Amended Pleadings

Motions to amend pleadings must comply with E.D. Mich. LR 15.1. Specifically, the moving party is required to reproduce the entire proposed amended pleading and may not incorporate any prior pleading by reference.

The moving party must file the entire proposed amended pleading as an attachment to any motion under Federal Rule of Civil Procedure 15. The attachment must in some way identify the revisions to the pleading. For example, proposed changes can be highlighted, underlined, or filed in a tracked-changes format.

Criminal Duty

Magistrate Judges in this district are assigned criminal matters on a rotating weekly basis. The court is generally not available for civil hearings during its criminal duty week. Criminal call begins at 1:00 p.m. daily in the duty courtroom (Room 114) on the first floor of the Theodore Levin U.S. Courthouse in Detroit. Agents with requests for complaints, arrest warrants and other matters which require a face-to-face meeting with Judge Patti should report to the duty courtroom in person and then to chambers for review of the papers. Requests for search warrants, pen registers, orders to seal or delay notice, or non-disclosure orders are generally submitted through the U.S. Attorney's Office by electronic means. During the week of criminal duty, questions regarding duty matters should be directed to the duty telephone at (313) 234-5558.

Discovery and Discovery Motions

The Court expects parties and counsel to conduct discovery cooperatively and fairly. Discovery requests must be made sufficiently in advance of the discovery completion date to permit timely response within the discovery period.

Motions related to discovery, if any, shall be filed within the discovery period unless it is impossible or impracticable to do so. Prior to filing a motion, parties must strictly comply with both E.D. Mich. LR 7.1(a) and Federal Rule of Civil Procedure 37(a)(1), which requires that the movant "has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action."

Except in cases filed by a *pro se* prisoner, before filing a motion to compel discovery based upon failure to respond to discovery requests in a timely manner, the party seeking relief should first send a proposed stipulated order compelling discovery to the party owing the discovery responses, providing a reasonable amount of time for responses. If the party owing discovery responses fails to so stipulate, the proposed stipulated order and the related correspondence should be attached to the motion to compel. In cases where Judge Patti is presiding by consent of the parties, or where all pretrial or discovery matters have previously been referred to him, this requirement is mandatory.

On all motions for discovery that have been referred to the Magistrate Judge, counsel is required to 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 requires 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 where the parties have been able to work out their differences. Accordingly, parties are directed to meet and confer face-to-face; i.e., in person, in advance of the hearing, for an item-by-item discussion of each issue in dispute.

If unresolved issues remain, the parties shall cooperatively prepare a Joint List of Unresolved Issues setting forth the issues that remain unresolved. The Joint List must certify that good faith efforts to resolve the matter[s] in controversy have been undertaken and specify the date(s), time(s), method/mode, and length of the events by which the meet-and-confer requirements were fulfilled. The Joint List is meant to *summarize, not fully rehash* the previously briefed arguments, and shall not exceed ten pages, absent good cause, and should be structured as follows:

Unresolved Issue No. 1: [Recite Issue]

- Movant's position:
- Respondent's position (including any proposal made to resolve movant's request):

In addition, for each discovery request or dispute that remains at issue, counsel should assess how the following factors weigh either for or against the discovery:

1. Importance of the issues at stake in the action;
2. The amount in controversy;
3. The parties' resources;
4. The importance of the discovery in resolving the issues;

5. Whether the burden or expense of the proposed discovery outweighs its likely benefit;
6. Whether the discovery sought is cumulative or duplicative;
7. Whether the discovery sought can be obtained from a more convenient, less burdensome, or less expensive source; and
8. Whether the party seeking discovery had ample opportunity to obtain the information by discovery in the action.

Fed. R. Civ. P. 26(b)[1]

No exhibits or attachments shall be filed with the Joint List. The list should be e-filed by the moving party at least three business days prior to the hearing.

This meet-and-confer requirement is not satisfied by an email exchange or message left unanswered, or by mere compliance with LR 7.1, which requires the moving party to seek concurrence in a motion. Where a conference has not been conducted, the moving party is to submit a written statement to the Court outlining all steps taken to undertake a conference with the opposing party. Any party refusing to appear for the conference or confer as the Court directs may be subject to costs and/or sanctions.

If the party filing the motion, or the party opposing the motion, seek their "reasonable expenses incurred" under Fed. R. Civ. P. 37 (including attorney fees), that party must be prepared to offer, at the hearing on the motion, proof of the costs and expenses requested (including brief testimony by counsel) or risk having that request denied. Before requesting an award of Rule 37 expenses, the requesting party is encouraged to read: (1)*Thomas v. Bannum Place of Saginaw*, No. 4:17-CV-13492, 2019 WL 4597483 (E.D. Mich. Sept. 23, 2019) (Patti, M.J.); and, (2) *Martin v. Lincor Eatery, Inc.*, No. 2:17-CV-11634, 2018 WL 4658996 (E.D. Mich. Sept. 28, 2018) (Patti, M.J.).

When the District Judge has expressly referred all discovery disputes to the Magistrate Judge, the Court is available to conduct an informal discovery conference (usually by telephone) to resolve pressing discovery disputes and may schedule such a conference on its own initiative. However, the parties should still make a good-faith attempt to engage in the LR 37.1 conference ahead of this informal conference.

In a particular case, where there are multiple discovery disputes or where many motions are filed, the Court may set the matter for a general discovery conference or direct the parties to conduct a Federal Rule of Civil Procedure 26(f) conference.

In responding to discovery requests, **form or boilerplate objections shall not be used** and, if used, may subject the party and/or its counsel to sanctions. Objections must be specific and state an adequate individualized basis. *See Wesley Corp. v. Zoom T.V. Products*, LLC, No. 17-10021, 2018 WL 372700, at *4 (E.D. Mich. Jan. 11, 2018) (Cleland, J.); *Siser N. Am., Inc. v. Herika G. Inc*., 325 F.R.D. 200, 209-10 (E.D. Mich. 2018) ("Boilerplate objections are legally meaningless and amount to a waiver of an objection."); *accord Strategic Mktg. & Research Team, Inc. v. Auto Data Sols., Inc* ., No. 2:15-CV-12695, 2017 WL 1196361, at *2 (E.D. Mich. Mar. 31, 2017) ("Boilerplate or generalized objections are tantamount to no objection at all and will not be considered by the Court."); *Auburn Sales, Inc. v. Cypros Trading & Shipping, Inc*., No. 14-cv-10922, 2016 WL 3418554, at *3 (E.D. Mich. June 22, 2016) ("This Court has repeatedly found that the filing of boilerplate objections is tantamount to filing no objections at all.").

Finally, a party objecting to a request for production of documents as unduly burdensome must

submit affidavits or other evidence to substantiate its objections. *In re Heparin Prods. Liab. Litig.*, 273 F.R.D. 399, 410-411 (N.D. Ohio 2011); *Sallah v. Worldwide Clearing, LLC*, 855 F. Supp. 2d 1364, 1376 (S.D. Fla. 2012); *Convertino v. U.S. Dep't of Justice*, 565 F. Supp. 2d 10, 14 (D.D.C. 2008).

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1. The Court refers the parties to the "Proportionality Matrix," Hon. Elizabeth D. Laporte & Johnathan M. Redgrave, A Practical Guide to Achieving Proportionality Under New Federal Rule of Civil Procedure 26, 9 Fed. Courts L. Rev. 19, 49-50 (2015).

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. **Meet and Confer Requirement**

   Except in *pro se* prisoner cases, no motion shall 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. The letter must be attached to the motion. Any motion filed must state the date of the conference or list all reasonable efforts to hold the conference and indicate the reason(s) why the conference was not held. The motion must also include a statement of the unresolved issues and provide the adversary's position 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.

3. **Briefs, Briefing Schedule, Withdrawal or Resolution of Motions**

   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.

   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).

   Where no Court Order as to a briefing schedule is in effect, leave of the Court is not required to effectuate an agreement between the parties to extend the response/reply deadlines once for no more than fourteen days for filing papers. Such agreements, however, must be disclosed to the Court by submission of a Stipulation and Order. Otherwise, extensions must be by leave of the Court. In the event that a motion has been fully or partially resolved or mooted, or that a party intends to withdraw a motion or refrain from proceeding with it, the moving party must so inform the Court, in writing, with all due haste, least the Court unnecessarily begin to review the motion or waste time drafting an opinion or order. See also, subsections "E" and "G" below.

4. **Courtesy Copies**

   In addition to the electronically filed copy, parties shall provide **one courtesy paper copy** to

the Magistrate Judge's chambers. Exhibits on the courtesy copy must be separated by protruding tabs, and relevant portions of exhibits must be highlighted. The courtesy copy should be filed document(s) containing the electronic date stamp, ECF pagination, and docketing information on the top of the page.

If not hand-delivered to chambers within three days of the filing, the chambers copy must be sent via first class mail the same day the document is filed. Where a filing relates to a Court proceeding scheduled within the next two days or otherwise requires the immediate attention of the Court, the chambers copy must be hand-delivered to chambers not later than the morning of the next business day after document is filed.

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

Except in Social Security and *pro se* prisoner cases, the parties and counsel are expected to continue to discuss resolution of their dispute after the 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, of no more than five pages, certifying that good-faith efforts to resolve the matters in controversy have been undertaken and listing the issues with respect to which an agreement has been reached, as well as the issues yet to be resolved. This statement must be filed with the court clerk with a copy faxed or hand-delivered to the Magistrate Judge's chambers no later than three business days prior to the scheduled hearing date. Failure to timely submit the statement may result in adjournment or dismissal of the motion, as appropriate. In the event that all disputed issues are resolved prior to the hearing, the parties shall file a stipulation incorporating the agreement of the parties and proposed order prior to the scheduled hearing date.

6. **Hearing/Oral Argument**

The Court generally hears oral argument on non-dispositive civil motions, except in *pro se* prisoner cases. *See Pro Se* Prisoner and Habeas Practice Guideline. Motions hearings are usually set at 10:00 a.m. and 2:00 p.m., and the Court will send notice of hearing with a specific date and time. Motions requiring protracted arguments may be set separately if requested by counsel in advance. Motions requiring an evidentiary hearing will also be heard separately. The Court may cancel a scheduled hearing if it appears, after a review of the briefs, that the issues can be decided without a hearing pursuant to LR 7.1(f).

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.

7. **Orders**

While the Court will generally issue its own orders, counsel may bring to the hearing an appropriate order granting or denying the motion. Proposed orders should not be e-filed. If a motion is resolved prior to hearing or decision, the parties shall file a stipulation and proposed order or withdraw the motion through the "Utilities" menu on CM/ECF.

8. **Special Requirements for Discovery Motions**

These requirements are set forth under the Discovery section of these Practice Guidelines.

9. **Special Requirements for Dispositive Motions**

The Court often implements additional requirements for dispositive motion practice. Parties will be informed of the requirements via scheduling order or by separate notice.

10. **Special Requirements for Motions to Amend Pleadings**

    These requirements are set forth under the Amended Pleadings section of these Practice Guidelines.

11. **Special Requirements for Motions to Withdraw as Counsel**

    All motions to withdraw as counsel must contain a written certification that the motion was served upon the client(s) of the withdrawing attorney. If the Court issues an order/notice setting a motion to withdraw for hearing, the attorney seeking to withdraw must certify to the Court in writing that he/she served a copy of the order/notice upon the client(s) or has otherwise timely informed the client of the date, time and place of the hearing by reliable means. Simply stating that the motion or order has been placed in the Court's electronic filing system is insufficient. Counsel seeking to withdraw must also certify to the Court in writing that any opinion and/or order granting, denying or holding the motion in abeyance has been served upon the client.

Pro Se Cases

These matters are most often decided without oral argument. Notices, Orders, and Reports & Recommendations are mailed to those parties who are not e-filers. The Court does not have funds to appoint counsel, but will consider the recruitment of pro bono counsel in appropriate cases. It is extremely rare for that to occur before a case has proceeded past all dispositive motions, for example, motions to dismiss and motions for summary judgment. Pro se litigants are expected to adhere to the Federal Rules of Civil Procedure, the Local Rules of the Eastern District of Michigan and Judge Patti's Practice Guidelines. The Court does not give legal advice to either side 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 additional local requirements set forth at Local Rules 7.1 through 11.2. Additional requirements may apply to particular types of motions, and the Rules of Civil Procedure, corresponding Local Rules and Judge Patti's other practice guidelines should be consulted and followed accordingly, for example: Rule 15 for motions to amend or supplement pleadings, Rule 37 for motions to compel discovery, Rule 56 for summary judgment motions, etc. All parties are expected to adhere to these rules and guidelines, all of which can be accessed on the Court's website under the "Judges" or "Attorneys" or "Representing Yourself" tabs.

Protective Orders and Sealing of Records

Protective orders shall not be entered routinely. In addition to the requirements under E.D. Mich. LR 5.3, which are to be strictly followed, a protective order including a provision for filing a pleading, paper or exhibit, etc. under seal shall be subject to the following limitations: The entire pleading, paper, exhibit, etc. may not be filed under seal. Only the portion of the document(s) which is not to be publically disclosed may be filed under seal. In such instances, the portion to be filed under seal requires an endorsement by the Court on a cover page. A party's presentment to the Court for the endorsement shall be accompanied by an explanation why the portion of the document(s) is confidential. *See, e.g., Rudd Equip. Co., Inc. v. John Deere Constr. & Forestry Co.,* No. 16-5055, 2016 WL 4410575 (6th Cir. July 27, 2016) and *Shane Group, Inc. v. Blue Cross Blue Shield of Michigan,* 825 F.3d 299, 305 (6th Cir. 2016).

Scheduling and Status Conferences

When a case has been referred for all pretrial proceedings, the parties shall conduct a Rule 26(f) conference and submit a proposed joint discovery plan, unless the Court orders otherwise. The Court may then hold an initial Rule 16 scheduling conference and issue a scheduling order based on the joint discovery plan. This conference will require the personal appearances of counsel of record who have *primary responsibility* for pretrial matters.

The Court may also hold additional status, scheduling, or discovery conferences as required. If counsel believes that any such conference would be productive, counsel may request one by calling the case manager. The Court will generally hold such conferences by telephone, but parties may request in-person conferences in appropriate cases.

In particular case, where discovery disputes appear to multiply needlessly or where many motions are filed, the Court may set the matter for additional discovery conferences or direct the parties to conduct a Federal Rule of Civil Procedure 26(f) conference prior to meeting with the Magistrate Judge.

Settlement Conferences

The Court views facilitation as a valuable part of the litigation process and encourages counsel to consider voluntary settlement conferences when and where appropriate. The Court is willing to serve as a facilitator upon the parties' request and/or order of reference. Based on the nature of the case and the state of settlement negotiations, the Court will endeavor to devote a half day for the conference, when possible. Counsel are advised that when settlement conferences are scheduled to begin in the morning, their schedules and those of their clients are to be cleared for the entire day. When conferences are scheduled to begin at 1:30 p.m., as they generally are, attorneys' and clients' schedules must be cleared for the entire afternoon.

1. **REQUIRED PARTICIPANTS**

   Each party, together with its lead trial counsel or counsel of record who have primary responsibility for discovery, must attend the conference unless expressly excused by the Court. **Under no circumstances** will a party be permitted to only have counsel attend the settlement conference without the Court's prior approval. An insured party need not attend unless the settlement decision will be made in part by the insured. When the settlement decision will be made in whole or part by an insurer, the insurer must send a representative in person with full and complete authority to make settlement decisions. A corporate party must send an authorized representative with full and complete authority to make settlement decisions and to bind the company. A governmental entity must send an authorized representative with full and complete authority to make settlement decisions and to bind the governmental entity, understanding that some settlement decisions may be subject to further approval by an elected municipal board. "Full settlement authority" means authority to settle the case up to the Plaintiff's last demand or down to the Defendant's last offer. The Court encourages and invites lien holders whose rights could affect the likelihood of resolving the matter to attend the conference and/or be reachable by telephone. **A party appearing at the conference without full settlement authority will be in violation of this directive.** Failure to produce the appropriate person(s) at the conference may result in an award of costs and attorney fees incurred by the other parties in connection with the conference and/or sanctions against the noncomplying party and/or counsel.

2. **PROCEDURES PRIOR TO THE CONFERENCE**

   The parties shall adhere to the following procedures:

   At least fourteen days prior to the settlement conference, counsel for the parties shall meet and confer in a good-faith attempt to settle the case or to narrow the areas of disagreement. They shall exchange good-faith and realistic offers to settle, and shall explain to each other why their demand or offer is reasonable. If a demand or offer is rejected, the attorney who rejects shall explain to opposing counsel the reasons for the rejection. It is REQUIRED that, by the time of the settlement conference, Plaintiff(s) will have made a good-faith offer to settle the case and Defendant(s) will have made a good-faith counter-offer of settlement.

   Seven days before the settlement conference, the parties shall submit confidential, *ex-parte* settlement statements directly to the Magistrate Judge's chambers. The statement must be delivered by e-mail to the case manager (Shelby_hicks@mied.uscourts.gov) If the settlement statement exceeds 10 pages, with exhibits, counsel must also submit a courtesy hard

copy delivered directly to chambers at least 48 hours before the start of the settlement conference. DO NOT FILE THESE STATEMENTS WITH THE COURT. The statements will not become part of the case record, and parties are directed to be candid in their statements. **The statements shall be limited to five pages (double-spaced; 14-point font) and shall include the following:**

1. A brief description of the nature of the case;
2. A description of how you would present this case if you were on the opposing side (it is exceedingly important that you present this section objectively. **Do Not** resort to becoming an advocate, again, on behalf of your client);
3. A brief summary of all settlement discussions that have taken place to date, including the history of any offers/counter-offers that have been made, including the last demand and offer made at the pre-conference meet-and-confer;
4. A statement of why the most recent demand or offer was rejected; and
5. A realistic statement of what the party requires in order to settle the case.

Counsel may also attach up to five exhibits, which are deemed to be *particularly crucial* to demonstrate the parties' positions, e.g., photographs of an accident scene or injury, crucial contract language, key notations in a medical record, side-by-side comparison of an alleged copyright infringement, critical business records, etc. Exhibits must be separated by protruding tabs, and relevant portions of exhibits must be highlighted or they may not be read. While the settlement statement may include a summary of the facts, claims and defenses, it is not a summary judgment motion, and counsel should be mindful that the Magistrate Judge who is facilitating settlement is not trying the case or deciding dispositive motions at this point.

3. **PROCEDURES DURING THE CONFERENCE**

One attorney for each party should be prepared to give a short summary of their case at the beginning of the settlement conference. The summary should identify the remaining issues in the case and the evidence that supports the party's position on those issues.

At the settlement conference, the parties and their attorneys are expected to conduct themselves in a business-like manner and to negotiate in good faith. Posturing and other theatrics are counter-productive and prohibited.

The Court sends a Notice with detailed information regarding attendance and other matters. Scheduling and all other contact regarding settlement conferences is handled by Shelby Hicks, Case Manager.

Social Security

Social security cases generally seek a judicial review of the administrative agency's final decision denying benefits. Oral arguments are not held unless the parties give written consent to full adjudication before a Magistrate Judge pursuant to 28 U.S.C. § 636. In such cases, the Court *generally will* hold oral argument upon its own volition. Parties should not, however, request or expect oral argument.

1. **Timelines**

   The Court expects that proof of service will be filed within 90 days after the complaint is filed. If service of the complaint is not shown on the docket, the Court will send an Order to Show Cause to Plaintiff. Within one week of filing a transcript of the administrative record, the government is required to forward to Judge Patti's chambers a bound, paper copy of the entire record.

   After the filing of the government's answer with a transcript of the agency hearing, the Court will issue a briefing schedule for dispositive motions. These dates are designed to provide sufficient time for briefing and filing; therefore, requests for adjournments must show good cause in order to be considered. The matter is ready for decision or recommendation as of the date motions are due or filed, whichever comes first.

2. **Briefing**

   All motions and briefs must comply with Local Rule 7.1. The parties are particularly reminded of the requirement that all briefs must include an "Issues Presented" page. On that page, the parties shall outline the issues to be presented in their briefing. In the case of a motion for summary judgment or remand, the "Issues Presented" must indicate the error allegedly committed by the Administrative Law Judge, i.e., the bases for the appeal and grounds for reversal. Within the parties' briefs, the issues presented should be labeled as section headings, and should match the items listed on the "Issues Presented" page. Any issue addressed in the brief that is not both: 1) included in Issues Presented and 2) labeled as a section heading within the brief, <u>will not be considered by the Court</u>.

Trials

NOTE: A PAPER COPY of all documents filed in accordance with the instructions appearing below must arrive in chambers no later than THREE DAYS prior to the event in question. Deadlines for filing documents in the ECF system are specified below.

1. **PRETRIAL**

   The Court will conduct a Final Pretrial Conference ("FPTC") prior to the first day of trial in civil cases. Trial counsel for all represented parties, and all parties proceeding *pro se*, must appear at the FPTC and have settlement authority. During the FPTC, the Court will set a trial schedule, discuss *voir dire*, rule on motions *in limine*, and resolve disputes over exhibits and jury instructions to the extent possible.

   The parties are required to confer and finalize a concise Joint Final Pretrial Order ("JFPTO") that is approved and signed by all parties or their counsel. Unless directed otherwise by the Court, the original and one copy of the JFPTO must be arrive in the Magistrate Judge's chambers no later than three days before the FPTC. The Court will not extend the date for submission of the JFPTO. In all other respects, the Federal Rules of Civil Procedure and E.D. Mich. LR 16.2 apply.

   Motions *in limine* are generally due for filing in the ECF system three to four weeks before trial, and responses must be filed one week after that. Motions *in limine* will be decided in advance of the first day of trial whenever possible.

2. **TRIAL**

   Trials are scheduled for dates certain. The Court will provide a written schedule of the time and days set aside for trial on the first day. Counsel should plan the availability of their witnesses according to the schedule. To avoid interruptions, counsel should alert the Court of matters that need addressing outside of the presence of the jury before or after the trial day or over lunch breaks.

3. **CRIMINAL TRIALS**

   The Court handles Class A 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. The Magistrate Judge may try and dispose of all infractions, Class B and C misdemeanor cases, with or without the defendant's consent. *See* 18 U.S.C. § 3401(b) and 18 U.S.C. § 19. Appeals are to the District Judge.

   Trial briefs and witness lists must be filed one week before the commencement of trial in all criminal cases.

4. **NON-JURY TRIALS**

   The parties must file trial briefs and proposed findings of fact and conclusions of law no later than one week before a bench trial is scheduled to begin. Proposed findings and conclusions may be supplemented or amended at the conclusion of trial. In addition to filing the proposed findings and conclusions, parties must deliver to the Magistrate Judge's chambers electronic versions of those documents that are compatible with Microsoft Word. Electronic versions may be submitted by email (shelby_hicks@mied.uscourts.gov), compact discs, or a USB

portable drive.

5. **JURY TRIALS**

Prior to the FPTC, the Court will issue a Scheduling Order detailing the due dates for proposed jury instructions and *voir dire*. On or before the due date, Plaintiff shall file a set of Joint Proposed Jury Instructions with proper notation indicating the jury instructions to which all parties agree, the instructions that remain disputed, and the areas of dispute.

6. **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. A form will be provided at the time of the jury selection. Counsel will exchange *voir dire* questions in advance. The Court will meet briefly with trial counsel in chambers prior to jury selection to answer any questions and resolve any disputes as to the potential *voir dire* questions. No additional peremptory challenges are granted unless requested in advance via motion.

In civil cases, the strike method is used. Under this method, the number of individuals who will be on the jury (e.g. 8) plus the total number of peremptory challenges (e.g. 3 + 3) are seated. *Voir dire* is conducted on this group and when the group has been passed for cause, peremptory challenges are exercised at the bench without additional questioning.

In criminal cases, 12 persons plus alternates are seated in the jury box. Challenges are made separately as to the jury and the alternate jurors in conformance with Federal Rule of Criminal Procedure 24. However, counsel may agree to exercise challenges on the group as a whole instead.

In both civil and criminal cases, the Court asks preliminary questions regarding background information and scheduling issues and then conducts the initial *voir dire*. The Court will then generally permit counsel to conduct their own *voir dire*, so long as the privilege is not abused and it is not utilized as a means of blatant advocacy or for the purposes of tainting or prejudicing the jury panel. The Court may impose equal limits on the time allotted to or the number of questions permitted to each side or party.