

## Case Management and Scheduling Guidance

For Litigants Appearing Before Magistrate Judge David E. Jones

The following provides general guidance to counsel on how Magistrate Judge Jones typically manages and schedules matters. Notwithstanding this guidance, counsel have an opportunity through their Fed. R. Civ. P. 26(f) Reports and the Fed. R. Civ. P. 16 Conference to fashion a schedule or to establish procedures that best meet their needs, the needs of their clients, and the purposes of Fed. R. Civ. P. 1. Counsel are also advised to review the Court's Trial Procedures and Deposition Practices, which are provided to counsel along with the initial scheduling order, and can also be found at the Court's website here:

[http://www.wied.uscourts.gov/index.php?option=com\\_contxt&task=view&contact\\_id=27&Itemid=99999999](http://www.wied.uscourts.gov/index.php?option=com_contxt&task=view&contact_id=27&Itemid=99999999)

<b>General</b>	Applies to Civil and Criminal Cases
Form of Pleadings	<p>A. Counsel should be familiar with General L.R. 5(a).</p> <p>B. The Court prefers at least 12-point font and, if footnotes must be used (which should be rare), the footnote font shall be the same size as the text.</p> <p>C. Please do not use all caps for section headings. Some legal writing instructors advise to bold a subject heading without using any capitalization except for the first word.</p> <p>D. For excellent general guidance on form, typography, font, and punctuation, you cannot go wrong following the guidance found at the Seventh Circuit's website here: <a href="https://www.ca7.uscourts.gov/Rules/type.pdf">https://www.ca7.uscourts.gov/Rules/type.pdf</a></p> <p>E. Please use <i>The Bluebook</i> for citation form.</p> <p>F. Citation to docket entries can be done as follows: (ECF No. ___).</p> <p>G. Please note that the Court uses word limits (8,000 for principal briefs/4,000 for replies) instead of page limits for dispositive motions.</p>
Electronic Court Filings (ECF)	<p>A. <i>Motions</i>: Any request for relief from the Court, including any request for an extension of time, must be made by way of a motion. This includes a joint or agreed upon motion when parties mutually seek relief or when the relief sought is unopposed.</p>

	<p>B. <i>Letters</i>: The ECF event “Letter” should be reserved for filings that do not include any request for relief (for example, responding to a deputy clerk’s request for the status of a case or informing the court that a reply brief will not be filed).</p> <p>C. <i>Requests</i>: The ECF event “Request” should be reserved for requests for action from the Clerk of Court and should not be used for any request for relief by the judge.</p> <p>D. <i>Stipulation</i>: The ECF event “Stipulation” (which is separate from the event “Stipulation of Dismissal”) should be used for an agreement of the parties only when no relief from the Court is sought.</p> <p>E. <i>Attachments</i>: Care should be taken to name electronically filed attachments. Rather than simply naming an exhibit “Attachment 1,” a better practice is to use a descriptive title such as “Ex. A – 2015 Laundry List.”</p>
Courtesy Copies of ECF Filings	The Court will advise the parties if it wants courtesy copies. Accordingly, it is not necessary to submit paper copies of ECF-filed documents.
Oral Argument	The Court looks favorably on requests for a hearing.
Motions for Extensions/to Change Deadlines	<p>A. Counsel seeking to change a deadline or otherwise obtain an extension of time must consult with opposing counsel to determine if there is any objection.</p> <p>B. If there is no objection to the request, then counsel shall so state in the motion and state that the requested extension is necessary for the just, efficient, and inexpensive resolution of the case. The Court will respond by issuing an ECF text order approving or denying the request.</p> <p>C. If there is objection, the parties shall jointly contact a Courtroom Deputy to schedule a telephonic or in-person hearing, at which the Court will rule on the request. No papers shall be filed in support of or in opposition to the request.</p>
Motions to Strike	These are disfavored and shall be filed only in extraordinary circumstances. Ordinarily, if a party does not like a motion or filing, file an opposition, not a motion to strike.

<p>Protective Orders and Documents Filed Under Seal/Motions to Seal</p>	<p>A. Proposed protective orders shall not contain language giving the parties advance permission to file documents under seal. No document treated as confidential under a protective order may be filed under seal unless the Court, on separate motion for good cause shown, grants leave to file under seal.</p> <p>B. Proposed protective orders must contain the following language: “The parties understand that they must comply with General L.R. 79(d) before the Court will seal any material or information filed with the Court. Nothing contained herein affects the Court’s discretion in determining whether filed information will be sealed.”</p> <p>C. Any request for filing under seal shall be limited to the smallest portion of the document that requires sealing. In other words, the confidentiality of matters in one exhibit or on a few pages of a lengthy brief will not justify the sealing of other exhibits or the entire brief. <i>See</i> General L.R. 79(d) and Committee Comment.</p> <p>D. In addition to complying with Gen. L.R. 79(d) and Seventh Circuit precedent, any party seeking to seal any document must ensure that only the confidential portions of that document are withheld from public view. Redactions will be kept to the absolute minimum to preserve confidentiality.</p>
<p>Contact Information</p>	<p>Chambers: 414.290.2261  Law Clerk Jeremy Heacox: 414.290.2261  Courtroom Deputy Diane Dimiceli: 414.297.3373 (Ms. Dimiceli is responsible for all cases in which the case number ends in an odd number)  Courtroom Deputy Katina Hubacz: 414.297.1200 (Ms. Hubacz is responsible for all cases in which the case number ends in an even number)</p>

<b>Civil</b>	
Motions to Amend Pleadings	<p>A. To satisfy Civil L.R. 15(b), counsel seeking to amend a pleading must submit a red-lined version showing the changes sought along with the clean version to be filed.</p> <p>B. Counsel moving to amend a pleading after the deadline for doing so has expired must contact opposing counsel to determine if there is any objection and so state in the motion. If there is objection, then the parties shall jointly contact a Courtroom Deputy to schedule a hearing, at which the Court will rule on the amendment. A red-lined copy and a clean copy of the amended pleading must be filed as attachments to the Motion. No other papers in support of or in opposition to shall be filed.</p>
Oral Argument for Discovery and Dispositive Motions	<p>A. For discovery motions in civil cases, the Court will typically require parties, after meeting and conferring has failed, to contact a Courtroom Deputy, with both parties on the line, to set up a telephonic or in-person pre-motion conference prior to filing any papers.</p> <p>B. At the conference, the Court will either resolve the dispute or will direct the parties to engage in focused briefing. The Court will then resolve the dispute based on the briefing, usually without a further hearing unless requested by the parties.</p> <p>C. For dispositive motions, both parties shall jointly contact a Courtroom Deputy a week after briefing has been completed either to schedule an oral argument date or to advise the Court that oral argument is not requested.</p> <p>D. If requested, oral argument will typically be three months after the motion has been briefed. The Court will issue an Order resolving the Motion at or shortly after the hearing. In some cases, the Court will issue an Order with an Opinion to follow.</p>
Motions for Reconsideration	<p>These should be rare and must identify which element of Rule 60(b) entitles the party to relief. The Court does not view Fed. R. Civ. P. 59(e) as support or authority for a Motion for Reconsideration.</p>

<p>Expedited Motions under Civil L.R. 7(h)</p>	<p>Non-dispositive matters that require expedited attention shall be handled in the same manner as discovery disputes. Instead of filing a motion, the parties shall jointly contact a Courtroom Deputy or chambers directly to schedule an in-person or telephonic conference, at which the Court will resolve the matter or request briefing consistent with the requirements of Civil L.R. 7(h). If the Court requests briefing, it will contact the parties if it determines that an additional hearing is necessary.</p>
<p><i>Damasco</i> Class Certification Motions</p>	<p>In accordance with <i>Damasco v. Clearwire Corp.</i>, 662 F.3d 891 (7th Cir. 2011), counsel representing plaintiffs in class actions not uncommonly file a motion for class certification at the same time they file their Complaint. When in receipt of such a motion, the Court will issue a Text Order saying that the matter is under advisement and will be briefed in accordance with a schedule set at the Rule 16 conference.</p>
<p>Case Time Frames/Length to Trial</p>	<p>A. Non-complex commercial matters will be scheduled for trial approximately twelve to fourteen months after the Complaint is served.</p> <p>B. Class actions and complex matters (e.g., patent or antitrust) will be scheduled for trial approximately fifteen to eighteen months after the Complaint is first served and will typically have dispositive motions due no later than six months before Rule 26(a)(3) materials are due.</p> <p>C. Inmate conditions of confinement cases will be scheduled for trial approximately fourteen months after service of the Complaint.</p>
<p>Rule 16 Conferences</p>	<p>A. A Rule 16 Conference will typically be scheduled between thirty and sixty days after all parties have consented to jurisdiction before a Magistrate Judge. Accordingly, a Rule 16 Conference may be scheduled before a responsive pleading is due.</p> <p>B. If the Rule 16 Conference is held before the responsive pleading deadline, the Court will ask the responding party whether they plan to file an Answer or instead will move to dismiss. If the latter, the Court will enquire whether the motion to dismiss pertains to a matter that can be cured by plaintiff, and if so, will determine whether plaintiff is able to amend the Complaint as sought by defendant.</p> <p>C. At the Rule 16 Conference, the parties should raise any issues they have with the guidance contained herein, with</p>

	<p>the Court’s Deposition Procedures or with the Court’s Trial Procedures.</p> <p>D. The Court will address whether the parties wish to have entered a Fed. R. Evid. 502(d) Order.</p> <p>E. The Court will address whether a time should be set after which a filing will be considered filed the next calendar day.</p> <p>F. The Court will set a trial date, and the parties shall provide a proposed trial date in their Rule 26(f) Report.</p> <p>G. The parties will be asked about their willingness to mediate their dispute.</p> <p>H. The parties will be asked whether litigation holds are in place.</p> <p>I. The Court will address any other matters advanced by the parties.</p>
<p>Rule 26(f) Report Dates</p>	<p>A. Trials are always scheduled to begin on a Monday.</p> <p>B. The Final Pretrial Conference is typically scheduled on a Thursday or Friday at least a week or two before trial. The Final Pretrial Conference will typically start at 9:00 a.m. and will be used by the Court to resolve all objections to exhibits and witnesses and all motions in limine.</p> <p>C. Rule 26(a)(3) materials (witness list, exhibit list, and deposition designations), proposed voir dire, motions in limine, jury instructions, and verdict forms should be filed approximately four weeks before the Final Pretrial Conference. To the extent possible, parties should use the Federal Civil Jury Instructions of the Seventh Circuit, found here: <a href="https://www.ca7.uscourts.gov/Pattern_Jury_Instr/7th_cir_civil_instructions.pdf">https://www.ca7.uscourts.gov/Pattern_Jury_Instr/7th_cir_civil_instructions.pdf</a></p> <p>D. Objections to witnesses or exhibits, objections or counters to deposition designations, objections to proposed voir dire or jury instructions or verdict forms, and oppositions to motions in limine should be filed approximately two weeks before the Final Pretrial Conference.</p> <p>E. As indicated above, dispositive motions should be scheduled at least five and preferably six months before Rule 26(a)(3) materials are due. A week after briefing on the dispositive</p>

	<p>motion is completed, the parties shall jointly contact a Courtroom Deputy to schedule an oral argument on the motion. This oral argument will typically be set three months after briefing is complete.</p> <p>F. The parties do not need to include expert disclosure dates. Those dates can be negotiated by counsel without the Court’s involvement. Any dates agreed to by counsel are enforceable by the Court, but counsel are free to agree to change expert disclosure dates without judicial involvement.</p> <p>G. If the matter is a class action, the parties should include dates for class certification briefing. Typically, certification is ready to be briefed approximately three to five months after the Answer is filed.</p> <p>H. The parties are free to close discovery before or after dispositive motions are due. If after, parties are advised to close discovery before submission of Rule 26(a)(3) materials.</p>
<p>General Guidance on Flexibility with Dates</p>	<p>A. Trial dates are firm. The Court will not move a trial date, even if the parties stipulate to an adjournment or even if the parties are close to settling, absent extraordinary circumstances.</p> <p>B. All other internal case dates are flexible, as long as the schedule provides for a period of five to six months between the submission of dispositive motions and the submission of Fed. R. Civ. P. 26(a)(3) materials. These latter submissions are burdensome, and the Court wants to ensure it has time to rule on any dispositive motion before the parties have to undertake the effort of preparing pretrial submissions.</p>
<p>Patent Cases</p>	<p>A. Parties are free to establish in their Rule 26(f) Reports any set of procedures and deadlines that they feel will prepare the case for resolution. The Court recommends that the parties consider, though they need not adopt, the patent rules established in the N.D. Ill., which can be found here: <a href="http://www.ilnd.uscourts.gov/LocalRules.aspx?rtab=patentrules">http://www.ilnd.uscourts.gov/LocalRules.aspx?rtab=patentrules</a>.</p> <p>B. If the parties have a special need for an early claim construction, they should jointly contact a Courtroom Deputy to schedule an in-person or telephonic conference with the Court. No papers in support of or in opposition to an earlier claim construction hearing shall be filed.</p>

- C. The parties are required to establish dates for exchange of general claim charts showing infringement, key claim terms, and proposed claim constructions. The parties may also establish deadlines for other procedures that, in their experience, further the interests of Fed. R. Civ. P. 1. These dates and procedures may be, but need not be, included in the parties' Rule 26(f) Report.
- D. The Court does not require, and discourages the parties from requiring, the exchange of detailed infringement or invalidity charts at any time before expert reports are due. Such charts are commonly included in expert reports, and the Court sees no point in prematurely preparing this material.
- E. Patent holders may assert no more than five claims per patent, and no more than twenty claims in total. In a single-patent case, therefore, a patent holder may assert only five claims. If a patent holder wishes to assert more than five claims per patent or more than twenty total claims, the patent holder must move the Court in writing pursuant to Civil L.R. 7 and provide a detailed explanation as to how the extra claims do not duplicate claims that fall within the limits.
- F. Accused infringers may identify no more than five pieces of prior art per claim and no more than twenty pieces of prior art in total. In a single-patent-claim case, therefore, an accused infringer may identify only five pieces of prior art. If an accused infringer wishes to identify more than five pieces of prior art against a claim or more than twenty total pieces of prior art, the accused infringer must move the Court in writing pursuant to Civil L.R. 7 and provide a detailed explanation as to how the additional prior art does not duplicate or is otherwise redundant of prior art that falls the limits.

<b>Criminal</b>	
Motions Pertaining to Release or Detention	<p>A. Prior to the filing of a plea agreement or an adjudication of guilt (whichever occurs first), all motions pertaining to release or detention (e.g., motions for reduction of bail, modifications of conditions of release, travel requests, and reconsideration of detention orders) shall be addressed to the magistrate judge who set the conditions of release or issued the order of detention.</p> <p>B. Any motion or response pertaining to release or detention to be addressed by this Court must be emailed to <a href="mailto:JonesPO@wied.uscourts.gov">JonesPO@wied.uscourts.gov</a> in addition to being electronically filed.</p> <p>C. Prior to filing any motion pertaining to conditions of release (including motions to travel), counsel must consult with the Pretrial Services officer supervising the defendant and the Assistant United States Attorney assigned to the case and state in the motion each person’s position as to the relief sought.</p> <p>D. Every request for court action regarding detention or the conditions of release must be made by way of a “Motion” and not, for example, by a “Letter” or “Request.”</p> <p>E. After a plea agreement has been filed or an adjudication of guilt (whichever comes first), all motions pertaining to release or detention shall be addressed to the U.S. District Judge assigned to the case.</p>
Motions to Adjourn or Change the Trial Date	All motions pertaining to the trial date must be filed with the U.S. District Judge who will try the case and cannot be heard or resolved by the Magistrate Judge.
Criminal Evidentiary Hearings	<p>A. In accordance with Criminal Local Rule 12(c), defense counsel filing any pretrial motion wherein an evidentiary hearing is requested must consult with the assigned Assistant United States Attorney as to whether the parties agree that an evidentiary hearing is necessary.</p> <p>B. Criminal Local Rule 12(c) requires both that this consultation occur sufficiently in advance of the filing of the motion to provide the prosecutor sufficient time to meaningfully evaluate the need for a hearing and that the prosecutor will evaluate the need for a hearing prior to the</p>

filing of the motion. It is generally not appropriate for a prosecutor to attempt to reserve an opinion as to the need for an evidentiary hearing until after reviewing the filed motion; Rule 12(c) contemplates that this evaluation occur before the motion is filed.

- C. Consistent with the informal agreement between this district's magistrate judges and the United States Attorney's Office as to timing under Crim. L.R. 12(c), any response to a request for an evidentiary hearing must be filed within 3 calendar days. Therefore, if a motion requesting an evidentiary hearing is filed on Wednesday, Thursday, or Friday, the prosecutor's response, if any, is due no later than the following Monday. When a motion is filed on a Thursday or Friday, the Court will generally look favorably on requests by the prosecutor to file its response the following Tuesday or Wednesday.
- D. If the Court grants the request for an evidentiary hearing, then the pretrial motions briefing schedule will be suspended, and a new briefing schedule will be set at the conclusion of the evidentiary hearing.