

Standing Orders

Scheduling Order includes dates for completion of discovery, exchange of witness lists, filing of dispositive motions, referral to mediation panel if appropriate, presentation of Joint Final Pretrial Order, final pretrial conference and trial date. The Scheduling Order is issued following submission of the Rule 26(f) plan, or after a scheduling conference.

Removal

If a motion to remand has not been filed, and it appears to the Court that the case should not have been removed, the Court will issue an Order to Show Cause. If the Court questions whether the \$75,000 jurisdictional requirement has been met, the Court requires the parties to submit information regarding their respective positions. The Court may hold a hearing.

Conferences

1) Scheduling Conference:

The Case Manager will send notice to the parties setting a date to file a Rule 26(f) plan or appear for a scheduling conference. If a Rule 26(f) plan is electronically filed at least three days before the scheduling conference, the conference will be automatically cancelled and the court will enter a scheduling order. If the parties cannot reach agreement and a scheduling conference is necessary, the parties may request that it be done by phone.

2) Status Conference:

Held at the request of the parties.

Motion Practice

Oral argument is heard on dispositive motions unless the Court specifically rules that the motion will be decided on the briefs. The Court will issue a notice setting a hearing date. The Court allows only 10 minutes per side on oral argument unless permission is granted prior to the hearing. Oral argument is heard on non-dispositive motions only if so ordered. Non-dispositive motions are routinely referred to a Magistrate Judge. The Court follows [L.R. 7.1](#) for timing and length of responsive briefs. The Court prepares its own orders with respect to motions unless counsel is instructed to prepare the order at the hearing on the motion. Discovery in prisoner civil rights cases and habeas corpus motions are routinely referred to a Magistrate Judge.

One "courtesy" copy of all dispositive motion papers (including responses and replies) and accompanying exhibits must be submitted directly to the judge's chambers on paper. Any exhibits must be properly tabbed and all papers firmly bound. Do not submit pleadings using a three-ring black binder.

Temporary Restraining Orders and Injunctions

The Court adheres to E.D. Mich. LR [65.1](#) and [7.1](#) and rarely grants *ex parte* relief. The Court will sometimes accelerate its normal briefing schedule. The Court's hearing schedule varies as appropriate for nature of the case.

Discovery

The Court allows six months, but may extend, depending on agreement of counsel. Discovery motions are referred to a Magistrate Judge. The motion cutoff can be extended before and after the cutoff date by stipulation of the parties; however, if the extension interferes with the trial date, it is generally not allowed.

Pretrial

The joint final pretrial order is due two weeks prior to the pretrial conference. The final pretrial conference is generally held two to three weeks prior to trial.

Trials

The Court uses a Trailing Trial Docket. In most cases, a date certain for trial will be set at the Final Pretrial Conference. The Court follows [E.D. Mich. LR 16.4](#) regarding Pretrial Filings and Exchanges. All motions in limine must be filed **two** weeks prior to trial. The Court has an Order regarding Courtroom Decorum.

a. Non-Jury:

The Court follow [E.D. Mich. LR 52.1](#) regarding proposed findings of fact and conclusions of law. The Court permits the proposed findings to be amended after trial.

b. Jury:

The Court conducts *voir dire*. Counsel may submit proposed written requests for voir dire one week prior to trial. Counsel are permitted only limited participation in *voir dire*. Counsel may submit to the Court specific follow-up questions that arise during *voir dire*, which the Court may put to the jurors, if appropriate. In civil cases, each party shall be entitled to three peremptory challenges; in criminal cases, the Government may challenge six and the defense may challenge ten.

The Court follows [E.D. Mich. LR 16.4\(d\)](#) regarding jury instructions. JOINT jury instructions are to be submitted one week prior to trial, but are not required until the day of trial and may be modified or supplemented during trial. The Court reads the instructions and charges the jury after final argument. Counsel are not given a choice about this sequence. Jurors will be permitted to take notes during trial and are allowed to take the jury instructions into the jury room during deliberation. The Court generally uses two alternate jurors, but there could be more in special circumstances. The Court limits opening statements to fifteen minutes per side and closing arguments to thirty minutes per side. Time limits may be altered on a case-by-case basis. There are no time limitations imposed on direct or cross-examination. However, the Court does not permit multiple counsel for one party to examine a witness. The Court prefers that counsel request permission to approach a witness or the bench. The Court does not permit reading back of transcript during trial.

c. Miscellaneous:

The Court normally conducts trial between the hours of 9:00 a.m. and 1:00 p.m. Monday through Thursday.

The Court does allow out-of-state counsel to practice by special motion. The Court will admit out-of-state counsel at a hearing after they have obtained and completed the application for admission.

Case Management Orders

In order to view and print the order(s), Adobe Acrobat Reader is required. To download Adobe Acrobat [click here](#).

- [Notice of Scheduling Conference or Filing Rule 26\(f\) Plan](#)
- [Scheduling Order](#)

Special Notes-Criminal Cases

a. Status Conferences: In criminal cases, the Court does not hold status conferences unless a request for a conference is made.

b. Exhibits: Exhibits must be exchanged by both the Government and the defense prior to the trial.

c. *Alford* Pleas and *Nolo Contendere*: The Court generally will accept an *Alford* plea. A *nolo contendere* will be accepted, but never over Government objection.

d. Presentence Investigation and Report: The Court requires a presentence investigation and report prior to sentencing even if there will be no custodial sentence imposed. This is not required for corporate defendants and possibly would not be required if both the Government and defendant agree to waive it. If the Court waives a presentence report but a defendant requests it, the Court will order it.

e. Sentencing Guidelines: Sentencing guideline computation disputes are typically resolved by a hearing prior to sentencing. Probation Officer objections to guideline computations agreed to by the AUSA and defense counsel will typically be resolved at a hearing at the time of sentencing.

f. Probation Officer: The Court meets with the Probation Officer prior to sentencing.

g. Self-reporting: The Court will typically permit a convicted individual to self-report to the custodial facility if the Government recommends it and defendant has been free on bond prior to sentencing.

h. Rule 11 Plea Agreement: If the Court decides to reject a Rule 11 Plea Agreement, it will so inform the parties in open Court prior to the sentence date. The Court does not meet with the attorneys off the record and will not become involved in the bargaining.

The Court will accept a sentencing guideline plea containing a maximum amount of time (e.g. three months) above the minimum applicable guideline range. For this purpose, it does not matter whether the parties agree to what the applicable range is. A plea may possibly be withdrawn by the defendant if the range turns out to be higher than he advocated.

i. Plea Cutoff: The Court does not have a plea cutoff date.

j. Trial Briefs: Trial briefs are required to be submitted in criminal cases before the commencement of trial.

k. Witness Lists: The Government is required to submit witness lists, the defense is not. Government witnesses will be disclosed during *voir dire*.

l. *Jencks* Materials: The Court generally encourages the Government to disclose *Jencks* materials before trial.

m. Peremptory Challenges in Multiple Defendant Trials: Peremptory challenges are allocated as agreed among the defendants. The Court allots less than ten peremptory challenges per defendant in multiple defendant cases. The actual number depends upon the case, but the total of all defendants' peremptory challenges could exceed ten. A peremptory challenge is not lost by passing. However, once all parties have passed, a party may not choose to exercise a remaining peremptory challenge. When all parties have passed, the jury is sworn. Jury selection procedures are the same as in civil trials.

n. Jury Instructions: Disputes between the Government and defense counsel regarding proposed jury instructions are resolved either in a hearing on the record or in chambers.

o. Bench Conferences: The Court discourages bench conferences during trial.

p. Magistrate Judges: The Court refers pretrial conferences and arraignments to the Magistrate Judge.

q. Cutoff Dates: The Court follows the Standing Order and enforces the discovery and motion cutoff dates in the order.

r. General Comments: Counsel are strongly encouraged to check the Court Rules and this Practice Guide before calling the Court.

Counsel are expected to be prepared to proceed in the manner and time frame which they have represented to the Court and to be considerate of the Court's time.

