

Appearances and Conduct of Counsel & Witnesses

1. Pro hac vice admission is not permitted, pursuant to [Local Rule 83.20\(c\)](#), and waivers are highly disfavored.
2. *Telephonic appearances*. The Court very rarely permits any party to appear telephonically. Telephonic participation is not permitted at scheduling conferences.
3. *Conduct of counsel*
 - a. *Attire*. Counsel appearing in court are expected to be dressed in business attire at all times.
 - b. *Addressing bench, witnesses, and jury*. Unless physically unable to do so, counsel must stand when addressing the Court, jury, or witnesses, and when the jury enters or exits. Counsel must request permission to approach the bench, witnesses or the jury, and even after approaching, Counsel should refrain from physical contact with the bench, witness stand or jury box.
 - c. *Witnesses*. Timeliness of appearance and respectful attire are required.
4. *Courtroom technology*. There is no publically available Wi-Fi in the courtroom. The courtroom is equipped with a projector, screen, and speakers. Counsel may connect devices to the AV system through the ports provided at counsel table. Ports include one input HDMI, one 3.5mm audio/headphone jack, and one input for VGA. No devices, cords, or adapters are available. Parties may arrange to visit the court in advance of a hearing or trial to test and familiarize themselves with the courtroom technology.

Case Management and Scheduling Orders

In compliance with Rule 16(b)(2), the Court will issue an order requiring the parties to submit a joint discovery plan and setting a date for an in-court scheduling conference. Telephonic participation is not permitted. The Court's order will provide a template which parties must use for the discovery plan. Do not contact the Court to confirm that the scheduling conference will be held. If the Court has not canceled the conference on the docket, it will be held as scheduled.

ADR / Mediation

The Court strongly encourages the parties to participate in alternative dispute resolution. After consultation with the parties, the Court may refer a case to a private mediator for mediation or to a magistrate judge for settlement conference. The Court maintains a list of specialized and highly qualified mediators but will also consider a mediator jointly selected by the parties.

Discovery

1. *Early Discovery.* Although Court-sanctioned discovery cannot begin before the initial attorney conference pursuant to Fed. R. Civ. P. 26(d), the Court encourages early discovery by stipulation.
2. *Extensions.* The Court will strictly enforce the discovery period set by the scheduling order. In rare circumstances, the Court will allow one extension upon a detailed showing of good cause by the parties. Extensions should be requested **no later than one week before** the close of discovery.
3. *Discovery Disputes.* Counsel must work cooperatively in resolving any discovery disputes. To avoid unnecessary costs, Counsel should contact the Court prior to filing discovery motions. Discovery motions will generally be referred to a discovery master or magistrate judge. Parties engaged in bad faith or vexatious conduct during discovery will bear the costs of a discovery master.

Motion Practice

1. *Communications with the Court.* The Court's staff is not permitted to give advice on motion practice, including but not limited to:
 - a. Whether to file a motion
 - b. What motion to file
 - c. The formatting of a motion
 - d. When to file a motion
2. *Seeking Concurrence.* Parties must seek concurrence in all motions before they are filed, by speaking in person or on the telephone with opposing counsel. The Court expects more than a pro forma communication; parties are strongly encouraged to confer in good faith, prior to the drafting of a motion. Failure to seek concurrence or adhere to Local Rule 7.1(a) may result in the Court striking the motion.
3. *Motion Hearings.* Within two weeks of a motion being fully briefed, the Court will either schedule a motion hearing or enter a notice of determination without oral argument. This decision will be reflected on the docket. Accordingly, parties shall not contact the Court to inquire as to the status of any outstanding motions. Continuances of hearing dates will be granted only on motion and only for good cause shown.
4. *Briefs.*
 - a. *Searchable text.* Parties must submit briefs in a searchable-text format. The Court may strike motions for failure to file in the proper format.
 - b. *Exhibits.* Parties must file exhibits using the CM/ECF feature for exhibits. The Court may strike motions for failure to properly file exhibits.
 - c. *Requirements for briefs exceeding 12 pages.*
 1. *Contents.* If a brief and its accompanying exhibits exceed 12 pages in total length, the filing must contain a table of contents, a table of authorities, and an index of exhibits.
 2. *Courtesy copies.* A courtesy hard copy must be submitted, by mail or by hand delivery to chambers. Filing a courtesy copy does not substitute for the required use of the Court's electronic filings system and a printed copy of the Notice of Electronic Filing must be attached to the front of each courtesy copy. Hand delivery is required for documents relating to a court proceeding that is scheduled within the next five days or that otherwise require the immediate attention of the Court. For security reasons, couriers are not admitted into chambers. Please instruct couriers to simply leave the courtesy copy in the inbox.
 3. *Citations.* References in briefs to another party's argument or statement must include a specific citation to the docket number and "PgID" number of the matter referenced.

Final Pretrial Proceedings and Trial

1. *Trial Dates*. All cases will be assigned a trial date in their initial scheduling order, subject to change based on the Court's other proceedings. Any change to a trial date will be reflected on the docket.
2. *Motions In Limine*. There is no special form for motions in limine, but any such motion must be filed at least 10 days before the trial date, and will be ruled on before trial whenever possible. Hearings on motions in limine are rarely necessary.
3. *Exchange of Exhibits and Trial Briefs*. Trial briefs are encouraged but not required, must be filed five days before the trial date, and shall not contain any new motions. Prior to the trial date, parties must exchange exhibits, and provide the Court with a joint bench book which lists, describes, and contains all exhibits.. Counsel must confer with one another before trial in an attempt to reach agreement as to admissibility of each exhibit.
4. *Bench Trials*. Before or during a bench trial, the parties may submit proposed findings of fact and conclusions of law.
5. *Redirect*. Redirect examination shall be permitted only upon a showing of good cause.
6. *Submission of Jury Instructions*. The parties must confer in an attempt to agree on all jury instructions. The parties must submit joint, proposed jury instructions prior to the final pre-trial conference. If the parties are unable to agree on all instructions, they shall submit, in a single filing, the agreed-upon instructions, instructions proposed by the plaintiff, instructions proposed by the defendants, and any responses to the disputed instructions.
7. *Hours of Trial*. Trials will be conducted daily between 9:00 AM and 2:00 PM, with a mid-day break at or around 11:00 AM. Attorneys must be seated at counsel table and ready to proceed by 8:30 a.m.
8. *Multiple Counsel*. Multiple counsel representing one party may not each perform separate parts of a single advocacy function in Court. For instance, when a party is represented by multiple counsel, a single lawyer must handle the entirety of the opening statement for that party. Each witness must also be examined by a single attorney for each party.
9. *Juries*
 - a. *Jury Selection*. Jury selection will be by the "struck jury" method. Voir dire will be conducted by the Court. Counsel should submit proposed voir dire questions in writing at least three days in advance, and will be permitted to submit additional questions to be asked by the Court, as provided by Fed. R. Civ. P. 47(a). Jurors will be excused without disclosing which side excused them. Eight jurors will be seated, which will permit up to two to be dismissed as alternates during the course of trial. If none are excused during trial, all eight will deliberate. .
 - b. *During Trial*. Jurors will be permitted to take notes during trial. Jurors who choose to take notes will be instructed that such notes are not themselves evidence, but are merely aids to the juror's memory of the evidence presented at trial. Jurors will not be permitted to question witnesses, either directly or through submission of questions to be asked by the Court. .
 - c. *Jury Instructions*. The Court will orally deliver the final instructions to the jury. Jurors will also be permitted to take written copies of the final instructions to the jury room during deliberations. .
 - d. *Proper Use of Jury Time*. Counsel should attempt to raise evidentiary problems before or after the trial day, or during the break, to avoid jury down time.

Juries

a. Jury Selection

Jury selection will be by the "struck jury" method, with three peremptory challenges per side. Voir dire will be conducted by the Court. Counsel should submit proposed voir dire questions in writing at least three days in advance, and will be permitted to submit additional questions to be asked by the Court, as provided by Fed. R. Civ. P. 47(a). Jurors will be excused without disclosing which side excused them. Eight jurors will be seated, which will permit up to two to be dismissed as alternates during the course of trial. If none are excused during trial, all eight will deliberate.

b. Hours of Trial

Trials will be conducted daily between 9:00 AM and 2:00 PM, with a mid-day break at or around 11:00 AM.

c. During Trial

Jurors will be permitted to take notes during trial. Jurors who choose to take notes will be instructed that such notes are not themselves evidence, but are merely aids to the juror's memory of the evidence presented at trial. Jurors will not be permitted to question witnesses, either directly or through submission of questions to be asked by the Court.

d. Jury Instructions

Proposed jury instructions must be filed five days prior to trial. For the Court's reference, each proposed instruction must be accompanied by a citation to the legal authority that supports it. The Court may request briefing or oral argument on the contents of jury instructions.

The Court will orally deliver the final instructions to the jury. Jurors will also be permitted to take written copies of the final instructions to the jury room during deliberations.

e. Multiple Counsel

Multiple counsel representing one party may not each perform separate parts of a single advocacy function in Court. For instance, when a party is represented by multiple counsel, a single lawyer must handle the entirety of the opening statement for that party. Each witness must also be examined by a single attorney for each party.

f. Proper Use of Jury Time

Counsel should attempt to raise evidentiary problems before or after the trial day, or during the break, to avoid jury down time while such problems are solved

Jurisdiction

a. Subject-Matter Jurisdiction Checking

The court reviews subject-matter jurisdiction in every case. Failure to plead clear grounds for federal jurisdiction will result in the court issuing an order to show cause why the case should not be dismissed or remanded for want of jurisdiction. Attorneys before the court have an obligation to raise jurisdictional objections as soon as the grounds for them are known.

b. Oral argument will not be held on motions to remand removed cases unless the court finds it appropriate.

Temporary Restraining Orders and Preliminary Injunctions

The Court will rarely consider ex parte requests for temporary restraining orders. The Court strongly encourages parties to confer ahead of any preliminary injunction hearing in an attempt to reach an agreement with respect to the injunction.

Judge's Courtesy Copy Policy

One judge's courtesy copy of all filings that exceed twelve pages in length (including exhibits), and those filings that have any color documents that are relevant to the relief sought, must be submitted to the Judge on paper. All exhibits must be properly tabbed and all papers must be firmly bound, usually along the left margin (i.e., "book style"). Whatever binding method is used must ensure that the papers will lie flat upon a desk when the pages are opened. For both courtesy copies and documents submitted electronically, good practice requires that in appropriate cases, relevant portions of lengthy documents be highlighted. Counsel should be sure that the same portions are highlighted in both electronic filings and in courtesy copies.

Filing a courtesy copy does not substitute for the required use of the court's electronic filings system. A printed copy of the Notice of Electronic Filing must be attached to the front of each courtesy copy. Courtesy copies should be mailed or hand delivered the same day as the document is electronically filed.

Delivery of courtesy copies shall be made by first class mail, or by hand to the inbox outside the main chambers door. For security reasons, couriers will not be admitted into chambers. Please instruct your couriers to simply leave the courtesy copy in the inbox. Hand delivery is required for documents relating to a court proceeding that is scheduled within the next five days or that otherwise require the immediate attention of the Court. In such cases the person making delivery should use the intercom system near the inbox to alert the Court to the delivery.

Criminal

1. Before any pre-trial motion is filed, compliance with Local Criminal Rule 12.1 and Local Civil Rule 7.1(a) must be observed.
2. *Cases Opened Before August 18, 2008.* In any criminal case assigned to Judge Murphy, the government shall immediately determine whether any portion of the case or its previous investigation was opened in the United States Attorney's office for the Eastern District of Michigan prior to August 18, 2008, and if it was, shall immediately inform the Court and defense counsel of that fact. Upon its own initiative or by motion of any party, the Court may recuse itself from any matter over which Judge Murphy may have presided as United States Attorney for the Eastern District of Michigan.
3. *Pleas.*
 - a. The Court does not ordinarily accept a negotiated plea of guilty that contains any restrictions regarding sentencing under Fed. R. Crim. P. 11, a significant reduction in the number of counts alleged, a 5K1.1 provision or any other concessions by the government that could impinge upon the Court's sentencing authority or discretion, after the final pretrial conference and change-of-plea cutoff date.
 - b. The Court does not accept plea agreements under Fed. R. Crim. P. 11(c)(1)(C), but readily accepts agreements under Rule 11(c)(1)(B) that include non-binding sentencing recommendations; the Court also accepts plea agreements that contemplate well thought out and supported 5K1.1 departures. Although Rule 11(c)(1)(B) sentencing recommendations are not binding, the Court does give them careful consideration and weight.
4. *Exhibits.* Counsel for the government is urged to make reasonable efforts to reach agreement with counsel for the defense concerning the admissibility of each intended physical exhibit prior to trial. In the event such agreement is reached, a list of such exhibits is to be prepared by government counsel for entry at the opening of trial, and the exhibits will be considered admitted at the outset. In the event defense counsel chooses to file a notice of intent to contest foundation, chain-of-custody, or scientific analysis, such notice shall be filed not later than 7 days before trial. Unless the items or exhibits are unusually voluminous, the notice shall provide a brief item-by-item or exhibit-by-exhibit description of the good faith basis for any objection.
5. *Juries*
 - a. *Selection.* The Court uses a "struck jury" system for jury selection. The Court will select twelve regular and two alternate jurors. In most cases, the government is allowed 6 peremptory challenges and the defendant is allowed 10 peremptory challenges. Jurors will be excused without disclosing which side excused them. Alternate jurors are not told they are alternates; they are dismissed by random draw at the conclusion of the proofs.
 - b. *Notes.* The jury is allowed to take notes. The Court specifically instructs the jury in advance on this issue.
 - c. *Redirect.* Redirect examination shall be permitted only upon a showing of good cause.
 - d. *Motions in Limine.* Motions in limine must be filed no later than 10 days before the start of trial.
 - e. *Jury Instructions.* Proposed jury instructions must be submitted no later than the first day of trial. The parties are to confer with each other in an attempt to agree on all jury instructions. If the parties are unable to agree on all instructions, they shall submit a joint packet of those instructions to which they do agree, a packet for those instructions proposed by the government, and a packet for those instructions proposed by the

defense. The Court will usually instruct the jury using the Sixth Circuit's pattern jury instructions when available.

Contact With Chambers

Contacting chambers staff regarding basic procedural questions, particularly when already provided for in these policies, local rule, or Federal Rule of Civil Procedure is disfavored. Chamber staff will direct parties with technical questions regarding CM/ECF to contact the clerk's office.

Proposed and Stipulated Orders

1. *Stipulated Orders Encouraged.* Parties are strongly encouraged to obtain consent for routine matters, such as extensions of time on filing deadlines, discovery requests.
2. *Submission.* Stipulated orders must be submitted through the “Proposed Orders” function of CM/ECF:
 - a. On the blue header, hover over the option titled “Utilities”
 - b. Hover over the drop-down option titled “Proposed Orders”
 - c. Select “Submit Proposed Order”
3. *Format.* Proposed orders must be submitted in Word or WordPerfect format.
4. *Timing.* Parties should expect that a stipulated order will not be entered for one to two days after uploading, as the Court requires time to review and approve them.

Preliminary Matters

1. The Federal Rules of Civil and Criminal Procedure, as well as the Local Rules for the Eastern District of Michigan control except as modified or expanded here.
2. The Court's staff is not permitted to advise parties, attorneys, or anyone else on motion practice. Anyone calling or emailing the Court will be directed to the federal rules, local rules, or these guidelines.
3. Stipulated orders are to be submitted in accordance with these guidelines. Stipulations which do not follow these guidelines will be summarily struck.
4. In the rare instance in which a party must contact the Court by phone or email, opposing counsel should always be included in the communication.

Subject-Matter Jurisdiction Checking

The Court reviews subject-matter jurisdiction in every case. Failure to plead clear grounds for federal jurisdiction will result in the Court issuing an order to show cause why the case should not be dismissed or remanded for want of jurisdiction. Attorneys before the Court have an obligation to raise jurisdictional objections as soon as the grounds for them are known.

