

United States District Judge

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Requirements

1. Local and Federal Rules:

Many answers to frequently asked questions are contained in the [Local Rules of the Eastern District of Missouri](#), the [Federal Rules of Civil Procedure](#) and the [Federal Rules of Criminal Procedure](#), and [Federal Rules of Evidence](#). All counsel and pro se parties are expected to know these rules and follow them. Frequent review of the rules is recommended because they are often amended.

2. Informal Matters:

Informal matters are not regularly held. An informal matter that requires a short conference should be scheduled by calling chambers to set an in-court or telephone conference. Most minor, agreed deadline changes can be handled in writing by filing a motion to extend the deadline and stating that opposing counsel consents. The consent motion will be ruled on as soon as possible.

3. Rule 16 Conferences and Case Management Orders:

Civil cases are usually set for Rule 16 Conferences after all defendants have answered. If for some reason a party believes a conference should be sooner, that party should file a motion. Rule 16 Conferences are conducted in person and usually are held in chambers. Out of town council may participate by telephone. When a party appears pro se, the Rule 16 Conference is held in the courtroom, on the record. At the Rule 16 Conference, counsel should be prepared to discuss the facts of the case and all other matters set out in the Rule 16 Order, including settlement. Do not send an unprepared substitute attorney or an attorney who cannot make a commitment regarding the calendar of trial counsel.

4. Scheduling and Status Conferences:

Counsel may request a scheduling or status conference when the need arises by filing a motion.

5. Alternative Dispute Resolution (ADR):

Most civil cases are referred to mediation. Please be prepared to discuss the appropriate timing for referral to mediation at the Rule 16 Conference. When setting a date for mediation in the proposed schedule, counsel should consider what discovery they need in order to conduct a meaningful mediation conference. A list of the Court-approved neutrals and ADR materials can be found at <http://www.moed.uscourts.gov>. Please note that once the case has been referred to ADR, those deadlines are binding and may only be extended by court order.

6. Discovery Disputes:

Before filing any discovery-related motion, the moving party must confer with opposing counsel and attempt to resolve the dispute, and in accordance with the relevant local rule, the motion must contain a certification of having done so. Motions that do not contain the required certification will be denied without prejudice. The requirement that the parties confer means that the moving party must actually speak to opposing counsel in person or by telephone. If opposing counsel will not respond to attempts to resolve the matter, counsel should detail those efforts in the certification. All parties are expected to make a good faith effort to resolve the dispute prior to filing a discovery-related motion. If after conferring the parties cannot reach a resolution, the parties may call chambers to determine if a resolution can be reached without filing a motion. If a motion concerning a discovery dispute is filed, the court will review the motion to determine whether or not a conference with the parties is required before ruling the motion.

7. Expert Witnesses:

a. Counsel should be prepared at the Rule 16 Conference to discuss the types of expert witnesses who are likely to testify in the case and whether and when the names and reports and/or depositions of the experts will be provided. Parties are allowed to stipulate to different ways of disclosing expert opinions, but in the absence of a stipulation, the provisions of Rule 26 will be applied.

b. Treating Witnesses as Expert Witnesses: Treating health care providers, who are testifying as to matters contained in their treatment notes, will not be required to prepare reports or provide the other information required by Rule 26(a)(2)(B). In such cases, health care providers will be limited to providing opinions that are related to the treatment and disclosed in their treatment notes. If providers are testifying as to causation, however, the provider should provide a report and comply with all requirements of Rule 26(a)(2)(B).

If notice is given regarding an objection as to opinions to be offered or the adequacy of disclosure, the burden rests on the party offering the treating witness to bring to the Court's attention, promptly, any dispute that cannot be resolved. Such disputes must be presented to the Court in advance of the discovery deadline. Any offering party with notice of such a dispute who does not present the dispute to the Court in a timely manner risks having some or all of the treating witness's opinions excluded.

8. Courtesy Copies of Dispositive Motions and Pretrial Compliance Materials:

Parties shall mail or hand-deliver to chambers at 111 S. Tenth St., Ste. 10.182, St. Louis, MO 63102 paper courtesy copies of (1) any motions for summary judgment or Daubert motions, together with the memorandum in support and any exhibits (2) any opposition memorandum, including exhibits; (3) any reply memorandum in support, including exhibits; and (4) all pretrial compliance materials. In addition, all jury instructions should be emailed to MOEDml_Team_AGF-RLW-NCC@moed.uscourts.gov

9. Trial Settings:

Most cases are set for trial on a two-week docket. This is a firm setting, meaning your case is almost always reached within that time. For St. Louis trials, juries are picked at 9:00 a.m. or 1:15 p.m. on Mondays and Wednesdays. If you have not heard otherwise, you should assume your case is #1 on the trial docket.

10. Final Pretrial Conferences:

If your case is still on the docket two weeks prior to the scheduled trial date, you will be contacted by chambers to schedule a final pretrial conference. Final pretrial conferences are normally held two or three business days prior to the scheduled trial date. Counsel should be prepared at the final pretrial conference to argue any motions in limine, so that the Court can attempt to rule on such motions in advance of the trial date. Any argument and all rulings will be put on the record at the pretrial conference.

11. Available Courtroom Technology:

The Court has evidence presentation equipment available, including an evidence camera (e.g., ELMO), VCR, DVD, monitors, and hook-ups for computer stored evidence or computer presentation. An

explanation on the use of this equipment is available on the Court's website <http://www.moed.uscourts.gov> under [Courtroom Technology](#). Counsel is strongly encouraged to use the evidence camera or ELMO for all trials. Please call the Case Management Team in the Clerk's office to schedule training before trial. Training usually takes no more than 30 minutes, and gives you the opportunity to get comfortable with the equipment before trial. No training will be provided on the day of trial. If you intend to use your computer with the Court's evidence presentation system, you must confer with the Clerk's office before trial to be sure your settings and connections are appropriate for our system. The Court does not provide equipment to play an audio tape; counsel will need to bring their own tape player.

12. Jurors and Voir Dire:

- a. Agreed Statement of the Case: Before the case is called, counsel must supply the Court with a joint brief statement of the nature of the case to be read to panel members during voir dire. Counsel is expected to agree on this statement, which should be phrased in neutral terms.
- b. Number of Jurors and Seating: The number of jurors in a civil trial will depend on the length of the trial. For voir dire questioning, the venire panel is seated left to right in the jury box. Nos. 1 through 5 in the front row, 6 through 10 in the middle row, and 11 through 16 in the last row. The rest of the venire panel members are seated in the left and middle rows of the spectators' gallery, also seated numerically, left to right.
- c. Juror List: You will be provided a list of the jury panel members as they enter the courtroom, as well as a seating chart with the jury panel members' names filled-in, and each panel member will wear a tag with his or her number. The jury list is not available in advance. The list contains the name, municipality where the juror lives, current employer, former employer, occupation, and spouse's employer and occupation. Hobbies and children's ages and occupation are provided if the juror gives us that information. You may take notes on this list if you so desire. After the jury is selected, all copies of jury lists must be returned to the clerk.
- d. Voir Dire Examination: In most cases attorneys are allowed to conduct part of the voir dire. The Court will begin by asking counsel to introduce themselves and their clients. The Court then asks introductory questions covering such things as the nature of the case, burden of proof, prior jury service, length of the trial, etc. If you want the Court to ask any specific questions that, for some reason, you prefer not to ask, please submit them in writing, with notice to opposing counsel. Otherwise, you may inquire about anything relevant to jury selection. Questions must first be posed to the panel as a whole. Counsel may then ask follow-up questions of any persons who raise their hands. You may also ask follow-up questions based on my questioning. You may not ask unnecessary questions in order to establish rapport, ask the jurors to make promises to you, make speeches, argue your case, tell the jury about yourself or your family, or do anything else that is not directly designed to elicit relevant information about the potential jurors. In every case, the Court reserves the right to conduct the entire voir dire. In such cases, counsel will be advised to submit proposed voir dire question to the Court no later than two business days before trial.
- e. Jury Selection: After all questioning has been completed, the panel will be removed from the courtroom and the Court will immediately ask for challenges for cause. No challenges for cause or statements that either the panel or any juror is acceptable may be made in front of the jury panel. After any panel members are stricken for cause, the parties will make their peremptory challenges from the number of jurors equal to the number to be seated plus the total number of peremptory strikes (i.e., for a seven-person jury, with three peremptory strikes per side, challenges will be exercised with regard to the first thirteen jurors remaining after strikes for cause). Plaintiff will make its peremptory challenges and then defense will make its challenges. In a civil case, all jurors remaining after the strikes will be seated and will deliberate; no formal alternates will be designated.

13. Courtroom Logistics and Trial Rules:

- a. Time of Trial: Trial typically begins at 9:00 a.m. and concludes at 5:00 p.m. Parties should be prepared to begin promptly, so that jury is not kept waiting. Counsel will not be permitted to raise preliminary matters at the start of the trial day, when the jury is ready to proceed. The Court will be available to resolve preliminary matters 30 minutes prior to the scheduled start time of the trial day, during the lunch break, or at the conclusion of the trial day.
- b. Use of Lectern: Voir dire, opening statements, examination of witnesses, and closing arguments must

be made from the lectern. You do not need to ask the Court's permission to approach the witness to hand the witness an exhibit. Counsel must then return to the lectern for questioning, unless counsel must direct the witness's attention to a part of the exhibit. Counsel may not hover over the witness during an examination and may never hover over the jury for any reason.

c. Objections: You should stand and state the legal basis for your objection without argument or elaboration. The Court will either rule or ask you to approach for a sidebar conference.

d. Juror Note-Taking: Jurors are generally permitted to take notes during the trial.

e. Use of Exhibits and Opening Statements: You may use exhibits in your opening statement so long as you have consent from opposing counsel and advise the Court in advance.

f. Recross: Recross is not allowed as a matter of right; recross is allowed only if something new is brought out on redirect. If counsel wishes to recross a witness, counsel must approach the bench with the request and tell the Court the areas on which recross is sought. The Court will determine whether the questioning will be allowed.

g. Exhibits: You must pre-mark all exhibits, as set out in the Case Management Order. Do not ask the courtroom clerk to mark exhibits for you. The Case Management Order requires plaintiffs to use numbers and defendants to use letters for exhibits. If you are a defendant and have more than seventy-eight exhibits (ZZZ), you should consider using a method that avoids excessive multiple use of a single letter (such as AAAAA). There are several ways to do so and still comply with the pretrial order (for example, after Z, you might use, AA, AB, AC...AZ, followed by BA, BB, etc.). The parties must attempt to stipulate to the admission of as many exhibits as possible prior to trial. Counsel should bring a list of all exhibits which may be received without objection at the beginning of trial. Unless otherwise stipulated, examining counsel must show each exhibit to opposing counsel prior to showing it to a witness. Demonstrative and summary exhibits must be shown to opposing counsel in advance of trial, even if not offered into evidence.

h. Depositions and Video Depositions: Counsel often "over designate" portions of the deposition they intend to use at trial in their pretrial submissions. Prior to the start of trial, you must notify opposing counsel of what portions you actually intend to offer, so that opposing counsel can determine whether they still wish to object or to counter-designate. Counsel must attempt to resolve any objections and bring to the Court's attention any objections that cannot be resolved well in advance of the proposed use of the deposition, so that the Court can rule on any objections without wasting jury time. If you wish to play a video deposition, please let the Court know in advance, so that the Court can rule on objections in time for you to make the necessary edits or otherwise address the logistics.

i. Jury Instructions: The Eighth Circuit Model Jury Instructions are used for boilerplate and substantive matters covered by those instructions. The Missouri Approved Instructions (or another state's approved instructions, when appropriate) are used for issues governed by state law.

Final instructions are sent to the jury in writing, and also displayed to the jury on the visual presenter while they are being read. The parties must submit a set of instructions, indicating the source of or authority for the instruction and indicate the offering party, and be numbered at the top. The parties must also email the Court a copy of their instructions to MOEDml_Team_AGF-RLW-NCC@moed.uscourts.gov, in order to assist the Court in making necessary changes. Counsel are required to meet and confer regarding jury instructions and, whenever possible, to submit one package of jury instructions to the Court on behalf of the parties. In the absence of agreement as to the instructions, counsel should expect to have the final jury instruction conference in the evening, at the conclusion of the trial day.

14. Courtroom Decorum:

a. Please stand when the jury enters the courtroom and stand at all times when speaking.

b. No eating, cell phone usage, drinking other than water, gum chewing, or audible beepers or watches are allowed. Please tell your clients and witnesses the rules.

c. All witnesses and opposing counsel must be addressed by their last names, with appropriate titles. Do not call any witnesses by their first names, even your clients, and please advise witnesses not to address counsel by their first names. This rule is intended to govern how we address one another in the courtroom - it is not a rule requiring witnesses to refer to one another in any certain way during their testimony.

d. Persons seated at counsel table shall not make any verbal comments, facial expressions, laughter, or other expressions, verbal or non-verbal, to the jury which would be interpreted as conveying a comment one way or the other with respect to any testimony, argument, or event that may occur during trial.

e. Young children are not allowed as spectators unless they are accompanied by an adult seated with them in the spectator's area. An individual seated at counsel table or a witness, while testifying, cannot qualify as the attending adult.

f. All statements by counsel should be directed to the Court and not to each other. Counsel is expected to treat each other, all Court personnel, and all witnesses, including adverse witnesses, professionally and courteously.