

# Case Management and Scheduling Order – Civil and Criminal

## A. CIVIL CASES

### 1. SCHEDULING AND CASE MANAGEMENT CONFERENCE:

Two to four weeks after the Answer is filed, the Court will issue its Notice of Scheduling and Case Management Conference. If there is more than one named Defendant, the court typically schedules the conference after all the Defendants have filed Answers, unless doing so will cause significant delay.

The parties are required to submit a Rule 26(f) plan and/or a Case Summary as described in the Notice no later than **one business day prior** to the initial scheduling conference. Parties should strive to make the plan truly “joint” and make every effort to resolve disputes before the call. If there are points of disagreement remaining in the Rule 26(f) Plan, parties should clearly indicate that in the submission and be prepared to resolve them on the conference.

If a dispositive motion is filed in lieu of an Answer, the Court generally will hold the initial scheduling conference after the motion is ruled upon. This may occur the same day as the motion hearing if the Court rules from the bench.

At the initial scheduling conference, the Court expects the parties to be prepared to discuss the case and the issues, the Court's subject matter jurisdiction, the parties' interest in state court evaluation and/or facilitation, and any other standard procedural/scheduling issues such as case management dates. The Court expects counsel to discuss alternative dispute resolution (ADR) options with their clients prior to the initial scheduling conference.

2. **SETTLEMENT CONFERENCE:** If a settlement conference is scheduled, either with Judge Berg or a magistrate judge, all parties must attend the settlement conference with their TRIAL attorneys. Both counsel and clients should be prepared for serious settlement discussions. Insurance representatives and other persons necessary to the resolution of the case must also attend. In non-jury cases, a settlement conference before a magistrate judge will ordinarily be scheduled before the final pretrial conference. If a case does not settle, the case manager will schedule the final pretrial conference and trial.
3. **FINAL PRETRIAL CONFERENCE:** At this conference, usually scheduled one week prior to trial, the Court will discuss trial procedures and final pretrial matters including the trial schedule, parties' proposed voir dire questions and jury instructions, as well as any issues related to witnesses and exhibits. Motions in limine will also be heard at the conference in order to avoid delay in the selection of the jury on the first day of trial. Unless the Court instructs otherwise, the parties must submit their witness lists one week prior to the final pretrial conference. In addition, the parties must also **jointly prepare** and submit their proposed voir dire questions, jury instructions, and verdict form. These jointly prepared documents must be submitted directly to chambers using the Proposed Orders function in CM/ECF and should NOT be filed on the docket.
4. **STATUS CONFERENCE:** The Court may schedule a status conference to facilitate the administration of a case when necessary. Counsel may request a status conference at any time during the litigation and **must request a status conference by contacting the case manager if there is a discovery dispute** prior to filing any discovery motion (see Discovery Section E). Any discovery motion filed without leave of court will be stricken. Additional conferences with the Court, including settlement conferences, can also be scheduled upon request.

## B. CRIMINAL CASES

1. **SCHEDULING:** The Court will issue a scheduling order after the Defendant is arraigned. Requests to modify or enlarge the calendar dates shall be made by motion, or, more commonly via stipulation. Stipulations must be submitted along with a proposed order to extend time, and must a waiver under the Speedy Trial Act if the extension will affect the trial date. Stipulation and proposed orders shall be submitted in Word format via the Proposed Orders function in CM/ECF and should not be filed by parties on the docket.
2. **FINAL PRETRIAL CONFERENCE:** All pretrial materials, such as proposed voir dire questions, witness lists, exhibit lists, motions in limine, proposed jury instructions, and verdict form must be filed on the dates indicated in the Scheduling Order, or in the absence of a current Scheduling Order, must be filed no later than **one week before the Final Pretrial Conference**. The parties should jointly prepare the proposed jury instructions and verdict form. At the final pretrial conference, generally held one to two weeks prior to the start of trial, the Court will discuss trial procedures and other final pretrial matters with the parties including the trial schedule, parties' proposed voir dire questions and jury instructions, as well as any issues related to witnesses and exhibits. Motions in limine will also be heard at the conference in order to avoid delay in the selection of the jury on the first day of trial. These jointly prepared documents must be submitted directly to chambers using the Proposed Orders function in CM/ECF and should NOT be filed on the docket.
3. **RECUSAL:** **The government shall immediately determine whether any portion of a criminal case or its previous investigation was opened in the United States Attorney's office for the Eastern District of Michigan between August 18, 2008 and January 4, 2010, and if it was, shall immediately inform the Court and defense counsel of both that fact and the date of the opening.**

Upon its own initiative or by motion of any party, the Court shall recuse itself from any matter over which Judge Berg presided as interim United States Attorney for the Eastern District of Michigan, or in which he represented the United States as an Assistant United States Attorney.