: CIVIL CASES
KAREN L. LITKOVITZ
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI

OPPORTUNITIES FOR NEWER ATTORNEYS

The Federal District Court for the Southern District of Ohio is a teaching court. Each year, many 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, they begin to learn the basics of federal litigation. Judges of the Court also engage in outside educational activities such as lecturing, teaching, and writing.

Opportunities to train newer attorneys in oral advocacy are rare because the number of trials has declined. Less experienced lawyers are often silent participants in oral argument proceedings on motions they have helped prepare. I encourage less experienced members of legal teams representing clients to argue such motions and to question witnesses with whom they have worked. Law firms should also encourage lawyers who are newer to the practice and familiar with the matter under consideration, but who have little experience arguing before a court, to have a speaking role in court. I am amenable to permitting several lawyers to argue for one party if this creates opportunities for a newer lawyer to participate. Nonetheless, 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 foster increased opportunities for oral advocacy by newer lawyers, I am adopting the following procedure relating to oral argument of civil motions:

STANDING ORDER

After a civil motion is fully briefed, any party may alert the Court by a docketed Notice that 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) if oral argument is granted. Any other party may file a similar Notice of counsel's intent to have a newer attorney argue.

If such a Notice is docketed and it is practicable, the Court will grant the request for oral argument, schedule it accordingly, and strongly consider allocating more time for oral argument than would be allocated if a newer attorney were not arguing the motion. Moreover, the Court will permit more experienced counsel of record to provide assistance to the newer attorney who is

arguing the motion where appropriate during oral argument. In fact, it is strongly encouraged to have an experienced lawyer accompany the newer attorney.

If counsel's request for oral argument is granted, opposing counsel is not compelled to send a newer lawyer to argue as well. A seasoned practitioner may 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 and thoroughly familiar with the factual record and the applicable law.

The Court recognizes 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.

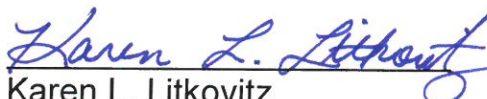
The participation of newer attorneys in all court proceedings – including, but not limited to, preliminary pretrial Rule 16 conferences, pre-motion conferences, hearings on discovery disputes and dispositive motions, final pretrial conferences, and examination of witnesses at trial – is strongly encouraged.

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 20, 2018


Karen L. Litkovitz
United States Magistrate Judge