

# Civil Motion Practice

Pursuant to 28 U.S.C. §636 (b)(1)(A) and (B), and order of reference from the district judge, motions will be decided either by Report & Recommendation or Order. Dispositive motions may be referred by the district judge for Opinion and Order upon the consent of the parties, see 28 U.S.C. §636(c).

Except when requested by the court (e.g. confirming an adjournment or withdrawal of a motion), letters are not to be sent to the court. Letters directed to the court, even if copied to the opposing counsel, may be deemed improper ex parte communications and may be returned to the sender.

It is the general practice of the court to hear argument on civil motions. Motion hearings are usually scheduled on Mondays and Wednesdays at 1:30 p.m. Motions requiring protracted argument may be set separately if requested by counsel in advance. Motions requiring an evidentiary hearing will also be heard separately.

In general, out of town counsel may not appear by telephone. In the event of inclement weather or other circumstances, counsel should contact the court.

Courtesy copies of the motions are not necessary unless the motion is voluminous or has exhibits. The court will contact counsel for a courtesy copy if one is desired. Counsel may bring an appropriate order granting or denying the motion to the hearing. Proposed orders should not be e-filed.

## Discovery

The court believes that the import of the Federal Rules of Civil Procedure is to place discovery in the hands of counsel. The court encourages counsel to attempt to resolve all discovery matters before a motion is filed. If a motion addresses discovery issues, counsel shall meet and confer in accordance with [E.D. Mich. LR 37.1](#). If counsel are unable to resolve their differences, the movant shall prepare a JOINT Statement of unresolved issues setting forth the issues that remain unresolved. The Joint Statement should be e-filed 5 business days prior to the hearing.

## **Social Security Cases**

Social security cases generally seek a judicial review of the administrative agency's final decision denying benefits. Oral arguments are not held. The court expects that proof of service will be filed within four weeks after the complaint is filed. If service of the complaint is not shown on the docket, the court will send an Order to Show Cause to Plaintiff. After the filing of the government's answer with the transcript of the agency hearing, the court will schedule dates for filing cross motions for summary judgment. The dates are designed to provide sufficient time for counsel to file the motion. Requests for adjournments must show good cause in order to be considered. The matter is ready for decision as of the date the motions are due or filed, whichever comes first.

# Conferences

When a case has been referred for all pretrial proceedings or for all discovery, the court may hold a status, scheduling, or discovery conference as needed. If counsel believe that a conference would be productive, counsel may request such a conference by calling the courtroom deputy. This conference will require the personal appearances of all counsel of record.

In a particular case, where discovery disputes appear to multiply needlessly or where many motions are filed, the court may set the matter for a general discovery conference or direct the parties to conduct a Rule 26(f) conference prior to the meeting with the magistrate judge.

# Trials

The court often selects juries in cases where the trial may be held before another judge. Counsel and the parties must consent in writing. A form will be provided at the time of the jury selection. Counsel will exchange *voir dire* questions in advance. The court will meet briefly with trial counsel in chambers several days prior to jury selection to answer any questions and resolve any disputes as to the potential *voir dire* questions. No additional peremptory challenges are granted unless requested in advance via motion.

In civil cases, the strike method is used. Under this method, the number of individuals who will be the jury (e.g. 8) plus the total number of peremptory challenges (e.g. 3 + 3) are seated. *Voir dire* is conducted on this group and when the group has been passed for cause, peremptory challenges are exercised at the bench without additional questioning.

In criminal cases, 12 persons plus alternates are seated in the jury box. Challenges are made separately as to the jury and the alternate jurors in conformance with Fed.R.Crim.P. 24. However, counsel may agree to exercise challenges on the group as a whole instead.

In both civil and criminal cases, the court asks preliminary questions regarding background information and scheduling issues and then conducts *voir dire*. Counsel may approach the bench at the conclusion of the court's *voir dire* to suggest follow up questions.

# Jury Selection

The court often selects juries in cases where the trial may be held before another judge. Counsel and the parties must consent in writing. A form will be provided at the time of the jury selection. Counsel will exchange *voir dire* questions in advance. The court will meet briefly with trial counsel in chambers several days prior to jury selection to answer any questions and resolve any disputes as to the potential *voir dire* questions. No additional peremptory challenges are granted unless requested in advance via motion.

In civil cases, the strike method is used. Under this method, the number of individuals who will be the jury (e.g. 8) plus the total number of peremptory challenges (e.g. 3 + 3) are seated. *Voir dire* is conducted on this group and when the group has been passed for cause, peremptory challenges are exercised at the bench without additional questioning.

In criminal cases, 12 persons plus alternates are seated in the jury box. Challenges are made separately as to the jury and the alternate jurors in conformance with Fed.R.Crim.P. 24. However, counsel may agree to exercise challenges on the group as a whole instead.

In both civil and criminal cases, the court asks preliminary questions regarding background information and scheduling issues and then conducts *voir dire*. Counsel may approach the bench at the conclusion of the court's *voir dire* to suggest follow up questions.

# **Criminal Duty Procedures**

Magistrate Judges in this district are assigned criminal matters on a rotating weekly basis. During that week, the court is not generally available for civil hearings. Criminal call begins at 1:00 p.m. daily in the duty courtroom (Room 114) on the first floor. Agents with requests for warrants, complaints, and other matters should report to the duty courtroom (Room 114) and then to chambers for review of the papers. During the week of criminal duty, questions regarding duty matters should be directed to the duty telephone at (313) 234-5558.

## **Pro Se Prisoner and Habeas Cases**

These matters are decided without oral argument. Notices, Orders, and Reports & Recommendations are mailed to those parties who are not e-filers. The court does not have funds to appoint counsel but will consider appointment of pro bono counsel in appropriate cases. Pro Se litigants are expected to adhere to the Federal Rules of Civil Procedure. The court does not give legal advice to either side and expects that pleadings will be in appropriate form. Letters to the court are not pleadings and will be returned.



## **Settlement Conferences**

The court views facilitation as a valuable part of the litigation process and encourages counsel to consider voluntary settlement conferences when and where appropriate. The court is willing to serve as a facilitator upon the parties' request and/or order of reference. Facilitated settlement conferences are usually set for Tuesdays, Thursdays, or Fridays, beginning at 10:00 a.m. and the court will devote the entire day for the conference. Counsel are advised that their schedules and those of their clients are to be cleared for the entire day. Trial counsel and all persons with ultimate and final settlement authority must be present. The court sends a Notice with detailed information regarding attendance and other matters. A brief settlement summary is to be filed no later than 5 days in advance of the scheduled settlement conference. Scheduling and all other contact regarding Settlement Conferences is handled by Lisa Bartlett, Courtroom Deputy.

