

# Motion Practice

## Hearings on Motions

Except in *pro se* prisoner cases, oral argument is generally heard in both dispositive motions that are referred for Reports and Recommendations and non-dispositive motions that are referred for hearing and determination. Upon referral of a motion by a District Judge, the Court will send a Notice of Hearing with the specific date and time. However, the Court may cancel a scheduled hearing if it appears after review of the briefs that the issues can be decided without a hearing.

## Briefing

The Court adheres to [L.R. 5.1](#) and [7.1](#) regarding format and form, and with respect to the briefs required and permitted. Deviations from the length or timing of briefs under these Rules must be by leave of the Court. Failure to file timely briefs may result in those briefs being stricken.

## Exhibits

If a motion, response or reply includes exhibits totaling more than 20 pages, then in addition to the electronically filed copy, a hard copy of the motion and exhibits, appropriately tabbed, shall be delivered to the Magistrate Judge's chambers within 5 business days after the e-filing of the motion.

## Orders

Generally, the Court prepares its own orders. However, if a motion is resolved prior to hearing or decision, the parties will electronically file a stipulation and proposed order.

## Special Requirements for Discovery Motions

These requirements are set forth under the Discovery section of these Practice Guidelines.

# Discovery

There should be few discovery disputes requiring Court intervention, and attorneys are expected to undertake good-faith efforts to resolve discovery matters between themselves without unduly taxing Court resources. If a motion is filed that addresses discovery issues, counsel shall comply with the following requirements:

- A. Pursuant to E.D. Mich. [E.D. Mich. LR 37.1](#), counsel shall meet and confer on all pending discovery motions that have been referred to the Magistrate Judge. Because the E.D. Mich. LR requires a good faith effort to narrow the areas of disagreement to the greatest possible extent, it is not satisfied by mere compliance with [E.D. Mich. LR 7.1](#), which requires the moving party to seek concurrence in a motion. Accordingly, the parties are directed to meet and confer **face-to-face** in advance of the hearing. The face-to-face requirement is not satisfied by a telephonic conference, unless exceptional circumstances exist which make a face-to-face conference not feasible. In that case, prior to holding a telephonic conference, the moving party will submit a written statement to the Magistrate Judge explaining why a telephonic conference is necessary.
- B. The [L.R. 37.1](#) conference shall include an item-by-item discussion of each issue in dispute. Any party refusing to appear for this meeting or to confer as the Court has directed will be subject to sanctions.

If unresolved issues remain, the parties shall file a Joint List of Unresolved Issues. The Joint List of Unresolved Issues must be filed electronically.

The Joint List of Unresolved Issues shall enumerate and state, in a succinct fashion, the respective positions of each party on every issue which remains in dispute. The Joint List shall not exceed ten (10) pages. No exhibits or attachments shall be filed with the Joint List. The Joint List of Unresolved Issues must be signed by all parties to the dispute, or their attorneys.

## **Settlement Conferences**

In cases that are referred for settlement conferences, all parties shall, no later than 5 business days before the scheduled conference, deliver to the Magistrate Judge's chambers a confidential, ex parte mediation summary (do not electronically file the mediation summary.) The summary shall describe any settlement discussions that have taken place, including any offers of settlement that have been made. **INDIVIDUALS WITH FULL SETTLEMENT AUTHORITY SHALL BE PERSONALLY PRESENT AT THE SETTLEMENT CONFERENCE.**

## **Civility Requirements**

All attorneys and all *pro se* litigants shall acquaint themselves and conduct themselves in accordance with both the letter and the spirit of the Civility Principles promulgated by this Court, and consistent with Fed.R.Civ.P. 1, "to secure the just, speedy, and inexpensive determination of every action."

