

Information and Guidelines

for Practice before

The Honorable Gordon J. Quist
United States District Court
for the Western District of Michigan

2009/2010

Hon. Gordon J. Quist
482 Federal Courthouse
110 Michigan, NW
Grand Rapids, Michigan 49503-2363
(616) 456-2253

Communications and General Information

1. Addresses and Telephone Numbers

United States District Court
482 Federal Courthouse
110 Michigan, NW
Grand Rapids, Michigan 49503-2363
Telephone: 616/456-2253
FAX: 616/456-2243

Judge Gordon J. Quist 456-2253

Judge Quist's Judicial Assistant/Case Manager -
Jane M. Tepper 456-2253

Judge Quist's Law Clerks -
Philip G. Henderson
Neil Marchand

Magistrate Judges -
Hon. Hugh W. Brenneman, Jr. 456-2568
United States District Court
582 Federal Courthouse
110 Michigan, N.W.
Grand Rapids, Michigan 49503

Hon. Ellen S. Carmody 456-2528
United States District Court
666 Federal Courthouse
110 Michigan, N.W.
Grand Rapids, Michigan 49503

District Court Clerk's Office -
Tracey Cordes, Clerk of Court 456-2360
United States District Court
399 Federal Courthouse
110 Michigan, NW
Grand Rapids, Michigan 49503-2363

2. Hours

The Judge's Office will be open Monday-Friday from 8:30 AM to 5:00 PM.

3. Calendar

The Judicial Assistant is in charge of all calendar matters. If you would like an adjournment of a hearing on a motion you must first reach agreement with your opposing counsel and then contact the Judicial Assistant. In situations where an opposing attorney will not consent to an adjournment, the party requesting the adjournment should send a letter stating reasons for requesting the adjournment. Such letters should be directed to the Judicial Assistant. It is incumbent upon the party requesting an adjournment to notify the opposing party of the request and, if granted, the new hearing date.

Do not contact the Judge or his law clerks to request an adjournment.

4. Oral Argument

This Court will attempt to hear oral argument on each dispositive motion where any party requests oral argument. If counsel wishes oral argument on a motion, the request is made by stating "Oral Argument Requested" underneath the caption of the motion. Pursuant to Local Rule 7.2(d), oral argument will be scheduled by the Court at the earliest convenient date.

5. Ex Parte Applications

Ex parte applications are disfavored and should be avoided except in the most extreme circumstances. Where such cases arise, the party submitting the application must state in the application that opposing counsel has been contacted in an attempt to resolve the situation through normal motion practice and why such an option is unsatisfactory, or, why contacting the opposing party would be inappropriate under the circumstances. *See* Local Rule 7.1(d). Applications for temporary restraining orders must comply strictly with the requirements of Fed. R. Civ. P. 65.

6. Orders

All orders and proposed orders which require the Judge's signature should be filed electronically with the Clerk of Court.

If the Court has instructed a prevailing party to submit an order, the prevailing party must have the proposed order approved by opposing counsel before it is submitted to the Court for the Judge's signature. In the event of a disagreement as to the form of an order, the prevailing party may bring a motion to settle the order.

Whenever a motion to settle an order is made, costs and attorney's fees will be awarded against an attorney who unreasonably withholds consent as to form.

7. Transcripts of Court Proceedings

If a transcript of a court proceeding is desired, the court reporter should be contacted directly and a confirming letter sent. Transcripts will not be prepared unless ordered.

8. Stipulations

All stipulations should be submitted by electronic filing for the judge's approval. An order approving the stipulation shall be attached to the stipulation, or the stipulation itself can have "So Ordered" with a place for signature and date.

The Trial

1. Courtroom Decorum

The purpose of this paragraph is to describe certain basic principles concerning courtroom behavior and decorum. The requirements stated in this rule are minimal, not all-inclusive, and are intended to emphasize and supplement, not supplant or limit, the ethical obligations of counsel under the Rules of Professional Conduct or the time honored customs of experienced trial counsel. These requirements apply to all counsel and all persons at counsel table.

- a. This Court expects all attorneys and parties to act with courtesy and respect toward everyone in the courtroom. Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly detached from any ill feeling between the litigants or witnesses. Address all remarks to the Court, not to opposing counsel. Refer to all persons, including witnesses, other counsel and the parties, by their surnames and not by their first or given names.
- b. Please treat the courtroom furniture with care. It has to last a long time. For example, do not put briefcases with metal feet on the tables.
- c. Stand near the lectern while examining a witness and making statements to the jury; except that counsel may approach the Clerk's desk or the

witness for purposes of handling or tendering exhibits. The recording system picks up lawyers' voices only when they are speaking into a microphone.

- d. Offers of, or requests for, a stipulation should be made privately - not within the hearing of the jury.
- e. Counsel shall admonish all persons at counsel table that gestures, facial expressions, audible comments, and the like, as manifestations of approval or disapproval, during the testimony of witnesses or at any other time, are absolutely prohibited.

2. Jury Selection

Counsel must submit an agreed statement of the case to be read to the jury, which explains in simple terms the nature of the case. Unless the case is very complex, the summary should not exceed one paragraph. The purpose of the summary is to acquaint the jury with the nature of the case and to provide a basis for certain voir dire questions.

In civil cases where jury trials have been demanded, the juries will generally be selected as follows:

- a. The Deputy Clerk will call 14 names for the panel and such persons will be seated in the order they are called in the jury box in seats 1 through 14.
- b. The Court will then voir dire the jury asking its own questions and also questions proposed by the attorneys which have been submitted for review to the Court at or before the pretrial conference and which the Court considers appropriate. Attorneys will be permitted to participate in the questioning process under limits set by the Court.
- c. The Court will hear challenges for cause at sidebar. The Court will excuse any prospective juror for cause where appropriate, and replace the excused juror, and the process will be repeated.
- d. When the Court has determined that none of the 14 prospective jurors in the jury box should be dismissed for cause, the parties must exercise their peremptory challenges.

- e. Each side in a civil case must exercise three peremptory challenges. See 28 U.S.C. § 1870. These challenges shall be exercised in three rounds, one challenge for each side in each round. Peremptory challenges will be exercised in writing away from the jury, and the Court will excuse all peremptorily-challenged jurors after all peremptory challenges have been exercised.
- f. In a case with multiple plaintiffs or defendants, the Court may allow additional peremptory challenges. 28 U.S.C. § 1870.

3. Witnesses

If a witness is not listed in the final pretrial order, the Court will not allow either side to call the non-listed witness unless there is good cause shown. This, of course, does not apply to rebuttal witnesses. However, rebuttal experts must always be disclosed and listed in the final pretrial order.

4. Exhibits

If an exhibit has not been listed in the pretrial order, it will not be admitted in the case in chief unless good cause is shown as to why it was not designated. All exhibits and charts must be shown to counsel prior to the beginning of trial. Do not wait until the witness is on the stand to show these items to opposing counsel.

The exhibits shall be clearly identified. In cases where counsel wishes to publish the exhibits to the jury and the party intends to introduce more than five documents, counsel shall arrange to have all exhibits digitized for projection on the large screen in the courtroom. Instructions on how to use the Court's electronic presentation system can be arranged with an e-mail to courttech@miwd.uscourts.gov, or by calling (616) 456-2523.

In addition, notebooks with the exhibits shall be prepared. The exhibits should be divided and tabbed with the exhibit numbers. A list of the exhibits (Attachment, Exhibit 1) should be located in the front of the notebooks. One set of notebooks is for the Court, one set is for the deputy clerk in the courtroom, one set is for the use of the witnesses, and the other sets are used by counsel for the parties. When bringing a document to the attention of the Court and witnesses, counsel asking the questions should refer to the notebook volume and exhibit number.

Offer exhibits into evidence as soon as the foundation has been laid. Often, when lawyers wait until the end of the examination or the case to make the offer, the witness has completely discussed the document during testimony and the document is not in evidence.

Offer exhibits that have identical foundation requirements in a group. It wastes time to lay a separate foundation on several identical kinds of documents, showing the witness one at a time. If they are all the same type of document, show the witness exhibits 1 through 10, ask the witness to identify the exhibits and lay a foundation. (i.e., checking account statements of John Doe for the months January through June, 2007.) If the parties have stipulated to the admissibility of exhibits before trial, those exhibits will be admitted as a group after opening statements and before the first witness is called. These stipulated exhibits can then be referred to without the necessity of establishing a foundation.

5. Recesses

Before the jury arrives, and at recesses, you will often be asked if there is anything that should be raised before the next session. If there is some problem, I should be advised before the jury returns to the jury box.

I am aware that counsel may not be able to anticipate everything, but most matters should and will be taken up during the recesses.

6. Scheduling

Generally, cases are tried Tuesday through Friday. Trial usually begins at 8:30 AM and recesses at 1:30 PM, with a 20-30 minute break mid-morning. This schedule is subject to the other demands of my docket. You must have enough witnesses to fill up the day.

7. Deposition Designations, Motions In Limine, and Jury Instructions

Deposition designations, motions in limine, and jury instructions must be filed pursuant to the schedule set in the Case Management Order. The Court will not entertain additional motions in limine or deposition designations unless good cause is shown.

