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.