



CASE MANAGEMENT PROCEDURES

Judge David W. Dugan

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CIVIL CASES

Conflicts of Interest

In order for Judge Dugan to quickly identify potential conflicts of interest, all counsel for non-governmental parties must disclose interested parties and affiliates in accordance with Federal Rule of Civil Procedure 7.1.

Counsel shall provide updated information as necessary throughout the pendency of the action.

Rule 16 Conference

The Court will schedule a Rule 16 Scheduling and Discovery Conference after the case is assigned a track. *See* SDIL-LR 16.1. The purpose of the Scheduling and Discovery Conference is to identify and address novel or difficult discovery issues and to discuss other matters relevant to resolving the litigation.

The Scheduling and Discovery Conference will be conducted remotely by video conferencing. Instructions for attending will be provided in the Order setting the scheduling conference. The attorney who is most familiar with the case should participate.

At least twenty-one (21) days prior to the Rule 16 Scheduling and Discovery Conference, parties must meet and confer, in accordance with Federal Rule of Civil Procedure 26(f).

At least seven (7) days prior to the scheduling conference, the parties must submit a Joint Report of Parties and Proposed Scheduling and Discovery Order (“Joint Report”) to the Court via e-mail at DWDpd@ilsd.uscourts.gov. The Joint Report should be submitted using one of the following forms:

- (1) [Joint Report for Cases Referred to Mandatory Mediation](#);
- (2) [Joint Report for Cases not Referred to Mandatory Mediation](#); or
- (3) [Joint Report for Class Actions](#).

These forms are also available on the “Forms” page of the District Court’s website (www.ilsd.uscourts.gov/forms-0).

The Court will review the Joint Report and assess whether the Scheduling and Discovery Conference is still needed. If the Court determines that the scheduling conference is no longer necessary, it will (1) enter a notice cancelling the Scheduling and Discovery Conference; (2) enter an order adopting the Joint Report with any modifications; and (3) enter a notice setting the case for a status conference following the dispositive motion deadline.

The Court is mandated to enter a scheduling order and, therefore, very rarely continues Rule 16 Conferences. Rule 16 Conferences will be held regardless of the pendency of dispositive motions, such as a motion to dismiss or a motion to remand.

Status Conferences

Generally, after a scheduling order is entered, the Court will set the case for a status conference following the dispositive motion deadline. If at any time during the pendency of the litigation the parties believe that an additional status conference would be beneficial, they may request one by filing a motion.

Discovery Disputes

A. *Good Faith and Requisite Discovery Conference*

In addition to the following, the Parties shall comply with the requirements of Rule 37 as it pertains to discovery, compelling disclosure, and discovery disputes. The parties are encouraged to resolve discovery disputes informally without Court intervention. The party seeking the discovery (or to avoid answering or responding to discovery) must, in good faith, confer or attempt to confer with the other party regarding the dispute. A good faith effort means more than simply an exchange of letters or e-mails. It means the parties have conducted a discovery conference (in person or via phone or video) in an effort to resolve the discovery dispute.

B. *Procedure for Submitting Unresolved Discovery Disputes to the Court*

If, after conducting a discovery conference, the parties are unable to resolve the discovery dispute, they shall submit a joint written discovery report to the Court at DWDpd@ilsd.uscourts.gov. The report shall be signed by all parties, and shall detail the date, duration of, and medium used for the discovery conference. The report shall further identify and describe:

1. All discovery areas or issues discussed by the parties during the discovery conference;
2. The discovery areas or issues resolved; and
3. The specific discovery or issues not resolved or still in dispute.

For any issues not resolved or still in dispute, the report should specify in a clear and concise fashion the exact basis or bases for the objection(s) to each discovery request and the proponent's response thereto. Additionally, if written discovery is involved, the parties shall include copies of the complete original discovery request at issue and the corresponding answer or objection.

Any discovery dispute, basis therefor and the basis for any objection to any proposed discovery request may be considered waived if not specified in the joint

written discovery report.

Compliance with the above requirements must be demonstrated **prior** to filing of any Motion to Compel, Motion for Protective Order or similar motion or request as provided for in Section C.

C. *Discovery Motion Practice*

In the event that discovery disputes remain unresolved after submission of the joint written discovery report, either party may file within 14 days of such submission a Motion to Compel, Motion for Protective Order or similar motion or request regarding those reported but unresolved disputes. The party objecting to or disputing the discovery request must file a response, if at all, within 7 days of the filing of the motion. Given that the parties should have complied with the joint report process, any motion or response thereto is limited to 7 pages. The Court may not consider any motions pertaining to unresolved discovery disputes unless the movant demonstrates compliance or a good faith attempt to comply with Section A and B.

D. *Objections During Depositions*

Objections to questions during depositions should simply be stated on the record to be resolved at a later date. Calls to chambers during a deposition are *strongly* discouraged.

E. *Expenses*

In appropriate circumstances, the Court will make an award of expenses in accord with Federal Rules of Civil Procedure 26 and 37.

Mandatory Mediation Program

The Southern District of Illinois has adopted a Mandatory Mediation Plan. *See* SDIL-LR 16.3(a); Administrative Order No. 301. Under the plan, non-exempt civil cases are referred to the Court's Mandatory Mediation Program when a trial date is assigned. Other cases may be referred into the program at Judge Dugan's discretion.

Settlement Conferences

At this time, the Court will not routinely set a settlement conference. If requested by counsel and if appropriate under Southern District of Illinois Local Rule 16.3(b), Judge Dugan may ask a District Court Judge or Magistrate Judge to conduct a settlement conference or, if all parties consent, Judge Dugan will conduct the settlement conference himself.

If a settlement conference is held by a judicial officer, the following rules apply:

- Lead counsel must attend.
- The parties must attend.
 - A named individual defendant need not attend if covered by liability insurance. In that case, an insurance representative with full authority to negotiate and settle the case must attend. Frequently, an insurance representative appears with authority only to a certain dollar limit, which is typically insufficient to achieve a settlement. It then becomes necessary to track down by telephone the person with further authority so that negotiations can be completed. This is disruptive and inefficient. A good rule of thumb for litigants trying to select a proper representative is to bring a person who can agree to any sum demanded/offered by the opposing party without resort to the telephone.
 - In employment cases, the defendant(s) should not bring anyone who had any relevant input in the employment decision(s) that gave rise to the underlying lawsuit. In some cases, due to the size of the defendant company, this is unavoidable. When it can be avoided, however, it must be. A good rule of thumb is to leave behind anyone who might testify at trial concerning the reasons for the employment action taken. Additionally, corporate counsel are often consulted prior to an employment decision, inextricably linking them to the event that gave rise to the underlying lawsuit. Therefore, when possible, corporate counsel should not attend the settlement conference.
 - Municipalities, counties, and other public entities represented by boards are often sued in federal court. On many occasions, a quorum of a governing board has appeared at a settlement conference. This is not problematic so long as Open Meetings Act laws are not violated. Counsel is urged to take appropriate precautions.

Defendants who appear with nothing but nuisance money to settle a case may be considered to be acting in bad faith and may find themselves paying the cost of plaintiff(s) and plaintiff(s)' attorneys to attend.

Settlement statements are to be submitted at least seven (7) days prior to the settlement conference. Click [here](#) for a copy of the Settlement Statement of Attorney. Settlement statements should NOT be filed in CM/ECF. They should be sent directly to the proposed document folder of the judge holding the conference via email (a complete list is available on the Court's website). Statements in both Word format and PDF format are acceptable.

Rule 26 Disclosures

A. Rule 26 Requirements

As to Federal Rule of Civil Procedure 26, counsel should keep in mind the following:

- Rule 26(a)(1) specifies initial disclosures, and these must be supplemented pursuant to Rule 26(e).
- Rule 26(a)(2)(A) refers to all expert disclosures and, again, these must be supplemented pursuant to Rule 26(e).
- Rule 26(a)(2)(B) addresses retained or specially employed experts. Again, Rule 26(e) requires supplementation.
- Rule 26(a)(3) addresses pretrial disclosures (not discovery), which must be made at least 30 days before trial.

B. Rule 26(a)(3) Earliest Deadline Applies

Please note that, as set forth below, Judge Dugan requires Rule 26(a)(3) disclosures at least 21 days before the final pretrial conference. Accordingly, in some scenarios, Judge Dugan's deadline will differ from the deadline called for in the federal rules. **When this occurs, parties should ensure that their disclosures are filed on the earliest of the two deadlines.**

C. Judge Dugan's Rule 26(a)(3) Deadlines and Procedures

- Rule 26(a)(3) disclosures are due at least **21 days** before the Final Pretrial Conference.
- Objections are due **14 days** after the disclosures are made.
- Rule 26(a)(3) disclosures (and objections) shall be filed electronically with the Clerk of Court.
- Counsel should bring their Rule 26(a)(3) disclosures and any objections to the Final Pretrial Conference and be prepared to argue them to the Court.

Motion Practice

Except in rare situations or emergencies, all motions will be considered by Judge Dugan. The parties will be advised if a motion has been referred to a Magistrate Judge for disposition via the Case Management/Electronic Case Filing (CM/ECF) system.

- ***Pleadings***

All pleadings must be filed with the Clerk's Office via the Case Management/Electronic Case Filing (CM/ECF) system.

- ***Responses & Replies***

In accordance with Local Rule 7.1(c), Judge Dugan allows 30 days for parties to file memoranda responding to dispositive motions, post-trial motions, and motions to remand. For motions other than these, Local Rule 7.1(g) governs response deadlines and supporting brief requirements.

Responsive memoranda should be no longer than 20 pages unless written leave of court is obtained. If filed, reply briefs should be no longer than 5 pages and must be filed within 14 days of service of the response. See Local Rule 7.1(c).

These deadlines and page limits may be altered by Judge Dugan, where appropriate or necessary in a particular case.

- ***Courtesy Copies***

Courtesy copies for complex dispositive motions (*e.g.* cross motions for summary judgment or motions where the parties have been granted leave to exceed the page limit) are appreciated, but not required. The Court prefers courtesy copies to be printed *after* a pleading is filed with the CM/ECF header stamp on the document.

- ***Oral Argument on Motions***

Judge Dugan may set dispositive motions for hearing but does not do so in every case. The Courtroom Deputy Clerk will notify all parties by entering a Notice in CM/ECF when a hearing is set. Counsel may file a motion requesting a hearing if oral argument on a motion is desired.

In addition, the Court is aware that the opportunities for young and inexperienced attorneys to participate in courtroom advocacy have diminished over the past years. The Court believes that courtroom experience is often important to the training of the next generations of attorneys. Therefore, to facilitate the training of the next generation of attorneys, the Court strongly encourages requests for oral argument of motions to further the active participation of any relatively inexperienced attorneys.

- ***Teleconferences/Video Conferences***

If the Court orders a teleconference or video conference, instructions for participating will be included in the CM/ECF notice setting the matter. In the rare case where the Court orders the parties to arrange a teleconference, counsel is responsible for setting up the teleconference with a professional teleconference provider, the cost of which shall be shared by the parties equally, unless Judge Dugan orders otherwise.

Note: For more information regarding remote appearances in Judge Dugan's courtroom, see the "Miscellaneous" section below.

- ***Motions in Limine***

In most instances, Judge Dugan will set a deadline for the filing of all motions in limine. However, in those instances where no deadline is set, motions in limine must be filed no later than **10 calendar days before trial**. Responses to motions in limine must be filed within 7 days after service of the motion. Untimely motions may be denied or stricken, particularly if their consideration would delay the trial.

- ***Daubert Motions***

All *Daubert* motions seeking to exclude expert testimony/evidence must be filed by the dispositive motion deadline, not the motion *in limine* deadline. **Counsel is ADVISED that *Daubert* motions not filed in accord with this deadline will be denied as untimely filed.**

- ***Motions to Dismiss***

In any dismissal motion filed before Judge Dugan, the movant must clearly state: (1) the specific section under which dismissal is sought, *i.e.*, not just "Rule 12(b)" but "Rule 12(b)(1)" or "Rule 12(b)(6)," etc.; (2) whether dismissal is sought of the complaint, the entire case, or just certain parties or claims; and (3) whether dismissal is sought with prejudice or without prejudice.

See Local Rule 7.1(c) for briefing deadlines governing dismissal motions, subject to modification by Judge Dugan via Order in a particular case.

- ***Motions to Remand***

See Local Rule 7.1(c).

- ***Trial Briefs***

Trial Briefs are not required. If filed, they are due **14 calendar days** before the first day of trial. Trial briefs should not be used to rehash issues previously rejected by the Court via ruling on a dispositive motion.

Final Pretrial Order

Counsel shall prepare a [Final Pretrial Order](#) using Judge Dugan's approved form. This form is different from those used by other Judges. It is also mandatory.

Local Rule 16.2(b)(1) provides that the parties shall submit a signed, joint Final Pretrial Order no later than 3 days prior to the Final Pretrial Conference. Counsel shall e-mail the Final Pretrial Order to Judge Dugan's proposed document in-box at: DWDpd@ilsd.uscourts.gov. The parties shall put effort into drafting the summary of the case provided in the Final Pretrial Order, as it is usually the description that is read to the jury during voir dire.

Mandatory Exhibit List

NOTE: The parties shall identify the exhibits they intend to use at trial in the disclosures timely made pursuant to Federal Rule of Civil Procedure 26(a)(3). When possible, objections filed pursuant to Rule 26(a)(3) will be resolved at the Final Pretrial Conference. The parties shall bring their Rule 26(a)(3) disclosures and any objections to the Final Pretrial Conference.

The parties shall prepare an [Exhibit List](#) using Judge Dugan's approved form (a revision of AO Form 187). In addition to this exhibit list, the parties will receive an email from Judge Dugan's Courtroom Deputy Clerk, Dana Winkeler, ahead of trial with information about preparing a separate exhibit list for use with the Jury Exhibit Retrieval System (JERS). Both exhibit lists must be prepared by all parties. Exhibit lists are generally due the Wednesday before the first day of trial. The Courtroom Deputy will provide more information regarding the deadline in an email ahead of trial.

All exhibits should be pre-marked with Western Arabic numerals for each exhibit. Plaintiff's exhibits should be numbered as Plaintiff's Exhibit 1, Plaintiff's Exhibit 2, *et seq.* Plaintiff's exhibits shall begin numbering with 1 and continue through 99. Defendant's exhibits, should be pre-marked and numbered sequentially, beginning with number 100 and continuing in sequential order. Should Plaintiff have more than 99 exhibits, please notify counsel so that Defendant's exhibits can then begin with 200 (instead of 100). The reasoning for the numbering system is to avoid duplication of exhibit numbers. Duplicate exhibits are not permitted. In other words, if an exhibit is offered by Plaintiff, Defendant should not offer the same exhibit.

Other points to note when preparing the exhibit list:

- Letters should not be used to identify exhibits (*i.e.*, use only 1, 2, 3, 4; do not use 1, 1A, 1B, 2, 2A).
- Do not designate any exhibits as "group" exhibits.
- Designate multiple page exhibits with one exhibit number, using page numbers for further identification.
- Do not group sets of multiple photographs. Give each photograph a separate exhibit number.
- Do not assume that the Court will allow any exhibits to be passed among jurors. Publication will be handled by evidence presentation technology or by use of juror notebooks.

Specific questions about preparing the exhibit list should be directed to the Courtroom Deputy Clerk, Dana Winkeler, by email message to Dana_Winkeler@ilsd.uscourts.gov or raised at the Final Pretrial Conference.

Witness List

The parties shall disclose the names of witnesses as directed by Federal Rule of Civil Procedure 26(a)(3) and in accord with Judge Dugan's Rule 26(a)(3) disclosure deadlines. Parties shall include in the Final Pretrial Order the name of all persons who may possibly/potentially be called at trial. The list of witnesses in the Final Pretrial Order may be read to the jury during voir dire. Absent extraordinary circumstances, any person not included on the list *will not be permitted to testify at trial*, because his/her name will not have been disclosed to the potential jurors.

If a different deadline is not set in CM/ECF, the witness list is due at the same time as the exhibit lists (generally the Wednesday before the first day of trial), counsel for each party shall e-mail a final list of the witnesses they intend to call at trial to Courtroom Deputy Dana Winkeler at Dana_Winkeler@ilsd.uscourts.gov. Questions regarding the Witness Lists may be addressed to Dana Winkeler at (618) 482-9012.

Jury Selection

- ***Jury Questionnaires***

Jury questionnaires [click here](#) are completed by each venire person before being placed on a venire panel. The completed questionnaires are placed in binders according to venire number and provided to each party before jury selection begins. Questionnaires must be returned to Courtroom Deputy Dana Winkeler after the jury is selected. Questionnaires are confidential and may not be retained by any party.

- ***Voir Dire***

Judge Dugan conducts preliminary voir dire which also includes some demographic and qualification questions. After Judge Dugan concludes preliminary questioning, each party may participate, with limitations imposed by the Court, in voir dire separately. Counsel also may request that Judge Dugan question jurors on certain issues that may be sensitive or which a party would rather the Judge ask instead of counsel. In its discretion, the Court may conduct the voir dire without participation of counsel. In light of privacy concerns, counsel should only refer to prospective jurors by their juror number.

- ***Selection Methodology***

The jury is selected outside the presence of the venire, in open court. Challenges for cause are entertained first. Then the parties will be permitted to caucus privately before the process begins for exercising peremptory challenges.

Generally, each side is given 3 peremptory strikes. If there are multiple plaintiffs or defendants, the parties may move for additional strikes. In its discretion, the Court may allow additional peremptory challenges if the size of the venire permits, after

challenges for cause have been determined, Judge Dugan will tender jurors to the parties in panels of 4 with the first panel tendered to the plaintiff first. Back-striking is not allowed.

Typically, in civil cases, at least six jurors and two alternates will be chosen, and all jurors remaining at the end of closing arguments will participate in deliberations pursuant to Federal Rule of Civil Procedure 48.

- ***Jurors***

Jurors are permitted to take notes during trial and may refer to them during deliberations. Jurors are paid a \$50 attendance fee and reimbursed for travel to the courthouse. See the court's website at www.ilsd.uscourts.gov for information/specifics.

- ***Assessment of Jury Costs***

Local Rule 54.1 allows the Court to assess juror costs (including per diem and mileage expenses) against one or more parties, if they failed to advise the Court of the settlement of a case prior to 3 p.m. on the last full business day before trial was scheduled to commence. The Court strives to keep juror costs down, and assessment of costs will be considered if a jury is brought in unnecessarily. Nonetheless, the parties are strongly encouraged to pursue settlement up to and throughout the trial.

Trial Procedure (Non-Prisoner Civil Cases)

- ***Firm Trial Dates***

Judge Dugan assigns newly filed or removed non-prisoner civil cases a **firm trial date**. Continuances of the trial date will be given only in exceptional circumstances.

- ***Trial Hours***

Trials generally begin at 9 a.m., although a different time may be specified by Order or Notice in a given case. Generally, Judge Dugan expects counsel to arrive 30 minutes prior to the trial's scheduled start time.

Especially as to *jury* trials, the Court makes every effort to conclude each day no later than 4:30 p.m.

Motions, jury instruction conferences, and other matters may be handled with counsel before the jury arrives or after the jury has been dismissed for the day, as directed by Judge Dugan. During trial, counsel is strongly encouraged to bring to the attention of the Court any matter requiring its immediate consideration so as to avoid the unnecessary delay of trial or unnecessary juror wait time. Additionally, motions filed on the eve of trial that could have been filed before or at the time of the final pre-trial conference will not be viewed favorably.

- ***Attorney Conference Room***
A conference room is available near Judge Dugan’s courtroom for attorney-client or attorney-witness consultation. Please see Judge Dugan’s Courtroom Security Officer or courtroom personnel for access.
- ***Attorney Availability During Jury Deliberation***
Counsel must give the Courtroom Deputy Clerk a telephone number where they can be reached when the jury indicates it has reached a verdict or has a question. Counsel should be able to arrive in the courtroom within 10 minutes after being contacted.
- ***Post-Verdict Juror Interviews***
Counsel may not question jurors after a verdict has been reached without prior approval of Judge Dugan.
- ***Courtroom Audio System***
An audio/video system in Judge Dugan’s courtroom transmits live audio/video from the courtroom to Judge Dugan’s chambers. Attorneys, witnesses, and anyone attending court proceedings should be aware that, unless the microphones near them are deactivated, their statements may be heard in chambers.

Note: For information regarding **Courtroom Technology System** in Judge Dugan’s courtroom, see the “Miscellaneous” section below.

Jury Instructions

Unless this deadline is altered by an Order entered by Judge Dugan in a specific case, the parties must submit their entire set of proposed jury instructions in Microsoft Word format to the Court **no later than noon the business day before the final pretrial conference**. Questions regarding the deadline for submitting proposed instructions may be addressed to the law clerk assigned to that case. Jury instructions *are not* filed with the Clerk of Court. **Rather, they are submitted to Judge Dugan’s chambers via email to DWDpd@ilsd.uscourts.gov.**

Each instruction should be marked to designate the party offering the instruction (*e.g.*, “Plaintiff’s Instruction No. 1”) and the source of the instruction (*e.g.*, “Seventh Circuit Pattern Instruction No. 1.01”). Plaintiff is primarily responsible for the burden of proof instructions, the damage instructions, the verdict instructions, and the verdict forms. Defendant is primarily responsible for the cautionary instructions. ***The parties should work together in an effort to produce one set of proposed instructions.*** If the parties are unable to agree on certain instructions, each party may submit a version of the contested instructions.

The Court will compile a packet of proposed final instructions and give the instructions to the parties during trial before a formal jury instruction conference is held. It is not necessary to submit both “marked” and “clean” instructions. Once the final set of instructions has been approved, the Court will remove the annotations from the instructions. The jurors will receive a copy of the final clean instructions.

In non-diversity cases, the Court prefers the Seventh Circuit Pattern Jury Instructions. In cases where the Court sits in diversity, the Seventh Circuit Pattern Jury Instructions should be used for the preliminary and cautionary instructions, and the Illinois Pattern Instructions or comparable state instructions will be used for the substantive law.

Bills of Cost

Federal Rule of Civil Procedure 54(d)(1) provides that costs (other than attorneys’ fees) shall be allowed to the prevailing party, unless the District Court otherwise directs. Rule 54(d)(1) further provides that such costs may be taxed by the Clerk of Court “on 14 days’ notice.” Pursuant to Local Rule 54.2, opposing counsel will be allowed 14 days (from the date the Bill of Costs is filed in this Court) to file any objections. If no objections are filed within that 14-day period, the Clerk of Court will tax the appropriate costs. If objections are timely filed, the matter will be reviewed and resolved by Judge Dugan.

CRIMINAL CASES

Motion Practice

When filing motions, parties should follow the Federal Rules of Criminal Procedure and adhere to the strict deadlines set in the Order for Pretrial Discovery and Motion Practice issued by the Magistrate Judge at arraignment.

- ***Motion to Dismiss, Motion to Suppress, Motion in Limine***
Generally, motions to dismiss indictments and motions to suppress evidence will be set for hearing. If Judge Dugan determines that a hearing is needed on other motions, the Courtroom Deputy Clerk will notify counsel by entering an electronic notice of hearing.

A supporting memorandum for any motion where appropriate is encouraged. Motions to dismiss indictments and motions to suppress evidence must be filed with a supporting memorandum. The supporting memorandum may be combined with the motion in a single pleading or filed separately.

Motions *in limine* may (but need not) be filed with supporting memorandum or highlighted caselaw. As mentioned above, motions to suppress must be filed by the deadline imposed in the Magistrate Judge’s Order for Pretrial Discovery.

Counsel is cautioned that this is an early deadline. In rare circumstances, Judge Dugan may consider a late-filed pretrial motion. Parties seeking consideration of an untimely motion to dismiss or motion to suppress shall seek leave to file out of time *prior to* filing their motion.

By contrast to civil cases, motions *in limine* in Judge Dugan's criminal cases must be filed no later than **21 calendar days before trial**. Responses to motions *in limine* must be filed within 7 days after service of the motion. Cognizant of the Seventh Circuit's concerns regarding the issuance of rulings on motions *in limine* on the morning trial commences, *see e.g., United States v. Buckner*, 91 F.3d 34 (7th Cir. 1996), Judge Dugan will attempt to rule on such motions in advance of trial. At times, however, it may be necessary to reserve ruling on motions *in limine*. The Court will set a hearing where helpful or necessary to resolve issues raised by the motions *in limine*.

- ***Motion to Continue***

Any motion to continue trial should delineate a sufficient basis for the Court to determine whether the ends of justice served by the requested continuance clearly outweigh the interests of the public and the defendant in a speedy trial, so as to toll the "clock" under the Speedy Trial Act, 18 U.S.C. 3161(h). Whenever possible, a motion to continue should address whether opposing counsel (including, in multi-defendant cases, counsel for any non-moving defendant) object(s) to the requested continuance. Motions to continue may be filed under seal, where appropriate.

Final Pretrial Conference

A Final Pretrial Conference will be set only after the parties inform Judge Dugan of their intention to proceed to trial. At the Final Pretrial Conference, the parties may address any issues relevant to the trial, including the anticipated length of trial, any anticipated evidentiary issues with respect to witnesses or exhibits, and/or issues relating to the jury instructions.

If the defendant elects to enter a plea of guilty, counsel should contact the Courtroom Deputy Clerk, Dana Winkeler, at Dana_Winkeler@ilsd.uscourts.gov or (618) 482-9012 to arrange for a change of plea hearing.

Jury Selection

- ***Jury Questionnaires***

Jury questionnaires are completed by each venire person before being placed on a venire panel. The completed questionnaires are placed in binders according to venire number and provided to each party before jury selection begins. Questionnaires must be returned to Courtroom Deputy Clerk Dana Winkeler after the jury is selected. Questionnaires are confidential and may not be retained by any party.

- *Voir Dire*

Judge Dugan conducts preliminary voir dire which also includes some demographic and qualification questions. After Judge Dugan concludes preliminary questioning, each party may participate, with limitations imposed by the Court, in voir dire separately. Counsel also may request that Judge Dugan question jurors on certain issues that may be sensitive or which a party would rather the Judge ask instead of counsel. In its discretion, the Court may conduct the voir dire without participation of counsel. In light of privacy concerns, counsel should only refer to prospective jurors by their juror number.

- *Selection Methodology*

The jury is selected outside the presence of the venire in open court. Challenges for cause are entertained first. Then the parties will be permitted to caucus privately before the striking process begins.

Generally, in a noncapital felony case, the government will be given 6 peremptory challenges, and the defendant or defendants jointly shall have 10 peremptory challenges. See Federal Rule of Criminal Procedure 24(b). Additional peremptory challenges will be permitted if/and depending on the number of alternate jurors being seated. In its discretion, the Court may allow additional peremptory challenges if the size of the venire permits, after challenges for cause have been determined.

Typically, twelve jurors will be chosen, and one or two alternate jurors will also be selected, depending on the length of the trial.

- *Jurors*

Jurors are permitted to take notes during trial and may refer to them during deliberations. Jurors are paid a \$50 attendance fee and reimbursed for travel to the courthouse. See the court's website at www.ilsd.uscourts.gov for information.

Trial Procedure

- *Firm Trial Dates*

The Court sets and enforces firm trial dates in criminal cases. If a criminal case is not ready for trial on the date originally set, a new firm trial date will be set in compliance with the Speedy Trial Act. **The Court places upon the Government the obligation to determine includable and excludable days in making Speedy Trial Act calculations and to notify the Court of any potential Speedy Trial problems.**

- *Trial Hours*

Trials generally begin at 9 a.m., although a different time may be specified by Order or Notice in a given case. Generally, Judge Dugan expects counsel to arrive 30 minutes prior to the trial's scheduled start time.

Especially as to *jury* trials, the Court makes every effort to conclude each day no later than 4:30 p.m.

Motions, jury instruction conferences, and other matters may be handled with counsel before the jury arrives or after the jury has been dismissed for the day, as directed by Judge Dugan. During trial, counsel is strongly encouraged to bring to the attention of the Court any matter requiring its immediate consideration so as to avoid the unnecessary of delay of trial or unnecessary juror wait time.

- ***Attorney Conference Rooms***

A conference room is available near Judge Dugan courtroom for attorney-client and attorney-witness consultation. Please see the Courtroom Security Officer for access.

- ***Attorney Availability During Jury Deliberation***

Counsel should give the Courtroom Deputy Clerk a telephone number where they can be reached when the jury indicates it has a verdict or a question. Counsel should be able to arrive in the courtroom within 10 minutes after being contacted.

- ***Post-Verdict Juror Interviews***

Counsel may not question jurors after a verdict has been reached without prior approval of the Court.

- ***Courtroom Audio System***

Judge Dugan's courtroom transmits live audio/video from the courtroom to Judge Dugan's chambers. Attorneys, witnesses, and anyone attending court proceedings should be aware that, unless the microphones near them are deactivated, their statements may be heard in chambers.

Note: For information regarding **Courtroom Technology System** in Judge Dugan's courtroom, see "Miscellaneous" section below.

Mandatory Exhibit List

The parties shall prepare an [Exhibit List](#) using Judge Dugan's approved form (a revision of AO Form 187). In addition to this exhibit list, the parties will receive an email from Judge Dugan's Courtroom Deputy Clerk, Dana Winkeler, ahead of trial with information about preparing a separate exhibit list for use with the Jury Exhibit Retrieval System (JERS). Both exhibit lists must be prepared by all parties. Exhibit lists are generally due the Wednesday before the first day of trial. The Courtroom Deputy will provide more information regarding the deadline in an email ahead of trial.

All exhibits should be pre-marked with Western Arabic numerals for each exhibit. Government's exhibits should be numbered as Government Exhibit 1, Government Exhibit 2, *et seq.* Government exhibits shall begin numbering with 1 and continue through

99. Defendant's exhibits, should be pre-marked and numbered sequentially, beginning with number 100 and continuing in sequential order. Should the Government have more than 99 exhibits, please notify counsel so that Defendant's exhibits can then begin with 200 (instead of 100). The reasoning for the numbering system is to avoid duplication of exhibit numbers. Duplicate exhibits are not permitted. In other words, if an exhibit is offered by the Government, Defendant should not offer the same exhibit.

Other points to note when preparing the exhibit list:

- Letters should not be used to identify exhibits (*i.e.*, use only 1, 2, 3, 4; do not use 1, 1A, 1B, 2, 2A).
- Do not designate any exhibits as "group" exhibits.
- Designate multiple page exhibits with one exhibit number, using page numbers for further identification.
- Do not group sets of multiple photographs. Give each photograph a separate exhibit number.
- Do not assume that the Court will allow any exhibits to be passed among jurors. Publication will be handled by evidence presentation technology or by use of juror notebooks.

Specific questions about preparing the exhibit list should be directed to the Courtroom Deputy Clerk, Dana Winkeler, by email message to Dana_Winkeler@ilsd.uscourts.gov or raised at the Final Pretrial Conference.

Witness Lists

Counsel for each party shall e-mail a final list of the witnesses they intend to call at trial to Courtroom Deputy Dana Winkeler at Dana_Winkeler@ilsd.uscourts.gov. This list shall be submitted at the same time as the exhibit lists, generally the Wednesday before the first day of trial, unless a different date is specified. Questions regarding the Witness Lists may be addressed to Dana Winkeler at (618) 482-9012

Jury Instructions

Unless this deadline is altered by an Order entered by Judge Dugan in a specific case, the parties must submit their entire set of proposed jury instructions in Microsoft Word format to the Court **no later than noon the business day before the final pretrial conference**. Questions regarding the deadline for submitting proposed instructions may be addressed to the law clerk assigned to that case. Jury instructions *are not* filed with the Clerk of Court. **Rather, they are submitted to Judge Dugan's chambers via email to DWDpd@ilsd.uscourts.gov.**

Each instruction should be marked to designate the party offering the instruction (e.g., "Government's Instruction No. 1") and the source of the instruction (e.g., "Seventh Circuit Pattern Instruction No. __"). Counsel should designate the instruction as modified

(e.g., "Seventh Circuit Pattern No. __ MODIFIED"), if the instruction has been modified in any way whatsoever. The parties should work together in an effort to produce one set of proposed instructions. If the parties are unable to agree on certain instructions, each party may submit a version of the contested instructions.

The Court will compile a packet of proposed final instructions and give the instructions to the parties during trial before a formal jury instruction conference is held. It is not necessary to submit both "marked" and "clean" instructions. Once the final set of instructions has been approved, the Court will remove the annotations from the instructions. Each juror will receive a copy of the final instructions.

Correspondence with the Court

Absent exigent or special circumstances, defendants in criminal cases are not to attempt to contact, correspond with, or send letters directly to Judge Dugan. All out-of-court communication with Judge Dugan should be made through counsel via motion. Any correspondence received will be filed in CM/ECF as a sealed document.

MISCELLANEOUS

Courtroom Technology Features and Usage Guidelines

The courtroom technology system can broadcast video and audio content from a variety of sources/devices to all areas of the courtroom. The flexibility to support a myriad of devices and content types comes at the expense of a "plug and play" approach. In other words, connecting your unique device and displaying your unique content may require some slight configuration changes to your device. Therefore, **it is strongly recommended that you communicate with the court's IT department regarding your evidence presentation intent PRIOR to your court appearance. (Counsel can call Courtroom Deputy Dana Winkeler at (618) 482-9012 and coordinate contact with the IT department.)**

- ***Document Camera (aka "Elmo" Camera)***
 - The courtroom is equipped with an electronic camera ("ELMO") that can be used to display physical documents or objects to electronic viewing monitors disbursed throughout all areas of the courtroom.

- ***Computing Devices(i.e., laptops and mobile devices)***
 - The courtroom is equipped with "connector inputs" at three locations (prosecution table, defense table, and presentation cart) to facilitate the connection of any electronic computing device having a VGA or HDMI output connector on that computing device. Once connected, the entire screen and the audio output of the device can be broadcast to the electronic viewing monitors and speakers disbursed throughout all areas of the courtroom.

- ***Video Conferencing***
 - The courtroom is equipped with a video conferencing system that can be used to connect to outside parties and simultaneously broadcast that outside parties' image and audio throughout the entire courtroom.
NOTE: The outside party must have access to very specific video conferencing equipment OR have a laptop with a webcam attached along with a special software package installed that is downloaded from the court. Participants wishing to video conference must make arrangements in advance and conduct a test with the court's IT department.
- ***Annotation***
 - The courtroom has a touch screen monitor with annotation features located at the presentation cart and at the witness box. This device can be used to annotate "on top of" any video image being displayed from any device connected to the system. The annotations display to the electronic viewing monitors disbursed throughout all areas of the courtroom.
- ***Audio Conferencing***
 - The courtroom is equipped with an audio-conferencing system that can be used to allow multiple outside parties to communicate with the courtroom via telephone. The outside party audio can be broadcast to the courtroom.

Courtroom Demeanor

During trial, attorneys are encouraged to stand at either counsel table or the podium while addressing the Court, the jury, or any witness. Attorneys who are soft-spoken will be required to use the microphone at the counsel table or podium. Attorneys need not seek permission to approach a witness. **Side-bar conferences are permitted only in extraordinary circumstances.**

Evidentiary objections shall be made by stating in a short and concise manner the nature of the objection and the specific Federal Rule of Evidence on which the objection is based. Speaking objections will not be tolerated.

Guidelines for Remote Appearances

Remote proceedings are official court proceedings. All participants must maintain appropriate demeanor and decorum at all times. Appropriate attire is mandatory for any remote appearance before the Court. A participant should dress for a remote proceeding as if he or she were attending the proceeding in the courtroom. Flagrant disregard of this requirement may lead to the exclusion of the participant from the hearing. No participant may, without written authority from the Court, record, copy, broadcast, live-stream or otherwise electronically duplicate any remote proceeding.

Timeliness

Please be on time for each court session. This applies to attorneys and to any witness being called by a party.

Trial engagements take precedence over any other business. If you have matters in other courtrooms, arrange in advance for the handling of such matters by you or have an associate handle them for you.

One guiding principle for all jury trials is that the jurors' time must not be wasted. The jurors should go home from every day of trial with the feeling that they have had a good, solid day of progress toward conclusion of their service and that the parties and their lawyers did not waste their time. In keeping with this principle, if an issue or motion arises during trial that must be addressed, it should be brought to the Court at the close of business, after the jury leaves or during a break, so as not to increase the jury's wait time.

Organization of Trial Materials

Judge Dugan has specific preferences for how documents and other trial materials should be organized and provided to the Court and to the jury. If a case is proceeding to trial, Judge Dugan's courtroom deputy will provide the parties with additional information regarding his directives for these matters. This includes but is not limited to the handling of exhibits, deposition transcripts, and video or audio presentations. The Court expects the parties to comply with these directives as if set forth fully herein.

Disclaimer and Notice

To the extent Judge Dugan's preferences conflict with the Federal Rules of Criminal and Civil Procedure, the Rules of course govern. Attorneys must examine these instructions on a regular basis, because changes are made to this page without notice.

Case Management/Electronic Case Filing System

The Court's CM/ECF system requires electronic filing of all pleadings, with a few narrow exceptions. Additionally, the Court's Orders are sent to the parties electronically rather than by regular mail. Participation in CM/ECF is mandatory.

While Judge Dugan and his law clerks run daily reports for their cases, they do not always receive immediate notification of newly filed motions. For this reason, **if an attorney e-files an urgent or time-sensitive motion (such as a motion to continue a setting set on the following day), s/he should phone the law clerk assigned to the case and alert him/her that the motion has been filed.**

Communication with the Court

Attorneys and litigants ordinarily should communicate only by motion or memorandum. Urgent matters or general inquiries can be sent by email message to DWDpd@ilsd.uscourts.gov (with a copy to all counsel of record); the message will be forwarded to the appropriate person in chambers.

Ex parte oral communications with the Court on substantive matters in a pending case are prohibited.

<END>