



Magistrate Judge Reona J. Daly

Case Management Procedures

Contents

- Rule 16 Conferences
- Discovery Disputes
- Settlement Conferences
- Disclosures and Motion Practice
- Final Pretrial Conference
- Mandatory Exhibit List
- Witness List
- Jury Selection
- Trial Procedure
- Jury Instructions

Rule 16 Conferences

Attorneys must confer and submit a Joint Report of Parties prior to the scheduled conference. A form for use in that regard may be downloaded ([here](#)), and is also included as an attachment to the Local Rules. If the case is a class action, click ([here](#)) for the form. The report must be jointly submitted – one report bearing the original signature of each attorney of record.

The conference will occur even though the joint report has been timely submitted. Absent a specific waiver by the Court, the conference will occur.

The Scheduling and Discovery Conference will be telephonic. Occasionally, an attorney will be present at the courthouse at the time the conference is scheduled. When that happens, counsel should simply come to my chambers and participate in that manner. The attorney who is most familiar with the case should participate.

The purpose of the Rule 16 Conference is twofold: (1) to identify and plan to deal with novel or difficult discovery issues; and (2) develop a plan for when a settlement conference may be beneficial. Counsel should be prepared to discuss each at the conference.

Discovery Disputes

Shortly after the case is at issue, counsel will receive my “Order Regarding Discovery.” This order is self-explanatory. Motions to compel are handled telephonically without written motions or briefs. When a discovery dispute arises that the parties are unable to resolve informally, the party seeking discovery shall alert the appropriate law clerk assigned to the case and provide the law clerk with appropriate materials, which shall be emailed to my email depository for proposed documents.

Letters from counsel containing arguments are neither helpful nor desired. The parties may submit, without argument, citations to any binding authority relevant to the dispute. Discovery disputes are regularly resolved within a week of occurrence.

Disputes which arise during depositions should be addressed immediately via a phone conference. My chambers’ number is (618) 439-7750.

Settlement Conferences

Settlement conferences in consented cases will be set before Magistrate Judge Daly if both parties agree to Judge Daly presiding. Settlement conferences will also be set on referral in other civil cases. A time limit for the conference may be imposed as appropriate. There are few rules attending these conferences, but they are firm and will not be deviated from except in very unusual circumstances. They are:

- 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 be here. A good rule of thumb for defendants trying to select a proper representative is to bring a person who can agree to any sum demanded by plaintiff without resort to the telephone.

In employment cases, defendants should not bring anyone who had any relevant input in the employment decision(s) which gave rise to the underlying lawsuit. In some cases, due to the size of the defendant company, this is unavoidable. Where it can be avoided, however, it should be. A good rule of thumb is to leave behind anyone who might testify at trial concerning the reasons for the employment action taken.

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 good as long as Open Meetings Act laws are not violated. Counsel are urged to take appropriate precautions.

Settlement statements are not filed with the Clerk. The parties should send their settlement statements directly to Judge Daly's chambers as an attachment to an email sent to the depository for proposed documents (RJDpd@ilsd.uscourts.gov).

If during preparation for a settlement conference a defendant determines that negotiations would be futile, then that defendant must contact my office immediately. Defendants who appear with nothing but nuisance money may find themselves paying the cost of plaintiff(s) and plaintiff(s)' attorneys to attend.

Click ([here](#)) for a copy of the [Settlement Statement of Attorney](#).

Disclosures and Motion Practice

Generally, the parties should follow the Federal Rules of Civil Procedure and the Court's Local Rules for information concerning initial and trial disclosures and motion practice.

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 Daly, 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.

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 Conference

The parties may access Judge Daly's preferred Final Pretrial Order [here](#). The final pretrial order shall be submitted in accordance with Local Rule 16.2(a), no later than 3 business days before the final pretrial conference.

The Court expects adherence to the rule requiring cooperation between the parties for completion of the Final Pretrial Order.

Parties are expected to have their exhibit lists attached to the proposed order at the time of the conference and already evaluated by opposing parties to determine issues as to admissibility.

Should counsel anticipate any novel or particularly difficult legal issues which will require extensive arguments outside the hearing of the jury, the Court shall be so advised at the final pretrial conference. The Court will then determine a time and forum for resolution of the issues involved and whether counsel will be required to brief the issues and when.

Click [here](#) to download Judge Daly's Civil Pretrial Checklist.

Mandatory Exhibit List

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, objections to any exhibits, and any exhibits to which there is an objection, to the Final Pretrial Conference.

The parties shall jointly prepare an Exhibit List ([here](#)). The final Exhibit List must be emailed to Judge Daly's proposed document in-box at RJDpd@ilsd.uscourts.gov at least 2 business days before the first day of trial. All exhibits should be pre-marked with arabic numerals for each exhibit. For instance, Plaintiff's exhibits should be numbered as Plaintiff's Exhibit 1, Plaintiff's Exhibit 2, et seq. Defendant's exhibits should be pre-marked and numbered sequentially as Defendant's Exhibit 1, Defendant's Exhibit 2, et seq. Duplicate exhibits are not permitted. In other words, if an exhibit is offered by Plaintiff Defendant should not offer the same exhibit. The goal is to have one set of exhibits.

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.

Whenever possible, have photocopies of an exhibit for the Court and opposing counsel. Documents and other exhibits, where practical, shall be tagged and marked as exhibits and shown to opposing counsel before their use in court. Ordinarily, exhibits should be offered in evidence when they become admissible rather than at the end of counsel's case. When counsel or witnesses refer to an exhibit, mention should also be made of the exhibit number so that the record will be clear.

Where maps, diagrams, pictures, etc., are being used as exhibits, and locations or features on such documents are being pointed out by witnesses or counsel, such locations should be indicated by appropriate markings on the document if not readily apparent from the documents themselves. Unnecessary markings should be avoided. Markings on exhibits should only be made after receiving the Court's permission to do so.

Finally, the Court encourages the parties to assemble an exhibit book for witnesses to view while being examined, as this expedites the examination process.

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

During the course of the trial, each counsel is responsible for any exhibits that he secures from the Clerk. At each noon-time or end-of-the-day adjournment, return all exhibits to the Clerk. Exhibits will be returned to the parties at the end of the trial, and the parties are responsible for maintaining them.

Witness List

The parties shall disclose the names of witnesses as directed by Federal Rule of Civil Procedure 26(a)(3) and include in the Final Pretrial Order the name of all persons who may possibly or 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 potential jurors.

If a different deadline is not set by the Court, then by **12:00 noon on the business day prior to trial**, counsel shall each email a final list of witnesses they intend to call at trial to Courtroom Deputy Jamie Melson at Jamie_Melson@ilsd.uscourts.gov. Questions regarding the Witness Lists may be addressed to Jamie Melson at 618-439-7754.

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 Jamie Melson after the jury is selected. Questionnaires are confidential and may not be retained by any party.

Voir Dire

Judge Daly conducts preliminary voir dire which includes many of the basic questions such as residence, employment, and prior jury service. Counsel may also request that Judge Daly question jurors on certain issues that a party would rather the Judge ask instead of counsel. After Judge Daly concludes preliminary questioning, each party may participate in voir dire separately. A time limit will be imposed. Counsel may submit proposed voir dire questions in writing to Judge Daly up until the day before trial begins. In its discretion, the Court may conduct the voir dire without participation of counsel.

Selection Methodology

The jury is selected outside the presence of the venire, in open court. Challenges for cause are entertained first, then each side is given 3 peremptory strikes. The Court will alternate between the parties.

Typically, in civil cases, six jurors and one or two alternates will be chosen depending on the anticipated length of the trial, and all remaining at the end of closing arguments will participate in deliberations pursuant to Federal Rule of Civil Procedure 48.

Trial Procedure

Trial Dates

Judge Daly assigns newly filed or removed civil cases a Final Pretrial Conference date and firm trial date based on the assigned trial track. There are four tracks: “A,” “B,” “C,” and “D.” “A” cases are set for trial between 8-10 months after the date of first appearance of a defendant or the default date; “B” cases 11-14 months after the date of first appearance of a defendant or the default date; “C” cases 15-18 months after the date of first appearance of a defendant or the default date; and “D” cases 19-24 months after the date of first appearance of a defendant or the default date.

Trial Hours

Trial generally begins at 9:00 a.m., although a different time may be specified by Order or Notice in a given case.

Especially as to *jury* trials, the Court makes every effort to conclude each day by 4:30 p.m. In trials that proceed 9:00 a.m. to 4:30 p.m. daily, an hour lunch break is taken around noon and other breaks will be taken as appropriate. Motions, jury instructions conferences, and other matters may be handled with counsel prior to 9:00 a.m. or after 4:30 p.m., as directed by Judge Daly.

Attorney Availability during Jury Deliberation

Counsel must give the Courtroom Deputy 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.

Technology

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 Jamie Melson at 618-439-7754 and coordinate contact with the IT department.

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 fail to advise the Court of the settlement of a case prior to 3:00 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.

Jury Instructions

Unless this deadline is altered by an Order entered by Judge Daly 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 2 business days before the first day of trial**. Jury instructions are not filed with the Clerk of Court. Rather, they are to be submitted to Judge Daly's chambers via email message to RJDpd@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"). **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 instruction.

An informal jury instruction conference will generally be held at the end of the first day of trial. A formal jury instruction conference will typically be held the morning of the last day of trial. The Court will compile a packet of final instructions and give the instructions to the parties during trial, after the 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.