

# **Trials**

**NOTE: A PAPER COPY of all documents filed in accordance with the instructions appearing below must arrive in chambers no later than THREE DAYS prior to the event in question. Deadlines for filing documents in the ECF system are specified below.**

## **A. PRETRIAL**

The Court will conduct a Final Pretrial Conference (“FPTC”) prior to the first day of trial in civil cases. Trial counsel for all represented parties, and all parties proceeding *pro se*, must appear at the FPTC and have settlement authority. During the FPTC, the Court will set a trial schedule, discuss *voir dire*, rule on motions *in limine*, and resolve disputes over exhibits and jury instructions to the extent possible.

The parties are required to confer and finalize a concise Joint Final Pretrial Order (“JFPTO”) that is approved and signed by all parties or their counsel. Unless directed otherwise by the Court, the original and one copy of the JFPTO must be arrive in the Magistrate Judge’s chambers no later than three days before the FPTC. The Court will not extend the date for submission of the JFPTO. In all other respects, the Federal Rules of Civil Procedure and E.D. Mich. LR 16.2 apply.

Motions *in limine* are generally due for filing in the ECF system three to four weeks before trial, and responses must be filed one week after that. Motions *in limine* will be decided in advance of the first day of trial whenever possible.

## **B. TRIAL**

Trials are scheduled for dates certain. The Court will provide a written schedule of the time and days set aside for trial on the first day. Counsel should plan the availability of their witnesses according to the schedule. To avoid interruptions, counsel should alert the Court of matters that need addressing outside of the presence of the jury before or after the trial day or over lunch breaks.

## **C. CRIMINAL TRIALS**

The Court handles Class A misdemeanor trials, pleas, and sentencing with the consent of the parties and an order of reference from the District Judge. *See* F.R.Cr.P. Rule 58. The Magistrate Judge may try and dispose of all infractions, Class B and C misdemeanor cases, with or without the defendant’s consent. *See* 18 U.S.C. § 3401(b) and 18 U.S.C. § 19. Appeals are to the District Judge.

Trial briefs and witness lists must be filed one week before the commencement of trial in all criminal cases.

## **D. NON-JURY TRIALS**

The parties must file trial briefs and proposed findings of fact and conclusions of law no later than one week before a bench trial is scheduled to begin. Proposed findings and conclusions may be supplemented or amended at the conclusion of trial. In addition to filing the proposed findings and conclusions, parties must deliver to the Magistrate Judge’s chambers electronic versions of those documents that are compatible with Microsoft Word. Electronic versions may be submitted by email (michael\_williams@mied.uscourts.gov), compact discs, or a USB portable drive.

## **E. JURY TRIALS**

Prior to the FPTC, the Court will issue a Scheduling Order detailing the due dates for proposed jury instructions and *voir dire*. On or before the due date, Plaintiff shall file a set of Joint Proposed Jury

Instructions with proper notation indicating the jury instructions to which all parties agree, the instructions that remain disputed, and the areas of dispute.

## F. 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 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 on 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 Federal Rule of Criminal Procedure 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 the initial *voir dire*. The Court will then generally permit counsel to conduct their own *voir dire*, so long as the privilege is not abused and it is not utilized as a means of blatant advocacy or for the purposes of tainting or prejudicing the jury panel. The Court may impose equal limits on the time allotted to or the number of questions permitted to each side or party.