Case Evaluation

Upon stipulation by the parties, the Court will refer a case to state court case evaluation.

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
- ESI Order

Conferences

The Court routinely issues its Notice of Scheduling Conference after the Answer is filed. If there is more than one named defendant the Court will typically await the filing of Answers by all defendants, unless to do so would involve a significant delay. The parties are required to submit a Rule 26(f) plan no later than one week prior to the initial scheduling conference. If a dispositive motion is filed in lieu of an Answer, the court generally will hold the initial scheduling conference after the judge issues his ruling on the motion.

At the initial scheduling conference the parties are expected to be prepared to discuss the case and the issues, the Court's subject matter jurisdiction, the possible value of state court case evaluation and/or facilitation, and all other standard scheduling/procedural issues. **The parties are encouraged to commence significant discovery before the scheduling conference, and to be prepared to report on their progress at the conference**. The court adheres to the model order relating to the discovery of electronically stored information (ESI) and expects the parties to follow the model order at their Rule 26(f) discovery conference, if applicable. The Court expects the parties to agree to some sort of alternative dispute resolution. The Court's standing Scheduling Order, ERISA Scheduling Order or Patent Scheduling Order is completed at the initial scheduling conference based on counsels' input. Typically, the parties are required to exchange witness lists 45-60 days before the discovery cutoff, which is usually set at 90 or 120 days after the conference. The deadline for the filing of dispositive motions is typically set at 30 or 45 days after the discovery cutoff. The final pretrial order is usually due approximately three months after the dispositive motion cutoff. The final pretrial conference is scheduled to occur one week after the final pretrial order is due, and trial is scheduled to begin two weeks after the final pretrial conference.

Subsequent status conferences and settlement conferences will be held as needed or requested. The Court will conduct settlement conferences in jury cases if requested to do so. Settlement conferences requested in non-jury cases are referred either to a different Judge, or to the Magistrate Judge assigned to the case.

Criminal Matters

The Court will consider *Alford* and *nolo contendere* pleas. Presentencing reports are required. Rule 11 pleas are routinely taken under advisement pending the Court's review of the presentencing report.

Discovery

The Court has a standing Scheduling Order that is entered in each case following the initial scheduling conference, which sets the discovery cutoff date. The Court will not order discovery to take place after that date. Parties may request an extension of the discovery cutoff date by calling the Court Clerk and submitting a proposed stipulated order. Requests for reasonable extensions that are submitted timely are granted more often than not. The parties are expected to submit discovery issues, including motions and ad hoc disputes to the Magistrate Judge.

The Court requires the initial disclosures described in Fed. R. Civ. P. 26(a)(1). The Court's standing Scheduling Order includes the Court's requirements concerning the final pretrial order, and provides that a party's failure to comply with the disclosure requirements of Fed. R. Civ. P. 26(a)(2) and (3) will result in the exclusion of testimony and/or exhibits at trial. The Court does not enforce the stay of discovery contemplated by Fed. R. Civ. P. 26(d) pending the conference contemplated by Fed. R. Civ. P. 26(f).

Motion Practice

Non-dispositive motions, and particularly discovery-related motions, typically are referred to a Magistrate Judge.

The Court will issue the notice of hearing upon receipt of the motion and supporting brief; the movant need not submit a notice of hearing. Courtesy copies are required. Extensions of the page limits set forth in E.D. Mich. LR 7.1 may be obtained upon the submission of a stipulated order or the filing of an ex parte motion, and are granted more often than not.

Oral argument is typically scheduled on all motions, except for motions to remand and motions which appear on their face to be frivolous.

The Court requires that the moving party submit a proposed order to all motions via Utilities. Strict compliance with the provisions of E.D. Mich. LR 7.1 concerning the seeking of concurrence is required.

The Court's standing Scheduling Order, which is issued at the initial scheduling conference, contains guidelines counsel are expected to follow in preparing and briefing motions for summary judgment.

Pretrial

The final pretrial conference is typically scheduled to take place approximately three months after the dispositive motion cutoff, and one week before the beginning of the trial term. The Court enforces the requirements of E.D. Mich. LR 16.2 for the pretrial order, which is due one week before the final pretrial conference.

The Court's requirements for the final pretrial order and the final pretrial conference, including those set forth in E.D. Mich. LR 16.2, are included in the Court's standing Scheduling Order which is provided to counsel at the initial scheduling conference. The disclosure requirements of Rule 26(a)(3) are to be made in the final pretrial order. All proposed trial exhibits are required to be marked before the final pretrial conference, and listed in the final pretrial order. Objections to proposed exhibits also must be stated in the final pretrial order. All witnesses must be listed as well, and typically only previously disclosed or deposed witnesses may be listed. Absent a showing of good cause, testimony from witnesses not listed in the final pretrial order, and exhibits not listed in the final pretrial order, will not be admitted at trial except by stipulation.

Motions *in limine* and any other motions requiring determination in advance of trial must be called to the Court's attention not later than the date of submission of the final pretrial order. Such motions must be filed at least one week prior to the first day of trial.

Parties and/or persons with settlement authority must be present at the final pretrial conference, unless the Court has agreed to other arrangements prior to the date of the conference. Counsel in attendance at the final pretrial conference must include those attorneys who will try the case.

The trial date is set at the initial scheduling conference. The Court uses a trailing docket system. The Court has a standing Order Establishing Calendar for Trial which is provided to counsel and which lists all trials scheduled within the particular trial term. It is counsels' responsibility to ascertain the status of the earlier-scheduled cases and the assigned trial date. Trial date adjournments are not typically granted, but may be requested by letter indicating the reason for the request and opposing counsel's position respecting the requested adjournment.

Temporary Restraining Orders and Injunctions

The Court rarely grants *ex parte* requests for injunctive relief. The requirements of E.D. Mich. LR 7.1 and E.D. Mich. LR 65.1 are strictly followed, as are the court's Preliminary Injunction Hearing Procedures.

Trials

Trial hours normally are from 9:00 a.m. to 5:00 p.m. Trials expected to last more than two weeks may run from 9:00 a.m. to 1:00 p.m. All persons must be prompt. Marked exhibits are to be exchanged three days prior to trial, and two copies of a bench book of exhibits are to be provided to the court. Trial briefs are expected by the Court, and must be filed and exchanged two days prior to trial unless the parties believe trial briefs are unnecessary and they seek permission of the Court to dispose with the requirement.

a. **Non-Jury Trials**

   Proposed findings of fact and conclusions of law are required to be submitted one week prior to the beginning of the trial term.

b. **Jury Trials**

   The parties are required to meet and confer prior to trial to discuss jury instructions and a verdict form. No later than one week prior to the first day of trial, the parties are to file with the court a single complete set of proposed, stipulated jury instructions and verdict form (in paper and e-mailed to chambers or on computer disc). All such instructions are to be typewritten and double spaced and shall contain references to authority (e.g., "Devitt and Blackmar, Section 11.08"). In addition, each party shall separately file any additional proposed instructions to which any other party objects. The parties must make a concerted, good faith effort to narrow the areas of dispute and to discuss each instruction with a view to reaching agreement as to an acceptable form.

   Also, at least one week prior to the beginning of the trial term, the parties must submit a statement of claims or defenses, suitable to be read by the Court to the jury during opening instructions.

Voir Dire is conducted by counsel and by the court. Requests for *voir dire* must be submitted at least one week prior to the beginning of the trial term.

Jurors are allowed to take notes in complex cases. The jury is charged after closing arguments, although opening instructions are given at the commencement of trial. The instructions are read to the jury, and jurors also take copies of the instructions into the jury room during deliberation.

Because of the substantial costs incurred in convening jurors, juror costs typically will be assessed in civil cases which settle on the day of jury selection/trial.