Admission to Practice and Local Counsel

Local Rule 83.20 requires that an attorney must be a member of the bar of the Eastern District of Michigan in order to practice in this Court, with certain limited exceptions. Inquiries regarding admission to the Court bar must be directed to the Clerk's Office at (313) 234-5005. Additional information can be found on the Attorneys section of the Court's website.

Pro hac vice admission is not permitted. In addition, this Court strictly enforces Local Rule 83.20(f), which provides that any member of the Court bar who is not an active member of the State Bar of Michigan must have local counsel.

Counsel do not need to appear personally before the Court to take the oath of admission and be admitted to practice in the Eastern District of Michigan. The Court has designated the Clerk of the Court to administer the oath. In addition, pursuant to the Local Rule, an applicant without an office in the district may take the oath by telephone or video conference.

Case Evaluation, Facilitation, and Mediation

The Court welcomes and endorses agreements between parties to engage in alternative dispute resolution. Parties may stipulate to case evaluation, mediation, private facilitation, or request a settlement conference with the District or Magistrate Judge at any time. In all cases, a brief status conference will be conducted shortly after the close of discovery to discuss settlement options.

Civil Practice and Trial Procedure

The Court's requirements and standard practices for civil practice are detailed in the following sample orders:

- Sample Order to Attend Scheduling Conference and Notice of Requirements for Submission of Discovery Plan
- Sample Case Management Requirements and Scheduling Order

Scheduling Conferences & Scheduling Orders. If an answer is filed, the Court reviews the parties' Fed.R.Civ.P. 26(f) report and either issues a scheduling order or an order to appear for a scheduling conference. If a motion to dismiss is filed, the Court may or may not issue a scheduling order or convene a scheduling conference. At or immediately after a scheduling conference, the Court issues a scheduling order.

The Court also schedules settlement conferences and joint final pretrial conferences in every civil case. The Court may convene additional conferences as necessary.

Final Pretrial Conference. Trial counsel and all parties who are (i) natural persons; (ii) a representative with full and final settlement authority on behalf of each party that is not a natural person; (iii) a representative with full and final settlement authority on behalf of each insurance carrier that has undertaken the prosecution or defense of the case and/or has contractually reserved itself the right to settle the action; and/or (iv) a representative authorized to act on behalf of each party that is a governmental entity must be present at the Final Pretrial Conference **and** have settlement authority.

Joint Final Pretrial Orders. The Joint Final Pretrial Order must be submitted electronically through CM/ECF no later than two (2) weeks before the date of the Final Pretrial Conference. The Joint Final Pretrial Order shall **strictly comply** with the requirements of Local Rule 16.2.

Joint Bench Book. The parties shall submit a Joint Bench Book and a courtesy copy of exhibits to the Court no later than one (1) week prior to the Final Pretrial Conference. Requirements for the contents of the Joint Bench Book will be included in the Case Management Requirements and Scheduling Order.

Exhibits. Counsel are required to mark all proposed exhibits in advance of trial and keep track of all admitted exhibits during trial. Counsel must confer and maintain one set of admitted exhibits to be turned over to the jury prior to closing jury instructions. The provisions of Federal Rule of Civil Procedure 37(c)(1) will apply for failure to list an exhibit.

Jury Instructions. Parties are to meet and confer prior to trial to prepare final jury instructions. Stipulated final jury instructions (as well as disputed instructions) are to be submitted to the Court no later than one (1) week prior to the Final Pretrial Conference. Parties are responsible for electronically filing a copy of the Final Jury Instructions on the docket after the Final Pretrial Conference. Parties are advised to consult Federal Jury Practice and Instructions (available on Westlaw) or Modern Federal Jury Instructions (available on Lexis), and to the extent that Michigan law governs, the Michigan Civil Jury Instructions.

Courtesy Copies

A courtesy copy of all motions and briefs, including exhibits, must be sent to chambers via First-Class Mail the same day the document is e-filed, or hand-delivered not later than the next business day after the document is e-filed. The courtesy copy should consist of the actual e-filed document and contain the electronic file stamp on the top of each page. Courtesy copies may be bound in any manner other than a prong fastener, or 3-hole punched and provided in an appropriate 3-ring binder. The Court will not accept documents loosely secured with a rubber band or binder clip. All filings, including exhibits, must be labeled and may be printed double sided. Relevant portions of exhibits must be highlighted.

Along with the courtesy copy, the filing party must include copies of the main cases and other authority that support its legal position(s). The filing party must highlight the relevant portion(s) of these authorities.

PLEASE NOTE: Any exhibits containing transcripts of hearings or depositions **must** contain the **entire** transcript or deposition, with relevant portions highlighted, printed four pages of deposition per page and double sided.

Criminal Practice and Trial Procedure

The Court's requirements and standard practices for criminal practice are outlined in the following sample order:

- Sample Criminal Trial Notice and Scheduling Order

Attorney Conference and Disclosure.

Within ten (10) days of the date of arraignment, government and defense counsel shall meet and confer for the purpose of resolving or minimizing the issues in controversy. Upon the request of defense counsel, government counsel shall: (i) provide defense counsel with the information described in Federal Rule of Criminal Procedure 16(a)(1); and (ii) permit defense counsel to inspect and copy or photograph any exculpatory/impeachment evidence within the meaning of *Brady v. Maryland*, 373 U.S. 83 (1963), *United States v. Agurs*, 427 U.S. 97 (1976), and *Giglio v. United States*, 405 U.S. 150 (1972). The duty to disclose is continuing, even throughout trial.

Pleas. If the parties resolve a case by plea agreement pursuant to Federal Rule of Criminal Procedure 11, the parties must submit a signed plea agreement to chambers on or before the plea cut-off date.

Pretrial Motions. Before any pre-trial motion is filed, compliance with Local Criminal Rule 12.1 must be observed.

Exhibits. Counsel are required to mark all proposed exhibits in advance of trial. A list of exhibits shall be submitted to chambers at least one (1) week before the final pretrial conference. Each party is responsible for preparing a physical exhibit book for the Court, Court Reporter, and one copy for viewing by witnesses, unless exhibits are extremely voluminous in which case they can be provided electronically. Counsel must make available to the opposing party, for inspection, all exhibits the party will introduce at trial. Foundation and authentication of exhibits will be deemed established unless objected to before the final pretrial conference. Counsel are required to maintain a record of all admitted exhibits during trial, and prepare one final set of admitted exhibits for the jury to be turned over prior to closing jury instructions. Computer generated visual or animated evidence (together with underlying data) must be disclosed to the opposing counsel at least one (1) week before the start of trial.

Witness List. Each party shall submit directly to chambers a list of witnesses it intends to call at trial. The witness list is not to be filed electronically or otherwise submitted to the Clerk's Office.

Jury Instructions. Parties are to meet and confer prior to the Final Pretrial Conference to prepare final joint jury instructions. Proposed joint final jury instructions (as well as disputed instructions) are to be submitted directly to chambers no later than one (1) week prior to trial. The Court expects parties to use the Sixth Circuit Pattern Jury Instructions, where applicable.

Voir Dire. The Court will conduct *voir dire* and will allow parties to submit questions that the Court will also ask as requested follow-up. The Court generally uses the “strike method” for jury selection. In most cases, the government is allowed six peremptory challenges and the defendant is allowed ten peremptory challenges. The Court will select twelve regular and two alternate jurors. Alternate jurors are not told they are alternates; they are dismissed by random draw at the conclusion of the proofs.

Continuances. Continuances of trial dates or continuances during trial will not be granted because of

unavailability of witnesses. Please notify the Court if its intervention is necessary to secure witness attendance. Otherwise, witnesses will be expected to be available when called.

Trial Briefs. The Court encourages, but does not require, the submission of a trial brief. If a trial brief is submitted, it should, among other things, inform the Court about the party's proposed resolution of anticipated evidentiary issues.

Final Pretrial Conferences. Defendants must be present at Final Pretrial Conferences. At the Final Pretrial Conference, counsel should be prepared to discuss: (i) summary of charges to be read to the jury; (ii) anticipated evidentiary issues; (iii) length of trial; (iv) stipulations to avoid the need for foundation witnesses, proof of uncontested facts, and certain exhibits; (v) peremptory challenges; and (vi) special arrangements for the presentation of witnesses or evidence.

Maintaining the Record. It is the responsibility of the parties to file all trial exhibits, briefs and proposed jury instructions on the record within five (5) days of the verdict.

Discovery

The Court expects parties and counsel to conduct discovery cooperatively and fairly, consistent with Federal Rule of Civil Procedure 1: "To secure the just, speedy, and inexpensive determination of every action."

Discovery must be served sufficiently in advance of the discovery cutoff so as to allow the opposing party sufficient time to respond under the Federal Rules of Civil Procedure prior to the close of discovery. The Court will not order discovery to take place after the discovery cutoff date. Parties may agree to extend the discovery cutoff date provided the extension of time does not affect the motions cutoff, final pretrial conference, or trial dates.

Disclosures pursuant to the Federal Rules of Civil Procedure must strictly comply with Rule 26, including the information required to be disclosed and the timing for such disclosures.

Discovery motions shall not be filed without leave of the Court and until the parties have first met and conferred in a good faith effort to resolve the differences without Court intervention. An email is not a meet and confer. Failure of a party to make itself available for this conference may result in sanctions. In the event the good faith efforts are unsuccessful, the moving party must schedule a telephone conference with the Court in further effort to resolve the dispute prior to filing any motion. If the dispute still cannot be resolved, the Court will grant leave to file a discovery motion, which it will either entertain or refer to a magistrate judge for resolution.

General Policies

Judge McMillion expects traditional courtroom civility and full compliance with the Civility Principles adopted by the Court. Conduct inconsistent with the letter and spirit of those principles will not be tolerated. Anyone appearing in this Court will treat everyone with dignity, respect, professionalism, and courtesy at all times. This includes what is written as well as what is said.

Everyone is expected to familiarize themselves with these Practice Guidelines, the Court's Local Rules, the Court's Electronic Filing Policies and Procedures, and any rules or laws applicable to their matters before this Court. Local Rules are enforced. Please pay particular attention to Local Rule 7.1, Local Rule 5.3, and Electronic Filing Rules 5 and 10(d).

The Court encourages the use of modern technology to display exhibits and demonstrative aides during trial. However, parties must make prior arrangements with Chambers staff. Requests for interpreters and accommodations for witnesses with disabilities should be made with Chambers at least ten (10) days before needed.

If a case is settled, the parties must notify Chambers in writing via email by the next business day.

Judge McMillion encourages parties to attempt to resolve any disputes that arise through communication **before** resorting to motion practice. To facilitate this, parties may request a status conference with Judge McMillion at any time. Status conferences may be conducted telephonically, via video conference, or in person.

Judge McMillion accepts no *ex parte* communications. Counsel may contact the Case Manager with respect to administrative, procedural, or scheduling matters. Questions about pending cases should be directed to the Case Manager. Contact by counsel or parties with the law clerks is not permitted unless expressly authorized by the Court.

Motion Practice

Briefing. All briefs shall strictly comply with Local Rules 5.1 and 7.1. All briefs must contain a table of contents, a table of authorities, and an index. References in briefs to arguments or statements made by the opposing party must include a specific citation to the docket and page number of the matter referenced. The Court will accept responses and replies to motions; but sur-replies generally are not permitted. The Court does not routinely grant requests to file longer briefs. Requests to file longer briefs must be submitted at least one week before the brief is due.

Concurrence. The Court requires strict compliance with Local Rule 7.1(a) regarding concurrence, and the Court may impose costs for failure to comply with the Local Rule.

Extensions of Time. The Court does not typically issue a briefing schedule; rather, it follows the time limits set forth in Local Rule 7.1(e). Requests for extensions of time may be made by filing a concise stipulation and order explaining the specific reason why such an extension is necessary; and must be filed at least one week before the brief is due.

Hearings. Except in pro se prisoner cases and on motions for reconsideration, the Court often hears oral argument on civil motions. Upon filing or referral, the Court will notify the parties of the date and time of a hearing. Under Local Rule 7.1(f), however, the Court may cancel a scheduled hearing or decide the matter without a hearing where the issues can be decided on the briefs. Each side generally will be limited to an aggregate of 15 minutes of argument, as the Court will have reviewed the parties' briefs before the hearing.

Summary Judgment Motions. No party may file more than one motion for summary judgment without obtaining leave of court.

The maker of the motion must include a "Statement of Material Facts" in short, concise, numbered paragraphs setting forth the material facts that the moving party contends there is no genuine issue to be tried. The party opposing the motion must respond to each numbered paragraph and has the option to include additional numbered paragraphs containing separate, short and concise statements of additional material facts, if necessary to demonstrate there exists a genuine issue to be tried. Each numbered paragraph in the moving party's motion will be deemed admitted unless specifically controverted by a corresponding numbered paragraph in the statement of the opposing party. Each statement of material fact, whether set forth by the maker of the motion or the opposing party, must be followed by a citation to interrogatory answers, depositions, documents, affidavits, declarations, stipulations, admissions, electronically stored information, or other information which would be admissible under Federal Rules of Civil Procedure 56(e).

Counsel are discouraged from employing elaborate boilerplate recitations of the summary judgment standard or lengthy string citations in support of well-established legal principles. Instead, counsel should focus their analysis on a few well-chosen cases, preferably recent and from controlling courts. Where unpublished opinions or opinions published only in a specialty reporter are cited, copies of these cases must be submitted with the briefs.

Motions In Limine. Briefing deadlines on motions in limine will be set forth in the scheduling order. Response briefs to motions in limine are due ten (10) days after the motion is filed and reply briefs are due five (5) days thereafter. Motions in limine should not recast issues previously presented in summary judgment or discovery motions; but rather these motions serve the limited purpose of alerting the Court to significant evidentiary issues that should be addressed prior to trial. The Court will generally decide motions in limine at the final pretrial conference, but may defer ruling until trial.

Notice to Court of Resolved Motions. If the parties have resolved an issue that is the subject of a pending motion, the parties must notify chambers in writing by the next business day. The parties should email the Court's Case Manager indicating that the issue has been resolved and that the parties no longer wish to move forward with the motion.

Protective Orders

If a protective order is necessary, the Court encourages the parties to stipulate to a proposed order and submit it to the Court for review. The proposed order must include language that references Local Rule 5.3:

- This order does not authorize the filing of any documents under seal. Documents may be sealed only if authorized by statute, rule, or order of the Court. A party seeking to file under seal any paper or other matter in any civil case pursuant to this section shall file and serve a motion or stipulation that sets forth (i) the authority for sealing; (ii) an identification and description of each item proposed for sealing; (iii) the reason that sealing each item is necessary; (iv) the reason that a means other than sealing is not available or unsatisfactory to preserve the interest advanced by the movant in support of the seal; and, if a party files a motion only, (v) a memorandum of legal authority supporting the seal. See Local Rule 5.3. No party shall file or otherwise tender to the Clerk any item proposed for sealing unless the Court has entered an order allowing filing under seal.

Protective orders may not contain language that authorizes in advance the filing of documents under seal. Filings under seal are governed by Local Rule 5.3, and the Court requires that those procedures be followed. Where possible, the parties are encouraged to utilize redactions over sealing.

Whenever a motion or stipulation to seal is filed, the party seeking to file under seal shall submit a proposed order which states the particular reason the seal is required. The proposed order shall be submitted to the undersigned district judge or to the magistrate judge to whom the matter is referred, via the link located under the "Utilities" section of CM/ECF. If a motion to seal is granted, the documents to be filed under seal shall be filed electronically by the movant with an appropriate designation that the documents are to be held under seal.

Removal

All cases removed from State court are reviewed. If questions exist about jurisdiction, the Court will issue an Order to Show Cause. Under Local Rule 81.1, the Court does not *sua sponte* remand a case to State court. Motions to remand for procedural defects must be filed within 30 days from the notice of removal. The Court may hold oral arguments on Orders to Show Cause or Motions to Remand relating to removals.

Temporary Restraining Order and Injunctions

The Court will set a time schedule for motion and briefing requirements relating to requests for temporary restraining orders and preliminary injunctions which is typically less than that prescribed by Local Rule 7.1. In addition to the requirements of Local Rule 65.1, the Court requires that all temporary restraining orders, including those considered *ex parte*, require some notice to the opposing party and an opportunity for the Court to hear both sides unless the moving party can demonstrate good cause for failing to give notice to the opposing party. The Court rarely grants a temporary restraining order without notice to the opposing party.

Parties should notify the Case Manager by telephone upon filing a motion for a temporary restraining order or preliminary injunction. The Court will typically hold a status conference soon after receiving such a motion to arrange a briefing schedule and hearing date.