Preliminary Matters

1. The Federal Rules of Civil and Criminal Procedure, as well as the Local Rules for the Eastern District of Michigan control except as modified or expanded here.
2. The Court's staff is not permitted to advise parties, attorneys, or anyone else on motion practice. Anyone calling or emailing the Court will be directed to the federal rules, local rules, or these guidelines.
3. Stipulated orders are to be submitted in accordance with these guidelines. Stipulations that do not follow these guidelines may be summarily struck.
4. In the rare instance in which a party must contact the Court by phone or email, opposing counsel should always be included in the communication.

Appearances and Conduct of Counsel & Witnesses

1. Pro hac vice admission is not permitted, pursuant to Local Rule 83.20(c), and waivers are highly disfavored.
2. **Telephonic appearances**

   Court very rarely permits any party to appear telephonically. Telephonic participation is not permitted at scheduling conferences.
3. **Conduct of counsel**

   a. **Attire**

   Counsel appearing in court or for video conferences are expected to be dressed in business attire at all times.

   b. **Addressing bench, witnesses, and jury**

   Unless physically unable to do so, counsel must stand when addressing the Court, jury, or witnesses, and when the jury enters or exits. Counsel must request permission to approach the bench, witnesses, or the jury, and even after approaching, Counsel should refrain from physical contact with the bench, witness stand, or jury box.

   c. **Witnesses**

   Timeliness of appearance and respectful attire are required.
4. **Courtroom technology**

   There is no publicly available WiFi in the courtroom. The courtroom is equipped with a projector, screen, and speakers. Counsel may connect devices to the AV system through the ports provided at counsel table. Ports include one input HDMI, one 3.5mm audio/headphone jack, and one input for VGA. No devices, cords, or adapters are available. Parties may arrange to visit the courtroom before a hearing or trial to test and familiarize themselves with the courtroom technology.

Case Management and Scheduling Orders

In compliance with Federal Rule of Civil Procedure 16(b)(2), the Court will issue an order requiring the parties to submit a joint discovery plan and setting a date for a scheduling conference. The scheduling conference will likely take place virtually via Zoom. The Court's order will provide a template that parties must use for the discovery plan and instructions for accessing a conference to be conducted via Zoom. Do not contact the Court to confirm that the scheduling conference will be held. If the Court has not canceled the conference on the docket, it will be held as scheduled.

ADR / Mediation

The Court strongly encourages the parties to participate in alternative dispute resolution. After consultation with the parties, the Court may refer a case to a private mediator for mediation or to a magistrate judge for settlement conference. The Court maintains a list of specialized and highly qualified mediators but will also consider a mediator jointly selected by the parties. If the parties attend a private mediation without a referral from the Court, the parties must provide the Court with the name and contact information of the mediator, along with the scheduled date for the mediation, in advance.

Discovery

1. **Early Discovery**

   Although Court-sanctioned discovery cannot begin before the initial attorney conference pursuant to Federal Rule of Civil Procedure 26(d), the Court encourages early discovery by agreement.

2. **Extensions**

   The Court will strictly enforce the discovery period set by the scheduling order. In rare circumstances, the Court will allow one extension upon a detailed showing of good cause by the parties. Extensions should be requested **no later than one week before** the close of discovery.

3. **Discovery Disputes**

   Counsel must work cooperatively to resolve any discovery disputes. To avoid unnecessary costs, Counsel should consider contacting the Court for informal resolution prior to filing discovery motions. Discovery motions will generally be referred to a discovery master or magistrate judge. Parties engaged in bad faith or vexatious conduct during discovery will bear the costs of a discovery master.

Motion Practice

1. **Communications with the Court**

   The Court's staff is not permitted to give advice on motion practice, including, but not limited to:

   a. Whether to file a motion

   b. What motion to file

   c. The formatting of a motion

   d. When to file a motion

2. **Seeking Concurrence**

   Parties must seek concurrence in all motions before they are filed, by speaking in person or on the telephone with opposing counsel. The Court expects more than a pro forma communication; parties are strongly encouraged to confer in good faith, prior to the drafting of a motion. Failure to seek concurrence or adhere to Local Rule 7.1(a) may result in the Court striking the motion.

3. **Motion Hearings**

   Parties must not contact the Court to inquire as to the status of any outstanding motions. Continuances of hearing dates will be granted only on motion and only for good cause shown. Federal Rule of Civil Procedure 78(b) encourages the Court to submit and determine motions on the briefs without a hearing. The Court typically does not hold hearings when issues in the briefing are clear or when oral argument will add little to the parties' briefings.

4. **Briefs**

   a. **Searchable text**

      Parties must submit briefs in a searchable-text format. The Court may strike motions for failure to file in the proper format.

   b. **Exhibits**

      Parties must file exhibits using the CM/ECF feature for exhibits. The Court may strike motions for improperly filing exhibits.

   c. *Requirements for briefs exceeding twelve pages.*

      a. **Contents**

         If a brief and its accompanying exhibits exceed twelve pages in total length, the filing must contain a table of contents, a table of authorities, and an index of exhibits.

      b. **Courtesy copies**

         The Court does not require courtesy copies and prefers that parties do not submit courtesy copies.

c. **Citations**

References to briefs, docket filings, or to another party's argument or statement must include a specific citation to the docket number and "PgID" number of the matter referenced.

Final Pretrial Proceedings and Trial

1. **Trial Dates**

   All cases will be assigned a trial date in their initial scheduling order, subject to change based on the Court's other proceedings. Any change to a trial date will be reflected on the docket.

2. **Motions In Limine**

   There is no special form for motions in limine, but any such motion must be filed at least 10 days before the trial date, and will be ruled on before trial whenever possible. Hearings on motions in limine are rarely necessary.

3. **Exchange of Exhibits and Trial Briefs**

   Trial briefs are encouraged but not required, must be filed five days before the trial date, and shall not contain any new motions. Prior to the trial date, parties must exchange exhibits, and provide the Court with a joint bench book that lists, describes, and contains all exhibits. Counsel must confer with one another before trial in an attempt to reach agreement as to admissibility of each exhibit.

4. **Bench Trials**

   Before or during a bench trial, the parties may submit proposed findings of fact and conclusions of law.

5. **Redirect**

   Redirect examination may be permitted upon a showing of good cause.

6. **Submission of Jury Instructions**

   The parties must confer in an attempt to agree on all jury instructions. The parties must submit joint, proposed jury instructions prior to the final pre-trial conference. If the parties are unable to agree on all instructions, they shall submit, in a single filing, the agreed-upon instructions, instructions proposed by the plaintiff, instructions proposed by the defendants, and any responses to the disputed instructions.

7. **Hours of Trial**

   Trials will be conducted daily between 9:00AM and 2:00PM, with a mid-day break at or around 11:00AM. Attorneys must be seated at counsel table and ready to proceed by 8:30AM.

8. **Multiple Counsel**

   Multiple counsel representing one party may not each perform separate parts of a single advocacy function in Court. For instance, when a party is represented by multiple counsel, a single lawyer must handle the entire opening statement for that party. Each witness must also be examined by a single attorney for each party.

9. **Juries**

   a. **Jury Selection.**

      Jury selection will be by the "struck jury" method. Voir dire will be conducted by the Court. Counsel should submit proposed voir dire questions in writing at least three days

in advance and will be permitted to submit additional questions to be asked by the Court, as provided by Federal Rule of Civil Procedure 47(a). Jurors will be excused without disclosing which side excused them. Eight jurors will be seated, which will permit up to two to be dismissed as alternates during trial. If none are excused during trial, all eight will deliberate.

b. **During Trial.**

Jurors will be permitted to take notes during trial. Jurors who choose to take notes will be instructed that such notes are not themselves evidence, but are merely aids to the juror's memory of the evidence presented at trial. Jurors will not be permitted to question witnesses, either directly or through submission of questions to be asked by the Court.

c. **Jury Instructions.**

The Court will orally deliver the final instructions to the jury. Jurors will also be permitted to take written copies of the final instructions to the jury room during deliberations.

d. **Proper Use of Jury Time.**

Counsel should attempt to raise evidentiary problems before or after the trial day, or during the break, to avoid jury down time.

Subject-Matter Jurisdiction Checking

The Court reviews subject-matter jurisdiction in every case. Failure to plead clear grounds for federal jurisdiction will result in the Court issuing an order to show cause why the case should not be dismissed or remanded for want of jurisdiction. Attorneys before the Court have an obligation to raise jurisdictional objections as soon as the grounds for them are known.

Temporary Restraining Orders and Preliminary Injunctions

The Court will rarely consider ex-parte requests for temporary restraining orders. The Court strongly encourages parties to confer ahead of any preliminary injunction hearing in an attempt to reach an agreement with respect to the injunction.

Proposed and Stipulated Orders

1. **Stipulated Orders Encouraged**

   Parties are strongly encouraged to obtain consent for routine matters, such as extensions of time on filing deadlines, discovery requests.

2. **Submission**

   Stipulated orders must be submitted through the "Proposed Orders" function of CM/ECF:

   a. On the blue header, hover over the option titled "Utilities"
   b. Hover over the drop-down option titled "Proposed Orders"
   c. Select "Submit Proposed Order"

3. **Format**

   Proposed orders must be submitted in Word or WordPerfect format.

4. **Timing**

   Parties should expect that a stipulated order will not be entered for one to two days after uploading, as the Court requires time to review and approve them.

Criminal

1. Before any pretrial motion is filed, compliance with Local Criminal Rule 12.1 and Local Civil Rule 7.1(a) must be observed.
2. **Cases Opened Before August 18, 2008**

   In any criminal case assigned to Judge Murphy, the government shall immediately determine whether any portion of the case or its previous investigation was opened in the United States Attorney's office for the Eastern District of Michigan prior to August 18, 2008, and if it was, shall immediately inform the Court and defense counsel of that fact. Upon its own initiative or by motion of any party, the Court may recuse itself from any matter over which Judge Murphy may have presided as United States Attorney for the Eastern District of Michigan.
3. **Pleas**

   a. The Court does not ordinarily accept a negotiated plea of guilty that contains any restrictions regarding sentencing under Federal Rule of Criminal Procedure 11, a significant reduction in the number of counts alleged, a 5K1.1 provision or any other concessions by the government that could impinge upon the Court's sentencing authority or discretion, after the final pretrial conference and change-of-plea cutoff date.
   b. The Court does not accept plea agreements under Federal Rule of Criminal Procedure 11(c)(1)(C), but readily accepts agreements under Rule 11(c)(1)(B) that include non-binding sentencing recommendations; the Court also accepts plea agreements that contemplate well thought out and supported 5K1.1 departures. Although Rule 11(c)(1)(B) sentencing recommendations are not binding, the Court does give them careful consideration and weight.
   c. At a Rule 11 hearing on a guilty plea, the Court respectfully asks that the assigned federal prosecutor summarize any applicable plea agreement in no more than one hundred and twenty seconds. The only information that an AUSA must explain at a plea hearing is (1) what the defendant is pleading to, (2) the sentencing recommendation, and (3) any forfeiture/restitution. Time taken to unnecessarily read verbatim portions of a plea agreement at the hearings has real consequences: in addition to chewing up valuable court and staff time, it ratchets up the costs of transcripts that are often incurred by taxpayers via CJA orders and requests from government lawyers.
4. **Exhibits**

   Counsel for the government are urged to make reasonable efforts to reach agreement with counsel for the defense concerning the admissibility of each intended physical exhibit prior to trial. If an agreement is reached, a list of such exhibits is to be prepared by government counsel for entry at the opening of trial, and the exhibits will be considered admitted at the outset. If defense counsel chooses to file a notice of intent to contest foundation, chain-of-custody, or scientific analysis, such notice shall be filed not later than 7 days before trial. Unless the items or exhibits are unusually voluminous, the notice shall provide a brief item-by-item or exhibit-by-exhibit description of the good-faith basis for any objection.
5. **Juries**

   a. **Selection**

      The Court uses a "struck jury" system for jury selection. The Court will select twelve regular and two alternate jurors. In most cases, the government is allowed 6 peremptory

challenges and the defendant is allowed 10 peremptory challenges. Jurors will be excused without disclosing which side excused them. Alternate jurors are not told they are alternates; they are dismissed by random draw at the conclusion of the proofs.

b. **Notes**

The jury is allowed to take notes. The Court specifically instructs the jury in advance on this issue.

c. **Redirect**

Redirect examination shall be permitted upon a showing of good cause.

d. **Motions in Limine**

Motions in limine must be filed no later than 10 days before the start of trial.

e. **Jury Instructions**

Proposed jury instructions must be submitted no later than the first day of trial. The parties are to confer with each other in an attempt to agree on all jury instructions. If the parties are unable to agree on all instructions, they shall submit a joint packet of those instructions to which they do agree, a packet for those instructions proposed by the government, and a packet for those instructions proposed by the defense. The Court will usually instruct the jury using the Sixth Circuit's pattern jury instructions when available.

Pro Se Litgants

1. Pro se litigants, like all attorneys appearing before the Court, are expected to adhere to the all procedural rules, including, but not limited to, the Federal Rules of Civil, Criminal, and Bankruptcy Procedure, the Local Rules of the Eastern District of Michigan, and Judge Murphy's Practice Guidelines.
2. The Court does not give legal advice to any party and expects that pleadings and motions will be in appropriate form. Letters to the Court are neither pleadings nor motions and will be stricken. Definitions of and requirements for pleadings and motions are provided in Federal Rules of Civil Procedure 7 through 11, with other local requirements set forth at Local Rules 7.1 through 11.2.