Discovery

The Federal Rules of Civil Procedure are designed to make the discovery process party-driven. The court expects the parties and counsel to conduct discovery cooperatively and fairly. If it becomes necessary to file a motion related to discovery matters, counsel shall meet and confer in accordance with E.D. Mich. LR 37.1 in an attempt to resolve, or at least narrow, the disputed issues. The court encourages counsel to engage in a good-faith attempt to resolve all discovery matters before a motion is heard, and to submit a Stipulation and Order Resolving Motion.

A. **Statement of Resolved and Unresolved Issues**

The parties and counsel are expected to continue to discuss resolution of their dispute after any discovery motion is filed. If the parties are unable to resolve their differences prior to oral argument, the moving party shall prepare a written statement of resolved and unresolved issues consisting of no more than five pages. The statement should certify that good faith efforts to resolve the matters in controversy have been undertaken and list the issues with respect to which an agreement has been reached as well as the issues yet to be resolved. This statement should be electronically filed at least 5 days prior to the hearing.

Failure to timely submit the statement may result in adjournment of the hearing or dismissal of the motion.

In the event that all disputed issues are resolved prior to the hearing, the moving party shall either withdraw the motion or submit a stipulation incorporating the agreement of the parties prior to the scheduled hearing date.

Motion Practice

1. **Authority to Hear Motions**

   Pursuant to 28 U.S.C. § 636(b)(1)(A) and (B), and upon an order of reference from the District Judge assigned to the case, motions will be decided either by report and recommendation or order. Dispositive motions may be referred by the District Judge for opinion and order on consent of the parties. (28 U.S.C. § 636(c)).

2. **Briefing Schedule on Motions**

   In instances where the Court has issued a briefing schedule on a motion, that schedule applies. In all other instances, the parties should follow Local Rule 7.1(e).

   The Court adheres to E.D. Mich LR 5.1 and 7.1 regarding format, length, and form of motions and briefs, and the type of briefs required and permitted. Additional briefing, including sur-replies, will NOT be permitted unless requested by the Court. The Court will strike any improperly filed sur-replies or other briefing not contemplated by the Local Rules. In addition, all briefs must contain an index of exhibits, and the Court requires a table of contents for briefs over ten pages.

3. **Meet and Confer Requirement**

   Except in pro se prisoner cases, no motion should be filed or considered unless the moving party or counsel has conferred in good faith by telephone or in-person with all other relevant parties or counsel in an effort to resolve the dispute, or has made a reasonable attempt to so confer. If the conference with the relevant parties or counsel has not resolved the dispute, the moving party or counsel must inform the opposing parties or counsel during the conference that the moving party intends to seek relief from the Court regarding the dispute. If the conference cannot reasonably be held, then the moving party must inform all opposing parties or counsel by letter, prior to filing a motion that the moving party intends to seek relief from the Court. Any motion filed must state the date of the conference or list all reasonable efforts to hold the conference and indicate the reason or reasons why the conference was not held. The motion must also include a statement of the unresolved issues and provide the adversary's position as to each statement of the unresolved issues and provide the adversary's position as to each issue in controversy as stated by the adversary during the pre-motion conference.

4. **Hearing/Oral Argument**

   It is the general practice of the court to hear argument on civil discovery motions. In general, out of town counsel may not appear by telephone. In the event of inclement weather or other circumstances, counsel should contact the Court.

5. **Courtesy Copies**

   Courtesy copies of electronically filed documents are not required.

Pro Se Litigants

These cases are generally decided without oral argument. A hard copy of any document generated by the Court will be mailed to any litigant not represented by counsel. The Court does not have funds to appoint counsel for unrepresented persons but will consider appointment of *pro bono* counsel where appropriate.

Pro se litigants are expected to adhere to the Federal Rules of Civil Procedure. The Court does not give legal advice to litigants and expects that pleadings will be in appropriate form. Letters to the court are not pleadings and will not be ruled upon.

A standing order for the conduct of prisoner civil rights cases will be mailed by chambers after the case is referred for all pretrial proceedings and the defendants have been served.

Scheduling Conference

When a case has been referred for all pretrial proceedings, the Court will issue an order directing the parties to conduct a Rule 26(f) conference and submit a proposed joint discovery plan. The Court will then hold a Rule 16 scheduling teleconference and file a scheduling order based on the joint discovery plan.

Settlement Conferences

The Court encourages the parties to consider voluntary settlement conferences when and where appropriate. The Court is willing to serve as a facilitator upon the parties' request and/or upon an order of reference. These conferences will be held in chambers and trial counsel and all persons with ultimate settlement authority must be present. A short, concise statement of the issues is to be submitted by each side directly to chambers at least seven days prior to the settlement conference. The statement shall be limited to five pages and shall include the following:

- A short summary of the facts, including a discussion of the strengths and weaknesses of the case,
- The parties' position on settlement including a present settlement proposal,
- A report on settlement efforts to date and reasons for rejection of any offers, and
- If not already part of the court file, copies of any critical agreements, business records, photographs or other documents or exhibits must be attached to the settlement statement.

Social Security

Oral argument will not be held in these cases. If service of the complaint is not reflected on the docket within 90 days, an order to show cause will be issued to the plaintiff.

Upon the filing of the transcript and answer, a scheduling order will be issued setting the deadlines for filing the cross motions for summary judgment. The dates are designed to provide sufficient time for counsel to file the motion. Requests for adjournments must show good cause in order to be considered. The matter is ready for decision as of the date the motions are due or filed, whichever comes first.

Trials

1. **Types of Trials**

   The court handles civil trials, jury or non-jury, with the consent of the parties and an order of reference from the district judge. See, 28 U.S.C. § 636(c). These are set for a date certain. Appeals are to the Court of Appeals.

   The court also handles misdemeanor trials, pleas, and sentencing with the consent of the parties and an order of reference from the district judge. See F.R.Cr.P. Rule 58. Appeals are to the district judge.

2. **Jury Trial Schedule**

   Jury trials commence on Tuesdays and are conducted Monday through Friday. Subject to the Court's availability, trials normally commence at 8:30 a.m. and continue through 1:00 p.m.

3. **Jury Selection**

   The court often selects juries in cases where the trial may be held before another judge. Counsel and the parties must consent in writing prior to selection. Counsel will exchange voir dire questions in advance. The court will meet briefly with trial counsel in chambers the morning of selection to answer any questions and resolve any disputes as to the potential voir dire questions.

   In most cases, the strike method is used. Under this method, the number of individuals who will be the jury (e.g. 12 + 2 alternates) plus the total number of peremptory challenges (e.g. 7 + 11) are seated. Voir dire is conducted on this group and when the group has been passed for cause, peremptory challenges are exercised without additional questioning.

   In both civil and criminal cases, the court asks preliminary questions regarding background information and scheduling issues and then conducts voir dire.