

PRACTICE GUIDELINES - COURTROOM 8A

(Rev. 12-08)

I. PROFESSIONALISM

Professional behavior best serves your clients and this Court. Contention that merely increases cost or delay for litigants, or wastes the court's limited resources is unwelcome. The "*Introductory Statement on Civility*" published at the front of the *Local Rules for the United States District Court for the Southern District of Ohio* has universal applicability.

II. CONTACT WITH COURT STAFF

If you have questions about the procedures in Courtroom 8A, please contact the persons indicated below.

SECRETARY Vanita Sipe (462-6281): general inquiries.

BAILIFF Sharon Lynch (462-5898): Contact about case scheduling including reporting status of cases definitely coming up for trial or reporting cases are settled; requests to have cases referred to court mediation; or other general inquiries.

STAFF ATTORNEY Adam E. Crowell (462-5890): to request status conferences, or oral argument on significant motions; or inquire about court procedures or pending motions.

MAGISTRATE Tim Harildstad (462-5995): to request transfer of a matter by consent for a jury trial, mediation, or other proceeding (including damages hearings on default judgments.)

COURT REPORTER Carol Jung (462-3765): to order transcripts.

III. CONTINUANCES / COMM'L DOCKET DEADLINES

A(1) Note that Temp. Sup. R. 1.07(A)(1) (Commercial Docket Cases) contemplates that commercial docket motions will receive a ruling within 60-days after the motion was "filed" (not after all briefing was completed.) Temp. Sup. R. 1.08(A) provides that trials on the commercial docket will occur within 18 months, failing which this court is obligated to explain the delay to the statistical reporting section of the Supreme Court. Any requests for continuances which could, practically speaking, jeopardize the court's ability to meet those targets

should be **specifically** brought to the court's attention before any such continuance or schedule change is requested.

(2) Stipulations or "Agreed" Entries **are not sufficient** to postpone case deadlines or trial dates in Courtroom 8A.

3) Motions to amend the Civil Case Schedule should either be submitted in person at a conference with the court, or filed with the Clerk's Office. Be certain to talk to all other counsel before approaching the court.

4) If a case genuinely appears likely to require a trial, alert chambers as early as possible so that we can do our best to assign a firm trial date after allowing adequate time for pretrial proceedings.

B. Papers filed in the Clerk's Office may require as much as 4 weeks to physically get into the case file and reach chambers. When urgent attention is sought, please deliver time-stamped copies of motions along with a proposed Entry for the Judge's signature to Chambers 8A.

IV. OTHER MOTIONS AND MEMORANDA

A. Counsel must obtain leave of court prior to filing a Motion or Memorandum out of rule or beyond the motion deadline in the Case Schedule. A Stipulation among counsel will not alter any deadline absent express approval by the court.

B. Page limits (Local Rule 12) serve a salutary purpose. Ordinarily, counsel should edit tightly and live within the limits. To assist in meeting page limits, unless otherwise advised counsel may assume no briefing is necessary on the legal standards applicable under Civ. Rules 12, 26, 37, 56 or 60(B).

C. In responding to a Civ. R. 56 motion, it is very valuable to have counsel initially and specifically identify precisely what, if any, material disputes of fact are asserted to exist. Citations to witness depositions or other parts of the record that demonstrate such disputes are, of course, essential.

D. Stipulations of fact are valuable tools. Counsel should discuss stipulations early, since stipulations simplify discovery and speed pretrial motion practice as well as trial.

E. Note that, in addition to the Ohio Rules of Civil Procedure, Local Rule 47.01 requires counsel to make every effort to resolve discovery disputes prior to involving the court. This obligation is enforced in Courtroom 8A.

F. Even when agreed upon by counsel, Judge Frye does not favor "boilerplate" confidentiality/protective orders, particularly those that seek to

place virtually all discovery material under some nondisclosure status. Please recognize that material used for case-dispositive pretrial rulings or at trial is, ordinarily, by law a matter of public record.

V. CONFERENCES AND ORAL ARGUMENTS

A. The court does not routinely hold pretrial conferences or hear oral argument on motions. However, in cases of complexity or matters likely to actually go to trial the court will hold status conferences and a Final Pretrial Conference. Similarly, upon request the court will hear oral argument on significant motions.

B. Normally the court expects out-of-town (including *pro hoc vice*) trial counsel to attend all court proceedings in person, rather than by telephone or using only local counsel. (There is no conference telephone capability in Courtroom 8A.) Unless otherwise ordered, however, clients and insurance representatives need not attend pretrial conferences or arguments in person.

VII. TRIAL PROCEDURES

A. Ordinarily trials commence at 9:00 a.m. and recess for the day around 4:30 p.m. These hours can be altered somewhat to accommodate witness schedules. While pleas in criminal cases and, occasionally, other business of Courtroom 8A may be conducted during breaks or over the noon hour, once a jury is sworn we make it a priority to move jury trials to completion. Please plan accordingly.

B. Motions *in Limine* are discouraged. They may be filed only after good faith discussion by counsel, and upon certification that reasonable efforts to resolve the issue(s) were exhausted.

C. Trial briefs are not required. Counsel may submit copies of key cases or short memoranda addressed to novel legal issues.

D. Marking exhibits during trial wastes time. The court reserves the right to exclude Exhibits not pre-marked and exchanged among counsel prior to trial.

F. Prior to opening statements, the court gives an oral charge to orient jurors to their role. The final jury charge is submitted to each juror in writing in all cases. The court has a standard set of “boilerplate” instructions covering the burden of proof, credibility, rules for deliberating, and other matters common from case to case. However, trial counsel must consult and prepare case-specific portions of the final charge. Merely saying “we’ll just use OJI” leaves far too much work to complete and may delay trial.

G. Local Rule 27.13(F) sets out “Rules on Voir Dire.” Because juror questionnaires are available, lengthy voir dire usually is unnecessary.

H. Challenges are normally exercised outside the presence of the jury.

I. Stipulations should be presented as early as possible during trial to minimize confusion and avoid unnecessary questioning thereafter.

J. Juror note taking is permitted.

K. Questions from jurors during trial are not permitted.

L. This court does not “qualify” witnesses as “expert” so please do not ask during trial.

M. Display of Exhibits to the jury in opening statement, or before formal admission is permitted absent objection by opposing counsel. However, share all such material with other counsel before displaying it.

O. Trial counsel are expected to remain available on ten (10) minutes notice during jury deliberations.

P. The court sometimes imposes time limits on opening statements, voir dire, closing argument and the overall presentation of evidence where counsel are unable to closely manage the anticipated duration of their case. Jurors in this court are ordinarily summoned for a two-week period, and staying within that time frame is essential in all but the most complex trials.

Q. Refer to participants, including your own client(s), as “Mr.” or “Ms.” or use other appropriate titles such as “Dr.” Do not refer to adult witnesses by first names in open court.

VIII. SETTLEMENT

Consistent with Local Rule 22, Counsel **must** call the Bailiff as soon as possible to advise when a case is settled. This Court normally has multiple trials scheduled every day; notice enables the Court and attorneys in other pending cases to plan appropriately. Furthermore, prompt notice avoids unnecessary work on motions after a matter already is resolved by the parties.