

**UNITED STATES DISTRICT JUDGE
JOSHUA M. DIVINE**

Chambers 12N

Address

111 S. 10th Street Suite 12.148
St. Louis, MO 63102

Phone

(314) 244-7428

Chambers Email

Divine_Chambers@moed.uscourts.gov

Case Management Team

John Bernsen

(314) 244-7941

John_bernsen@moed.uscourts.gov

Lauren Jones

(314) 244-7937

Lauren_jones@moed.uscourts.gov

Cassie Thoele

(314) 244-7542

cassandra_thoele@moed.uscourts.gov

Tiffany Roskowski

(314) 244-7451

tiffany_roskowski@moed.uscourts.gov

Law Clerks

Monica Maiman

(314) 655-6893

Monica_maiman@moed.uscourts.gov

Brady Marzen

(314) 655-6895

Brady_marzen@moed.uscourts.gov

Nicholas Mauer

(314) 655-6894

Nicholas_mauer@moed.uscourts.gov

Judge's Requirements (Revised August 2025)

Parties are ordered to comply with each of the directives set forth below. The Court will hold the parties responsible for following these directives; failure to conform to this Order's directives may, when appropriate, lead to sanctions.

I. Local and federal rules

Counsel must know the following rules and follow them. The [Local Rules of the Eastern District of Missouri](#), the [Federal Rules of Civil Procedure](#), the [Federal Rules of Criminal Procedure](#), and the [Federal Rules of Evidence](#).

You may find many answers to frequently asked questions in the following materials. Before contacting the Court, please reference the Court's [Local Rules](#), the [Federal Judiciary Homepage](#), the [Federal Judicial Center](#), and the [United States Sentencing Commission](#).

II. Point of Contact

Contact the case management team for all routine matters. Email the clerk assigned to your case for case-specific matters.

III. Assignment of Clerks

Clerks are generally assigned to cases, both civil and criminal, as follows:

Cases ending in 1, 2, or 3: Monica Maiman

Cases ending in 4, 5, or 6: Brady Marzen

Cases ending in 7, 8, or 9: Nicholas Mauer

If your case ends with a zero, use the last nonzero digit.

IV. Entries of appearance

Unless otherwise permitted by the Local Rules, you must be admitted to practice before this Court to represent any party in any case. You must file an entry of appearance for each case. Failure to comply with this Requirement will bar your appearance on pleadings, participation in a case, and representation of a party.

V. Emergency matters

If you have an emergency motion that you believe requires a formal hearing on the record, call to notify chambers and to request a hearing. You also must follow up with an email to Divine_Chambers@moed.uscourts.gov.

VI. Proposed orders

Any proposed order or proposed judgment must be filed electronically as a pdf attachment to the motion or memorandum to which it pertains. Additionally, the proposed order or judgment must be emailed to the clerk assigned to your case in a word-processing format.

VII. Criminal case scheduling

Requesting a Change of Plea Hearing: Counsel can request a change-of-plea hearing by emailing the clerk assigned to your case. The email should include a copy of the agreed-upon plea agreement as an attachment. The Court generally does not conduct consolidated plea-and-sentencing hearings.

Continuances:

- (a) In General: A trial date is firm, and the Court will not continue trial without a showing of exceptional cause.
- (b) Motions to Continue: If a criminal defendant has a true showing of exceptional cause for continuing a trial date or change-of-plea date, the criminal defendant can file a motion to continue. That motion to continue must include the length of the requested continuance or a proposed date, and the United States' position on both the motion itself and on the length of the continuance or the proposed date. The criminal defendant must also file a waiver of their right to a speedy trial, and both the defendant and counsel must sign it.
- (c) Multiple Defendants: In cases with multiple defendants, a motion to continue will not be considered unless all defendants agree to the continuance of the trial date **and** all defendants file waivers of speedy trial.
- (d) Sentencing Hearings: If a party must seek a sentencing hearing continuance, that party must file a motion as far in advance of sentencing as possible but no later than 10 days before the hearing, unless the grounds for the continuance could not have been known at that time. Belated requests for continuances inconvenience many

people, including witnesses, victims, court personnel, attorneys, and others, and hinder the Court's scheduling of other matters.

VIII. Civil pleadings

After filing a complaint, counterclaim, or crossclaim, the party must provide a copy of the filed pleading to opposing counsel in .doc or .docx format.

When preparing an answer to a complaint, counterclaim, or crossclaim, responding parties must: (1) work directly from the .doc or .docx version of the pleading it is responding to, and (2) include the response to the allegation in a non-numbered paragraph below the allegation.

For example, if Plaintiff's complaint alleges in paragraph twelve that Defendant John Doe is a citizen of Missouri, Defendant John Doe's answer would respond to that allegation directly in the complaint word document provided by opposing counsel like the right-hand column below:

[Original complaint text]	12. Defendant John Doe is a citizen of Missouri.
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[Defendant's answer text]	Admitted.
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Of course, responding parties must comply with the requirements that relate to partial denials as set out in Rule 8(b)(4) of the Federal Rules of Civil Procedure.

Note that the provisions of this section do not apply to *pro se* parties or appeals (e.g., Social Security, Bankruptcy, and the like).

Any amended pleadings shall be accompanied by a redline comparison of the original and amended pleading. The redline shall be filed as the final attachment.

IX. Motions and memoranda

Format: Memoranda of points and authorities filed in support of or in opposition to any motion may not, without leave of the Court, exceed 15 pages. Reply memoranda may not, without leave of the Court, exceed 8 pages. All margins must be set at one inch; all text must be double-spaced (excepting footnotes); and the font must be set to 11 point Century Schoolbook (including footnotes). The Local Rules apply for calculating exclusions from the page count.

Each submission longer than 10 pages shall be accompanied by a table of contents and a table of authorities. Counsel shall place asterisks in the margin to the left of those cases or authorities on which counsel chiefly relies.

Waiver: When a party fails to file a memorandum in opposition to a given motion or fails to respond to arguments, the Court may treat the motion or specific arguments as conceded.

Extension Requests: Motions for extensions of time and to reschedule hearings are **strongly discouraged**. A request for a first extension greater than three weeks, or a subsequent extension of any time, will be granted only in exceptional or compelling circumstances. Parties should not expect the Court to grant extensions. The Court will not entertain or honor joint stipulations for extensions of time or to reschedule hearings; parties must file a written motion in accordance with the following instructions:

- (a) Extension motions must be filed at least four business days before the first affected date.
- (b) The first word or phrase of the motion heading should be “Opposed,” “Unopposed,” or an appropriate variation.
- (c) All motions for extensions of time or to reschedule a hearing must include the following or they will not be considered:
 - a. The current deadline or date;
 - b. The amount of time requested for the extension or, for rescheduling, alternative dates that have been agreed to by all parties;
 - c. The specific grounds for the extension or the rescheduling;
 - d. The number of previous extensions or continuances, if any, granted to each party;
 - e. A statement of the effect the requested extension or rescheduling would have on all other previously set deadlines; and
 - f. A proposed schedule for any other affected deadlines, to be proposed only after consulting with opposing counsel;

Certificate of Conference: Make serious, timely, good faith efforts to seek agreement on all disputed matters and requests for relief. A certificate of conference is required for any motion where a party is expected to seek consent of the other parties, *e.g.*, motions to extend. The certificate of conference should be included at the end of the motion. This statement shall recite the date, time and manner of such conference and the names of the individuals participating therein or shall state with specificity the efforts made to confer with opposing counsel.¹

¹ Sample Language:

If conferred: I certify that I have conferred with all other parties (name all parties) about the merits of this motion on (date, time) via (manner) with the following results: (add name of opposing counsel or pro se party) opposes motion/does not oppose motion/agrees with motion/would not say whether motion is opposed.

A certificate of conference is not required for dispositive motions or motions seeking injunctive relief. If a conference was impossible or impractical, the certificate of conference must explain why.

The Court will strike motions in civil cases – and may strike motions in criminal cases – that do not include a required certificate of conference.

Joint Motions Required: In cases with multiple plaintiffs or multiple defendants, parties must avoid duplicative filings of motions, including statements of undisputed facts. For example, when multiple movants raise the same or similar issues, they must file a joint motion, with one memorandum in support (if a memorandum is needed). In turn, the respondents must file one joint memorandum in opposition, and the movants must file one joint reply memorandum. The Court will not accept separate motions raising the same or similar issues.

Summary Judgment and *Daubert* Motions: Parties must avoid multiple filings of summary-judgment motions and motions under Federal Rule of Evidence 702 or 703 (colloquially referred to as *Daubert* motions). For summary judgment, a movant may file only one motion incorporating all claims and defenses on which summary judgment is sought. Likewise, a movant may file only one 702 or 703 motion incorporating all challenged experts.

Multiple Movants / Respondents: On summary-judgment motions, multiple movants must file one consolidated statement of material facts; if necessary, the movants may include sections demarcating facts asserted only by certain movants. Likewise, multiple respondents must file one consolidated response to the statement of material facts, also including sections demarcating responses asserted only by one movant. The same applies to replies to responses to statements of facts. The goal here is to minimize the number of separate documents that the parties and the Court need to refer to for the facts.

Statement of Material Facts: Each party submitting a motion for summary judgment must attach a statement of material facts for which that party contends there is no genuine dispute, with specific citations of those portions of the record upon which the party relies in fashioning the statement. After filing a statement of material facts, the party must provide a copy of the statement to opposing counsel in .doc or .docx format.

One-Document Rule: When preparing a response to a statement of material facts, responding parties must: (1) work directly from the .doc or .docx version of the statement it is responding to, and (2) for any statement that the party contends is genuinely disputed, explain the dispute in a nonnumbered paragraph below the statement. (This process is parallel to the process for responding to pleadings, explained in Part VIII.) Any statement not responded to will be deemed admitted.

If did not confer: I certify that I have made a reasonable attempt to confer with all other parties (name all parties) about the merits of this motion on (date, time) via (manner) with the following results: (state results).

Additional Facts: If the responding party has additional facts that are not directly relevant to its response, it must identify those facts in consecutively numbered paragraphs in a separate filing. If additional factual allegations are made, the opponent must file a responsive statement of its own, complying with these same rules.

The parties must furnish precise citations of the portions of the record on which they rely; the Court need not consider materials not specifically identified. See FED. R. CIV. P. 56(c)(3).

X. Exhibits

Exhibits shall be properly edited to exclude irrelevant material and to direct the Court's attention to the pertinent portions. Parties are **strongly encouraged** to **highlight** in the PDF documents the relevant parts of exhibits.

XI. Electronic Filing

Text Searchability: All documents filed electronically are to be in Portable Data Format (.pdf). All filings shall be submitted in text-searchable PDF files, directly converted from the word-processing format into PDF so as to preserve their searchability and readability.

For exhibits that must be scanned because they exist only in paper format, parties represented by attorneys must run an optical character recognition on these scans so that they are text searchable.

Retention of copy: Electronically filing a document that contains a declaration, verification, certificate, sworn statement, oath or affidavit certifies that the original signed document is in the possession of the attorney or *pro se* party responsible for the filing and that it is available for review upon request by a party or the Court.

Technical Issues: Parties who wait until the last minute to begin filing are warned that technical difficulties do not necessarily constitute "good cause" or "excusable neglect" justifying an extension of the applicable deadline(s). See FED. R. CIV. P. 6(b). Further, **no allowance can be made for late filing documents whose time limits are jurisdictional.**

Docketing: Because the description of the type of document and requested relief becomes the official docket entry recorded in the case, attorneys are to be **precise** in their descriptions when making electronic filings with the Court. Failure to be accurate and thorough in the description of documents electronically filed may lead to action adverse to the attorney or party.

XII. Courtesy copies

The Court does not need courtesy copies. Do not file courtesy copies unless instructed to do so by the Court. The only exception is for trials. Bring a courtesy copy of the exhibits to trial.

XIII. Rule 16 conferences

Setting of Conferences: If there is a need for a Rule 16 conference, the Court will set the conference after all defendants have filed a responsive pleading.

Requesting an Expedited Conference: If a party believes there is need to have a conference sooner, that party should contact the law clerk assigned to the case to request an expedited conference. Parties must seek the position of opposing counsel before seeking an expedited conference.

Joint Scheduling Plans: Before the conference, the Court will issue an order setting a Rule 16 conference that requires the parties to meet and to prepare a proposed Joint Scheduling Plan (JSP). Unless the Court orders otherwise, counsel for plaintiff is responsible for initiating the meeting and filing the JSP. Parties are encouraged to speak with each other when preparing the JSP and attempt to resolve disagreements.

If the parties are unable to resolve disagreements about issues in the JSP after meaningfully speaking in person or by telephone, they must set forth in the JSP: (1) their respective positions on the issue and (2) the means used when trying to resolve the disagreement (whether they spoke in person or by telephone). The Court will not accept separate JSPs, even if the parties disagree on issues.

Rule 16 Conferences: Lead trial counsel must attend the Rule 16 conference. The attendance of lead counsel advances the purposes of Rule 16, and (1) it is Judge Divine's first opportunity to manage the case and meet counsel, (2) it is counsels' first opportunity to help the Judge manage the case by advising of any particular issues requiring Judge Divine's attention or guidance, and (3) it allows counsel for both sides to further discuss the case with each other. This requirement will not be waived absent exceptional circumstances.

At the Rule 16 conference, all counsel in attendance should be prepared to discuss the facts of the case as well as other matters set out in Rules 16 and 26(f) of the Federal Rules of Civil Procedure and in the Rule 16 order itself. This includes settlement, changes to the proposed schedule, and trial setting.

XIV. Case management orders

Because Judge Divine manages his docket proactively, parties can expect to go to trial during the window set in the Case Management Order. Deadlines set forth in the CMO are strictly enforced by the Court. "Exceptional circumstances" does not include generic "press

of other business,” discovery taking longer than expected, or parties’ delay in initiating or pursuing discovery.

Counsel should read the CMO carefully and refer to it throughout the case. If a party needs to amend any part of the CMO that is not covered by Rule 29 of the Federal Rules of Civil Procedure, that party must file a motion to amend (including a motion to extend a deadline) before that deadline passes. The motion must also specify whether counsel for each other party consents to the amendment. The Court will grant the motion only if the movant shows that exceptional circumstances justify the amendment.

XV. Discovery disputes

Prohibition on Motions: The parties shall not file a discovery motion without approval by the Court. If, in what should be the unusual case, the parties are unable to resolve their discovery dispute, counsel shall contact Chambers to inquire about a telephone conference with the Court.

Conference Requirement: Before approaching the Court with a discovery-related motion, you must meet and confer with opposing counsel and attempt to resolve the dispute. Sending letters, emails, or text messages to one another does not fulfill the meet-and-confer requirement.

Conference with Nonparties: In addition, if any party has a dispute with a nonparty (e.g., regarding a subpoena), the same conference requirement applies. Additionally, parties must promptly inform the nonparty of the Judge’s discovery-dispute requirements. If the nonparty needs the Court to resolve the dispute, it should follow the procedure explained above.

Conference with Incarcerated, *Pro se* Litigants: In cases involving incarcerated *pro se* litigants, the Court expects the parties to confer only in writing before filing a discovery motion. Unlike in other cases, discovery motions are permitted without prior approval of the Court.

Telephone Conference: Before a telephone conference, the parties must follow this procedure:

1. After scheduling a conference, the party seeking the Court’s ruling on a discovery issue must only file a one- to two-page single-spaced motion describing (a) the dispute, (b) how the parties tried to resolve the dispute, and (c) the party’s legal position.
2. Opposing counsel must then file only a one- to two-page single-spaced response agreeing with, clarifying, or disputing the assertions in the motion. Counsel should file the response as soon as possible, but no later than three (3) business days after the motion was filed. The opposing party must not raise additional discovery issues in its response. If the party wishes to raise a

separate dispute, it must simultaneously file a motion according to the paragraph above.

3. If the dispute concerns an objection to a specific discovery request, the parties must submit the specific request and objection simultaneously with the motion or response.

XVI. Discovery objections

Rules 33(b)(4), 34(b)(2)(B)–(C), and 36(a)(5) of the Federal Rules of Civil Procedure prohibit boilerplate and general objections in response to discovery requests. Parties should not carelessly raise “standard” objections such as attorney-client privilege, work-product doctrine, overly broad/unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. The Court will disregard or strike standard, non-specific objections.

Similarly, parties must not include in a response to a discovery request a “Preamble” or a “General Objections” section stating that the party objects to the discovery request “to the extent that” it violates some rule pertaining to discovery. Instead, the party must raise specific objection(s) to each discovery request so that the opposing party and the Court will know exactly what objection applies to each request.

XVII. Discovery stipulations

I encourage parties to stipulate about discovery procedures as set forth in Rule 29 of the Federal Rules of Civil Procedure. The parties should not file motions on matters covered by Rule 29.

XVIII. Mandatory Certification Regarding Generative Artificial Intelligence

All attorneys and *pro se* litigants appearing before the Court must file a certificate on the docket, together with their notice of appearance, attesting either that no portion of any filing will be drafted by generative artificial intelligence (such as ChatGPT, Harvey.AI, or Google Bard) or that any language drafted by generative artificial intelligence will be fully checked for accuracy by a human being, using print reporters or traditional legal databases.²

² Sample language: I, the undersigned attorney, hereby certify that I have read and will comply with all judge-specific requirements for Judge Joshua M. Divine, United States District Judge for the Eastern and Western Districts of Missouri.

I further certify that no portion of any filing in this case will be drafted by generative artificial intelligence or that any language drafted by generative artificial intelligence—including quotations, citations, paraphrased assertions, and legal analysis—will be fully checked for accuracy by a human being using print reporters or traditional legal databases before it is submitted to the Court. I understand that any attorney who signs any filing in this case will be held responsible for the contents thereof according to applicable rules of attorney discipline, regardless of whether generative artificial intelligence drafted any portion of that filing.

XIX. Alternative dispute resolution

The Court refers civil cases (except habeas corpus, Social Security appeals, and bankruptcy appeals) to Alternative Dispute Resolution. The Court encourages parties to view ADR as a process, not an event; for example, if necessary, schedule multiple mediation sessions over multiple days or weeks to give parties time to investigate and absorb information learned in mediation. When virtual, mediators often will schedule less-than-full-day mediation sessions.

Designated Lead Counsel: Unless the parties agree otherwise, counsel for plaintiff will be designated lead counsel for purposes of coordinating ADR. If the parties agree that someone other than counsel for plaintiff will serve as lead counsel, they must notify the Court, in writing, of the agreed-on lead counsel.

Selecting a Neutral: Lead counsel must work with opposing counsel to select a neutral. Counsel can get a list of certified neutrals from the Clerk's website (<http://www.moed.uscourts.gov/neutrals/>). The parties must file a motion seeking permission to appoint a neutral who is not on the list of certified neutrals. The non-certified neutral must have special subject-matter expertise germane to the case.

ADR Deadlines: All ADR deadlines are binding and may be extended by Court order only. If a deadline cannot be met, the designated lead counsel must file a motion requesting an extension of the deadline before the expiration of that deadline.

Settlement: If the parties reach a settlement, they must notify the Court immediately. The Court then will enter an order vacating all pending deadlines and requiring counsel to file a stipulation for dismissal, a motion for leave to voluntarily dismiss, or a proposed consent judgment within 30 days.

XX. Pretrial conferences

At the final pretrial conference, counsel should be prepared to argue any preliminary matters, including any motions in limine, so that the Court can rule on them before the trial date. The Court will put any necessary arguments and all rulings on the record at the end of the pretrial conference or before the trial starts.

XXI. Available courtroom technologies

For all proceedings in open court, the Judge prefers that counsel use the Court's equipment.

Evidence Presentation Equipment: The Court has evidence presentation equipment available, including an evidence camera (e.g., ELMO), monitors, and hook ups for computer-stored evidence or computer presentation. Instructions for how to use this equipment are available on the Court's website at <http://www.moed.uscourts.gov> under Courtroom Technology.

Evidence Camera/ELMO: Counsel are strongly encouraged to use the evidence camera or ELMO for all trials. Please call the Judge's 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. We do not conduct training on the day of trial.

Use of Personal Computer at 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 audio tapes; you will need to bring your own device.

XXII. Decorum and General Courtroom Rules

****The Court encourages counsel to save these rules in an easily accessible place and to send this page to all anticipated audience members, invitees, and additional parties****

Counsel: Please be sure that your clients and witnesses observe these rules.

A. Courtroom Electronic Device Policy:

1. Photographs, audio or video recordings, and broadcasts are **prohibited**.
2. Laptops and tablets are permitted at counsel tables only. Counsel must get advance approval from the Judge for an audience member to use laptops or tablets.
3. All cell phones and other electronic devices **must be turned off** and may not be used during court proceedings without authorization from the Court.

B. General courtroom decorum

1. When counsel arrives, notify the Courtroom Deputy and introduce additional counsel, support staff, and parties.
2. All courtroom attendees must treat each other, all Court personnel, and all witnesses (including adverse witnesses) professionally and courteously.
3. Stand when the jury enters the courtroom; stand at all times when speaking.
4. Eating, drinking (other than water), chewing gum, or carrying audible beepers or watches are all prohibited in the courtroom.

C. Videoconference protocol

To facilitate the flow of the conference and aid in the accuracy of the transcript, the Court expects parties to observe the following protocol when participating in videoconferences:

1. Participate from a quiet place and be aware of your surroundings. Recognize that other participants will have a clear view of the contents of your video frame, including items around or behind you.
2. Ensure proper lighting. Be aware that lighting is best in front of your face, not behind it. Avoid sitting with your back to the light source as this makes it difficult for the Judge to see you.
3. Dress as if you are making a physical appearance in court.
4. **Mute yourself when you are not speaking.**
5. Avoid talking over others. Wait until the current speaker finishes talking before you begin to speak.