

Standing Orders

A scheduling order, setting all dates, is entered and mailed to counsel after the scheduling conference.

Motions relating to sentencing, sentencing memoranda, and all other documents relating to sentencing are optional but must be filed no later than *one (1) week* before the date set for sentencing. The filing party shall furnish a copy of all filed documents to the probation officer. Any such motion, memoranda or other document **shall and will be struck** by the Court if not timely filed.

Conferences

After the Answer is filed, in civil cases only, the Court sets a scheduling conference. The motion cutoff date, discovery cutoff date, final pretrial date, and trial date are set at this initial conference. Upon special request by an out-of-town counsel, the scheduling conference may be conducted by telephone. Under request of counsel, in cases with a jury, a settlement conference may be held separate from the Final Pretrial Conference.

The Court requires a RICO case statement for RICO cases. Amendments to pleadings may be permitted in a RICO case depending on the case. Particularized calculations of damages may be required depending on the case. The Court does not allow an out-of-state counsel not admitted in the Eastern District to practice, even upon a special motion.

Removal

If the Court has a concern regarding the propriety of removal, it will either issue an Order to Show Cause or entertain a motion to remand. The Court has, on occasion, *sua sponte*, remanded a case to state Court without a show cause or motion. The Court does not typically hold oral argument on motions to remand.

Motion Practice

Counsel are expected to comply with [Rule 7.1](#), Local Rules of this Court, including the requiring of filing responses and briefs within the time limits as set forth in [LR 7.1\(e\)](#).

Oral arguments on motions will not be held unless, upon consideration, the Court so orders. If the Court does order oral argument, reasonable notice of a date and time will be given to all counsel. [E.D. Mich. Local R. 7.1\(f\)\(2\)](#).

With respect to the filing of responses to motions pursuant to [E.D. Mich. LR 7.1\(d\)](#), the Court enforces the twenty-one day rule for dispositive motions and the fourteen-day rule for non-dispositive motions. The Court reviews ex parte applications pursuant to [E.D. Mich. LR 7.1\(c\)\(3\)\(A\)](#) to file a brief longer than 20 pages on a case-by-case basis. The Court will accept reply briefs, when they are timely filed, pursuant to [E.D. Mich. LR 7.1\(d\)](#), as amended. If the parties fail to comply with the requirements of [E.D. Mich. LR 7.1](#), the brief may not be considered. In the event the Court elects to hold a hearing on a motion, the parties are encouraged to present a proposed order at the hearing. Most discovery motions are referred to the Magistrate. Motions other than discovery motions are generally not referred to the Magistrate.

Temporary Restraining Orders and Injunctions

Court does not normally set a time schedule for motion and briefing requirements relating to requests for temporary restraining orders and preliminary injunctions which is less than those prescribed by [E.D. Mich. LR 7.1](#). The Court does not impose any other requirements with relation to requests for temporary restraining orders and preliminary injunctions that are not indicated in [E.D. Mich. LR 65.1](#).

Class Actions

The Court does not impose any requirements with respect to the certification of a class other than the requirements of Fed.R.Civ.P. 23.

Discovery

The Court has a standard pretrial or scheduling order entered in each case. The standard pretrial order requires that parties exchange witness lists. The discovery cutoff date is set at the scheduling conference. Parties may be given between two months and eight months to complete discovery depending upon the type of case. Although the Court rarely strikes or limits expert testimony, it will do so where a party fails to provide a report. The Court also sets a deadline for serving the first set of interrogatories and/or request for production of documents and sets a deadline for filing a motion to compel with respect to said discovery. The Court adheres to the requirements of [E.D. Mich. LR 37.1](#) concerning narrowing areas of disagreement on discovery disputes. Discovery motions may be referred to the Magistrate pursuant to a standing order of the Court. Before the discovery cutoff date, discovery may be extended by motion only. After the discovery cutoff, discovery will almost never be extended.

Mediation

The Court will refer a case to mediation only when all parties agree and when all parties sign and file a written stipulation to be bound by the Michigan General Court Rules regarding mediation sanctions. Cases are referred after discovery cutoff. The Court does not use any other types of alternative dispute resolution techniques.

Pretrial

As set by the initial scheduling order, the Final Pretrial Order is generally due the day of the Final Pretrial Conference. The Court does not have any other requirements for the Joint Pretrial Order in addition to the provisions of [E.D. Mich. LR 16.2](#) . The Court requires the parties to submit their witness lists by a date set in the Initial Scheduling Order. Any witness that is not named will not be allowed to testify at trial, unless good cause is shown. The Final Pretrial Conference is usually held four weeks before trial. Motions in limine must be filed with the Court before the Final Pretrial Conference date. Failure to submit a timely pretrial order will result in issuance of sanctions.

Settlement

Prior to the Final Pretrial Conference, at the request of counsel of record, the Court is amenable to scheduling a settlement conference. The Court routinely becomes involved in the settlement of jury cases but not non-jury cases. Trial counsel must be present at the settlement conference, as well as the client, with full authority to engage in settlement negotiations.

Trials

The Court uses a trailing docket which is revised and updated each month. Adjournments of trial dates are not usually given. If a conflict arises with another trial, counsel should immediately contact the Court Clerk. The Court requires counsel to exchange exhibits prior to trial. Exhibits agreed upon are to be premarked and typed on a separate sheet. Exhibits not agreed upon are to be premarked and listed separately. All exhibits are to be consecutively numbered. In criminal matters, the Court requires the exhibits to be exchanged by both the Government and the defense prior to trial. Motions *in limine* normally will be decided prior to trial. The Court may retain custody of the exhibits during trial depending upon the type of case, the wishes of counsel, and the types of exhibits involved. The Court prefers that the parties retain custody of exhibits after trial pending appeal.

a. Non-Jury Trials

Trial briefs must be submitted three days prior to the first day of trial. Proposed findings of fact and conclusions of law also must be submitted to the Court three days prior to the first day of trial. The Court encourages the use of a bench book. The Court generally makes findings of fact in writing.

b. Jury Trials

Joint jury instructions must be submitted to the Court at the Final Pretrial Conference. The Court uses the standard method of jury selection. The Court will refer jury selection to Magistrate in all cases upon stipulation of the parties. The Court will generally use two alternates who are selected by the blind draw method at the close of proofs. The Court typically charges a jury after final arguments. Jurors are allowed to take instructions into the jury room during deliberations. Jurors are not allowed to take notes during trial.

c. Miscellaneous

The Court generally conducts trial between the hours of 8:30 a.m. and 1:00 p.m. The Court will allow multiple counsel for one party. The Court prefers that counsel request permission to approach a witness and to approach the bench.

Pleas and Sentencing

The Court has not accepted an *Alford* plea. The Court will accept a *nolo contendere* plea, however, not over Government objection. The Court invariably requires a presentence investigation and report prior to sentencing unless both the Government and defendant agree to waive it. Disputes between the Government and defense counsel relating to computation of sentencing guidelines are typically resolved by a hearing prior to sentencing. If the AUSA and defense counsel agree on computation of sentencing guidelines, but the Probation Officer disputes their conclusion, the Court holds a hearing. The Court regularly meets with the Probation Officer prior to sentencing. The Court's practice in this regard has not changed since the adoption of the Sentencing Guidelines.

The Court may permit a convicted individual to self-report to the custodial facility but not always. If the Court decides to reject a Rule 11 plea agreement, the Court may inform the parties in open Court or prior thereto on the sentencing date. The Court will accept a sentencing guideline plea where the plea agreement uses language to that effect, *e.g.*, the sentence will not exceed three months above the minimum of the applicable guideline range. A defendant will not be allowed to withdraw the plea if the guideline range turns out to be higher than he argued it should be. The Court has a firm plea cutoff date that will be enforced.

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Criminal Trials

The Court does not require the submission of trial briefs in criminal cases. The Court requires the Government to submit a witness list which is disclosed to the jury during voir dire. The Court does not require a witness list from the defense. The Court generally urges the Government to disclose Jencks materials in advance of trial. The Court has a general procedure for handling multi-defendant criminal "mega trials". The allocation of peremptory challenges is handled on a case-by-case basis. The Court will not usually permit jury questionnaires to be submitted to the venire in advance of jury selection. An attorney may not exercise several peremptories at one time. If all parties pass, a party may not then choose to exercise a remaining peremptory.

The Court may agree to follow counsel's stipulation as to manner in which peremptory challenges may be exercised. Disputes between the Government and defense counsel regarding proposed jury instructions are generally resolved, initially by a conference with the law clerk, then remaining objections are resolved by the Court, usually on the record. The Court follows the same jury selection procedures in criminal trials. The Court discourages bench conferences during trial.

Criminal Pretrial

The Court refers arraignments on information to the Magistrate. The Court follows the cutoff dates provided in the standing order on discovery and will enforce the Standing Order's discovery and motion cutoff dates. The Court may refer misdemeanor cases to the Magistrate for plea and sentence.

Case Management Orders

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

[Scheduling Order](#)

