

## **Standing Orders**

The Court reviews each case at its inception and determines its complexity and discovery needs. Based upon this review, the Court either enters a scheduling order or holds a status conference as described in paragraph 2. The Court uses a variety of standard pretrial orders depending on the nature of the case, all of which include a standard "Requirements for Joint Pretrial Statement." In a complex case, the Court may tailor a separate pretrial order to address particular matters in the case.

## Conferences

The Court schedules a status conference within one month after the answer is filed in complex cases such as patent, anti-trust, civil rights, and securities fraud cases, but not in personal injury cases. Discovery cutoff, motion cutoff and pretrial dates are set at the status conference. The Court may hold additional status conferences if the case presents management problems. The Court allows counsel to conduct status conferences by phone if they request the Court to do so in advance. The Court will hold a Fed.R.Civ.P. 26(f) discovery conference upon the informal request of either party or if the Court decides such a conference is necessary and may eliminate discovery disputes.

# Motion Practice

## A. Scheduling

1. Motions to dismiss may be filed at any time. Motions for summary judgment should usually be filed following the close of discovery. If additional discovery is necessary, counsel should attempt to secure a stipulation for extension from opposing counsel. If agreement cannot be reached, the party desiring the extension should contact the **Court's Case Manager, SAKNE CHAMI at (313) 234-5160** for direction before filing a motion.
2. After all briefs have been filed (motion, response and reply), the case manager will generally set a date for a hearing. The dates are firm and extensions will be granted only for good cause shown. Again, counsel desiring an extension should contact the case manager.
3. In order to avoid unnecessary travel by counsel, the Court will liberally grant requests to conduct hearings by conference call. The Court will entertain any reasonable suggestion that will reduce the time, expense, and inconvenience required to resolve a case.

## B. Protective Orders

Protective orders shall not be entered routinely. In addition to the requirements under [E.D. Mich. LR 5.3](#), which are to be strictly followed, a protective order including a provision for filing a pleading, paper or exhibit, etc. under seal shall be subject to the following limitations: The entire pleading, paper, exhibit, etc. may not be filed under seal. Only the portion of the document(s) which are not to be publically disclosed may be filed under seal. In such instances, the portion to be filed under seal requires an endorsement by the Court on a cover page. A party's presentment to the Court for the endorsement shall be accompanied by an explanation why the portion of the document(s) is confidential.

## C. Briefing Guidelines

### 1. Motions for Summary Judgment

The guidelines which follow are from the Northern District of Illinois Local Rule 56.1, Motions for Summary Judgment. Copies of the Local Rule are available online at <http://www.ilnd.uscourts.gov/LEGAL/NewRules/New00045.htm>. For commentary, see the following article from the Chicago Bar Association: Sanil R. Harjani, Local Rule 56.1: Common Pitfalls in Preparing a Summary Judgment Statement of Facts, 16-OCT CBA Rec. 42 (Oct. 2002), available on Westlaw.

### I. REQUIREMENTS

(a) Moving Party. With each motion for summary judgment filed pursuant to Fed.R.Civ.P. 56 the moving party shall serve and file—

- (1) any affidavits and other materials referred to in Fed.R.Civ.P. 56(e);
- (2) a supporting memorandum of law; and
- (3) a statement of material facts ([see attached example](#)) as to which the moving party contends there is no genuine issue and that entitle the moving party to a judgment as a matter of law, and that also includes:
  - (A) a description of the parties, and
  - (B) all facts supporting venue and jurisdiction in this court.

The statement referred to in (3) shall be a separate document and consist of short numbered paragraphs, including within each paragraph specific references to the affidavits, parts of the record, and other supporting materials relied upon to support the facts set forth in that paragraph. Failure to submit such a statement constitutes grounds for denial of the motion. Absent prior leave of Court, a movant shall not file more than 80 separately-numbered statements of undisputed material fact.

If additional material facts are submitted by the opposing party pursuant to section (b), the moving party may submit a concise reply in the form prescribed in that section for a response. All material facts set forth in the statement filed pursuant to section (b)(3)(C) will be deemed admitted unless controverted by the statement of the moving party.

(b) Opposing Party. Each party opposing a motion filed pursuant to Fed.R.Civ.P. 56 shall serve and file—

- (1) any opposing affidavits and other materials referred to in Fed.R.Civ.P. 56(e);
- (2) a supporting memorandum of law; and
- (3) as a separate document a concise response to the movant's statement that ([see attached example](#)) shall contain:
  - (A) numbered paragraphs, each corresponding to and stating a concise summary of the paragraph to which it is directed, and
  - (B) a response to each numbered paragraph in the moving party's statement, including, in the case of any disagreement, specific references to the affidavits, parts of the record, and other supporting materials relied upon, and
  - (C) a statement, consisting of short numbered paragraphs, of any additional facts that require the denial of summary judgment, including references to the affidavits, parts of the record, and other supporting materials relied upon. Absent prior leave of Court, a respondent to a summary judgment motion shall not file more than 40 separately-numbered statements of additional facts. All material facts set forth in the statement required of the moving party will be deemed to be admitted unless controverted by the statement of the opposing party.

## II. JOINT SUBMISSION

Upon the filing of the above statement and response, the parties shall integrate the moving party's statement and the non-moving party's response in a single document ([see attached example](#)), jointly submitted, so that each paragraph contains the moving party's statement and non-moving party's response. If a non-moving party files an additional statement consistent with section (b)(3)(C), and the moving party files a reply, these statements shall also be jointly submitted in a single document. Please contact the Court with any questions regarding the joint submission.

## III. REQUIREMENTS FOR EXHIBIT BOOKS AND CASE BOOKS

File EXHIBITS in a separate appendix from the brief. Use a 3 ring binder. Index and tab exhibits. Highlight relevant parts of exhibits.

Counsel are encouraged to supply the Court with copies of only their main cases. Use a 3 ring

binder. Index and tab cases. Highlight relevant portions of CASES - note on the title page the relevant pages highlighted and what the case stands for. Copies of cases from the official reporter are preferred. If LEXIS or WESTLAW or another format is used, the case should be submitted in dual column format. COPIES OF CASES SHOULD NOT BE ELECTRONICALLY FILED- they are not part of the original case file but rather assist the Court. They should be delivered directly to chambers.

#### IV. OTHER MOTIONS

Although these requirements are for motions for summary judgment, counsel are encouraged to follow them to the fullest extent possible for other motions, such as motions for entry of judgment and motions to dismiss.

## SAMPLE - STATEMENT OF MATERIAL FACTS

### DEFENDANT'S STATEMENT OF FACTS FOR DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Defendant XYZ, PLLC ("Defendant", "XYZ", or "the Company"), by its attorneys and pursuant to Judge Cohn's Practice Guidelines, submits the following Statement of Undisputed Material Facts in Support of its Motion for Summary Judgment.

1. Plaintiff Jane Doe ("Plaintiff") claims that XYZ discriminated against her on account of her age in violation of Michigan's Elliott-Larsen Civil Rights Act, M.C.L. § 37.2101, et seq. (Docket Entry 1, Complaint ¶ 14). Plaintiff further claims that XYZ failed to provide her with a complete copy of her personnel file, in violation of Michigan's Bullard-Plawecki Employee Right to Know Act, M.C.L. § 423.501, et seq. (Docket Entry 1, Complaint ¶ 21). Jurisdiction is proper under 28 U.S.C. § 1332 (Docket Entry 1, Complaint ¶ 3).
2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because the alleged unlawful employment practices of which Plaintiff complains occurred within the Eastern District of Michigan, Southern Division, where XYZ regularly does business (Docket Entry 1, Complaint ¶¶ 2, 7).
3. Plaintiff (born 09/1960) was hired by Defendant on November 4, 1987, as a Cashier at Store #2272 in Warren, Michigan (Pl 9).<sup>1</sup> Plaintiff was then promoted to Assistant Manager of Store #2272 in February 1988, and to Manager of Store #2272 in August 1988 (Pl 9).
4. Plaintiff held the Store Manager position at Store #2272 until February 15, 2010 when she was terminated after an investigation revealed that she had changed her hourly employees' punch in and punch out times, without their permission, resulting in the employees not being paid for all of the time that they worked (Pl 9-10; Ex 1). The relevant deposition transcripts are attached as Exhibits 26 to 38, and are referred to as "Name \_\_\_\_" or "Pl \_\_\_\_."
5. From January 2010 until her termination, Plaintiff reported directly to Richie Coleman (District Manager) (born 01/1962) and Coleman reported to Marshal Anderson (then Developmental District Manager) (born 01/1955) (Pl 36-38; Coleman 7; M. Anderson 6).

**PLAINTIFF'S RESPONSE TO DEFENDANT'S STATEMENT OF FACTS  
IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

Plaintiff, Jane Doe, responds to Defendant's statement of facts in support of its motion for summary judgment as follows:

1. Not controverted by Plaintiff. Deemed admitted
2. Not controverted by Plaintiff. Deemed admitted
3. Not controverted by Plaintiff. Deemed admitted
4. Defendant contends Plaintiff was terminated for that reason, Plaintiff contends she was terminated because of her age. (Plaintiff's Complaint, Docket #1)
5. Coleman became District Manager January 14, 2010. (Coleman p. 13). Marshall Robinson had been District Manager for the district in which Plaintiff worked for more than one year just before she was terminated. (Pl. 36, 37).

**JOINT STATEMENT OF FACTS FOR  
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Plaintiff, Jane Doe, and Defendant, XYZ, LLC ("Defendant", "XYZ", or "the Company"), by their undersigned attorneys, and pursuant to Judge Cohn's Practice Guidelines, submit the following Joint Statement of Facts for Defendant's Motion for Summary Judgment.

1. Plaintiff Jane Doe ("Plaintiff") claims that XYZ discriminated against her on account of her age in violation of Michigan's Elliott-Larsen Civil Rights Act, M.C.L. § 37.2101, et seq. (Docket Entry 1, Complaint ¶ 14). Plaintiff further claims that XYZ failed to provide her with a complete copy of her personnel file, in violation of Michigan's Bullard-Plawecki Employee Right to Know Act, M.C.L. § 423.501, et seq. (Docket Entry 1, Complaint ¶ 21). Jurisdiction is proper under 28 U.S.C. § 1332 (Docket Entry 1, Complaint ¶ 3).

**RESPONSE**

Not controverted by Plaintiff. Deemed admitted.

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because the alleged unlawful employment practices of which Plaintiff complains occurred within the Eastern District of Michigan, Southern Division, where XYZ regularly does business (Docket Entry 1, Complaint ¶¶ 2, 7).

**RESPONSE**

Not controverted by Plaintiff. Deemed admitted.

3. Plaintiff (born 09/1960) was hired by Defendant on November 4, 1987, as a Cashier at Store #2272 in Warren, Michigan (Pl 9).<sup>1</sup> Plaintiff was then promoted to Assistant Manager of Store #2272 in February 1988, and to Manager of Store #2272 in August 1988 (Pl 9).

**RESPONSE**

Not controverted by Plaintiff. Deemed admitted.

4. Plaintiff held the Store Manager position at Store #2272 until February 15, 2010 when she was terminated after an investigation revealed that she had changed her hourly employees' punch in and punch out times, without their permission, resulting in the employees not being paid for all of the time that they worked (Pl 9-10; Ex 1). The relevant deposition transcripts are attached as Exhibits 26 to 38, and are referred to as "Name \_\_" or "Pl \_\_."

**RESPONSE**

Defendant contends Plaintiff was terminated for that reason, Plaintiff contends she was terminated because of her age. (Plaintiff's Complaint, Docket #1).

5. From January 2010 until her termination, Plaintiff reported directly to Richie Coleman (District Manager) (born 01/1962) and Coleman reported to Marshal Anderson (then Developmental District Manager) (born 01/1955) (Pl 36-38; Coleman 7; M. Anderson 6).

**RESPONSE**

Coleman became District Manager January 14, 2010. (Coleman p. 13). Marshall Robinson had been District Manager for the district in which Plaintiff worked for more than one year just before she was terminated. (Pl. 36, 37).

# Discovery

The Court has a standard pretrial order that is entered in each case. The pretrial order requires that the parties exchange witness lists after the close of discovery. The Court will, on request, convene a conference for scheduling discovery. The Court encourages the use of a conference to resolve discovery disputes. Time allowed for discovery depends on the nature of the case; the average discovery period is four months. The names of all witnesses and all exhibits must be disclosed at the final pretrial conference. The Court requires strict compliance with LR 37.1 concerning narrowing areas of disagreement on discovery motions, which generally are not referred to a Magistrate. The Court will resolve disputes arising during deposition by conference call if the judge is available. The discovery cutoff date can usually be extended for good cause by stipulation before the cutoff date and sometimes after the cutoff date if the Court's schedule will not be affected. The Court has had occasion to grant leave to a party to serve more than 25 interrogatories as well as granting leave to hold more than 10 depositions, depending on the showing made to the Court.

## **Comment:**

Please note: These are general guidelines and are subject to change without notice.

- Contact the Court with any discovery disputes BEFORE filing motion.
- Do not file notices of depositions with Court.
- The Court is generally very liberal on discovery issues.



## **Mediation**

Upon request of all parties, the Court occasionally refers a civil case to mediation after the discovery cutoff date.

## **Pretrial**

The final pretrial order is due the day prior to the final pretrial conference. Addition of witnesses and exhibits after the final pretrial conference can only be done by stipulation or by motion for good cause. The final pretrial conference is usually held two to four weeks prior to trial.

## Protective Orders

Protective orders shall not be entered routinely. In addition to the requirements under [E.D. Mich. LR 5.3](#), which are to be strictly followed, a protective order including a provision for filing a pleading, paper or exhibit, etc. under seal shall be subject to the following limitations: The entire pleading, paper, exhibit, etc. may not be filed under seal. Only the portion of the document(s) which are not to be publically disclosed may be filed under seal. In such instances, the portion to be filed under seal requires an endorsement by the Court on a cover page. A party's presentment to the Court for the endorsement shall be accompanied by an explanation why the portion of the document(s) is confidential.

# **Trials**

The Court generally sets the trial date at the first pretrial conference. Adjournments of the trial date by the parties are not favored. Requests for adjournment will be handled based on the Court's schedule. An attorney having a conflict with another trial should advise the Court promptly on learning of the conflict. In the event of a conflict, the Court may require another member of an attorney's firm to conduct the trial. In civil cases, the Court requires exhibits to be given to the defendant prior to trial. In criminal cases, the Court requires that exhibits be given to the defendant by the Government prior to trial. Parties must number their exhibits separately prior to trial. A bench book of exhibits should be supplied for the Court. The parties retain custody of exhibits both during trial and pending any appeal after trial. The Court requires that trial briefs be exchanged prior to trial. There are no special forms for motions in limine, which should be filed prior to jury selection and are usually heard on the morning of trial. For additional information regarding civil trials see the .pdf selection below

## **a. Non-Jury Trials**

In non-jury trials, proposed findings of fact and conclusions of law must be filed prior to trial and may be supplemented at the conclusion of trial.

## **b. Jury Trials**

The Court generally impanels eight jurors and encourages the parties to allow all eight to deliberate. The Court usually does not allow counsel to participate in [voir dire](#). Voir dire questions should be submitted in advance of trial in writing, although oral requests may be entertained. The Court uses the strike system of exercising [peremptory challenges](#). Each party is allowed four peremptory challenges in a civil case. In a criminal case, six Government and ten defense challenges are allowed. One challenge per side is allowed for alternates. The Court handles all challenges in such a manner that the jurors do not know which party has excused them. The Court generally gives a copy of boilerplate [jury instructions](#) to counsel to work from. Additional proposed instructions must be filed at the beginning of trial but may be supplemented at the conclusion of the trial.

## **c. Miscellaneous**

The Court generally conducts trial between the hours of 9:00 a.m. and 1:00 p.m., Monday through Friday. The Court will allow multiple counsel for one party. There are no time limitations imposed on opening statements, closing arguments, or direct or cross-examination. The Court prefers that counsel request permission to approach a witness or the bench, and that they stand when addressing the Court. The Court encourages the parties to anticipate evidentiary problems and to request time to argue them before 9:00 a.m. and 1:00 p.m. so that jury time is not wasted. The Court expects counsel and the parties to stand when the jury enters or exits the Courtroom.

## **d. Patent Cases**

[Jury Requirements](#)

[Non-Jury Requirements](#)

**e. Articles**

[Effective Advocacy in My Court](#)

[Effective Trial Practice: One Judge's View](#)

**f. Miscellaneous**

[Civil Voir Dire](#)

[Preliminary Jury Instructions - Civil](#)

[Brief and Exhibit Requirements](#)

# **Criminal Matters**

## **a. Pleas and Sentencing**

The Court will occasionally accept a *nolo contendere* plea over the Government's objection. Unless both the Government and defendant agree to waive it, the Court requires a pre-sentence investigation and report prior to sentencing. Disputes between counsel relating to the computation of sentencing guidelines are generally resolved by a hearing prior to sentencing.

## **b. Trials**

The Court does not require submission of trial briefs in criminal trials. The Government is required to file a witness list, however, so that the witnesses may be disclosed to the jury during *voir dire*. Counsel are expected to review the Court's boilerplate jury instructions and to confer in an attempt to agree upon any additional proposed instructions before involving the Court in any dispute.

## **Special Note**

The Court's case manager should be consulted whenever an attorney is in doubt as to any matter. The Court encourages the use of telephonic conference calls to resolve non-dispositive disputes and concerns about how to proceed.

# Case Management Orders

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

- [Pretrial and Scheduling Order](#)
- [Order for Case Statement \(RICO\)](#)



