

**PRACTICES AND PROCEDURES OF  
MAGISTRATE JUDGE PATRICIA L. DODGE  
(Updated as of September 1, 2022)**

**I. GENERAL MATTERS**

**A. Communications with the Court**

Counsel shall not send letters, motions or briefs to Magistrate Judge Dodge unless she specifically requests or approves this practice. Requests for the rescheduling of conferences may be made by telephone to the Court's Courtroom Deputy, but only if counsel for all parties are on the line or have expressly authorized counsel for a particular party to convey the request. Otherwise, such requests are to be made by motion.

**B. Communications with Chambers**

Counsel may contact Magistrate Judge Dodge's staff to discuss administrative matters only.

**C. Telephone and Video Conferences**

As appropriate, the Court may conduct conferences or other proceedings by telephone or by video conference. Unless otherwise ordered, settlement conferences, pretrial conferences, and oral arguments typically will not be conducted remotely. Telephonic conferences will be facilitated through a Court-provided conference line, which will be supplied by means of a ECF docket entry. If a proceeding is to be conducted via video conference, Chambers will supply log-in information to counsel and unrepresented parties in advance of such proceeding.

In addition to Court-scheduled conferences, this Court will also schedule and conduct a status conference (telephonic or in person) upon request by counsel for the parties.

**D. Pro Hac Vice Admissions**

Pro hac vice motions are routinely granted as long as all of the requirements of Local Rule 83.2.B. are met.

**E. Comments to the Media**

Attorneys are expected to adhere to the Rules of Professional Conduct in all dealings, including those with the media.

## **II. MOTIONS PRACTICE**

### **A. Rule 12 Motions**

If a defendant determines that a Rule 12 motion is appropriate, defense counsel first must meet and confer with plaintiff's counsel before filing to determine whether any purported defects with the complaint can be cured. Any motion to dismiss must be accompanied with a certificate stating that the defendant has made good-faith efforts to confer with the plaintiff to determine whether the identified pleading deficiencies properly may be cured by amendment. Rule 12 motions that do not contain the required certification will be stricken. This requirement applies to all Rule 12 motions, including motions for judgment on the pleadings under Rule 12(c).

### **B. Briefs**

Motions that seek substantive legal rulings, whether dispositive or non-dispositive, should be accompanied by a supporting brief. The supporting brief must be filed contemporaneously with the motion. A brief may be omitted only if (i) the motion is non-dispositive; and (ii) the motion contains sufficient argument and legal citations to permit meaningful judicial review.

#### **1. Page Limitations**

Supporting and responsive briefs regarding dispositive motions are limited to twenty-five (25) pages. Supporting and responsive briefs regarding non-dispositive motions are limited to ten (10) pages. For good cause, parties may move for leave to exceed these page limitations.

#### **2. Citation to Unpublished Opinions**

When citing to unpublished opinions, counsel must use the Westlaw citation rather than the LEXIS cite.

#### **3. Reply Briefs**

Reply briefs and sur-reply are only permitted with leave of court. Any reply or sur-reply that is filed without leave of court will be stricken. All reply and sur-reply briefs are limited to five (5) pages.

#### **4. Font**

All motions and briefs shall use a font not smaller than 12.

#### **C. Proposed Orders**

In accordance with local rules, all motions shall be accompanied by a proposed order of court. The order of court shall include language detailing the specific relief sought rather than merely stating that the motion is “granted.”

#### **D. Chambers Copies of Motion Papers**

Generally, courtesy copies of motions and briefs, including exhibits and attachments, should not be forwarded to Chambers as they are available to the Court through ECF. If exhibits and attachments are in excess of one-hundred (100) pages, Magistrate Judge Dodge prefers that counsel deliver to chambers a hard copy of the exhibits/attachments.

#### **E. Scheduling**

Unless a separate Order is issued, responses to non-dispositive motions shall be filed within fourteen (14) days of service, and responses to dispositive motions shall be filed within thirty (30) days of service.

#### **F. Oral Argument**

Oral argument may be scheduled for factually or legally complex matters. A party may also file a motion requesting oral argument. If the Court determines that oral argument is appropriate, an order will issue. The parties are also directed to the Statement of the Court Regarding Courtroom Opportunities for Newer Lawyers in Section V.

#### **G. Evidentiary Hearings**

The scheduling of evidentiary hearings is determined on a case-by-case basis.

#### **H. Motions in Limine**

The deadline for filing motions in limine and supporting briefs will be set in a pretrial order. Generally, the Court will rule on these motions prior to trial. Counsel shall comply with Local Rule 16.1.C.4 with respect to all motions in limine.

## **I. Motions for Reconsideration**

Motions for reconsideration must be filed within seven days of the order at issue.

## **J. Motions to Seal**

All motions to seal any document or proceeding must set forth the specific factual and legal basis and necessity for sealing under prevailing law. Any order sealing any matter is subject to being vacated upon the motions of any party, any interested person, or by the Court on its own motion. Absent exceptional circumstances, any proposed Order must include this language: "This Order may be vacated and sealing lifted for cause shown upon the motion of any party or other person with a recognized interest, or after due notice by the Court upon the Court's own motion." The parties are reminded that all proceedings in federal court are presumptively open to the public, including those in which "sealed" material may be discussed.

## **III. CIVIL CASES**

### **A. Pretrial Procedures**

#### **1. Local Rule 16.1**

The Court uses a standard case management order form based on Local Rule 16.1.

#### **2. Conferences**

##### **a. Initial Case Management Conferences**

Magistrate Judge Dodge will issue an order setting the date for the initial case management conference after the filing of an answer by all defendants or after resolution of a Rule 12(b) motion. Prior to the conference, the parties shall meet and confer and then file a report pursuant to Fed. R. Civ. P. 26(f), the form of which is set forth in the Appendix to the Local Rules. Trial counsel shall attend the initial case management conference.

##### **b. Post-Discovery Conferences**

A post-discovery conference will be scheduled promptly after the close of discovery. Trial counsel must attend. Counsel shall be prepared to discuss all other pretrial deadlines.

**c. Settlement Conferences**

Magistrate Judge Dodge requires trial counsel and their clients, or persons with authority, including insurance companies, to attend all settlement conferences. In the event that counsel has full authority to negotiate a settlement, the client may be permitted to participate by telephone or video conference on an as-needed basis.

**d. Other Conferences**

Additional case management or status conferences may take place at counsel's request or at the Court's discretion.

**3. Settlement**

The Court will explore the possibility of resolving the case short of continued litigation at every conference and at each stage of the litigation.

With the exception of social security appeals, petitions for habeas corpus and prisoner civil rights cases, all cases are required to participate in the Court's ADR program pursuant to Local Rule 16.2. Absent good cause shown, the ADR process shall occur within sixty (60) days of the Initial Scheduling Conference. If the parties have a good faith belief that additional time is required, however, the Court will entertain a motion to extend the deadline.

**4. Extensions and Continuances**

Requests for extensions of time and continuances shall be presented by written motion, contain supporting facts and indicate the position of opposing counsel. Reasonable extensions generally will be granted. Counsel are advised that untimely requests for continuances (for example, on or after a court-ordered deadline) without a showing of good cause are strongly disfavored.

**5. Objections/Placing Proceedings on the Record**

If counsel at any time has an objection to any procedure, ruling or other action of the Court, counsel should make an immediate objection by written motion or otherwise on the record at the earliest practicable time. If no court reporter is present and counsel has an objection(s), or otherwise desires the proceeding be on the record for any reason, counsel has the right to and should request a court reporter to be present and thereafter place the objection(s) or proceedings on the record. Counsel may request at any time that any proceeding or matter be placed on the record.

## **6. Consultation by Counsel/Attendance of Necessary Counsel**

All parties (other than those proceeding pro se) shall be represented at any conference by counsel who is a member of the Bar of this Court (or, who has been or will be admitted specially), has entered an appearance, and is sufficiently familiar with all legal and factual matters involved in the action to allow counsel to meaningfully and fully participate in the proceedings. At any conference, counsel shall be prepared to discuss in detail and argue any pending motions, and to discuss settlement. Counsel are expected to confer with one another prior to any conference with the Court to review any issue which may be raised at such conference and to provide their respective positions on all such matters.

### **B. Discovery Matters**

#### **1. Length of Discovery Period and Extensions**

Generally, one-hundred fifty (150) days are allowed for discovery although Magistrate Judge Dodge will solicit input from counsel regarding the anticipated length of discovery required. Counsel must comply with the provisions of Fed. R. Civ. P. 26 generally and must file the written report required by Rule 26(f) prior to the initial case management conference. The parties are encouraged to abide by discovery deadlines and only request extensions when they are absolutely necessary. Any request for an extension must be made in a reasonable time frame prior to the deadline. Untimely requests are strongly disfavored.

#### **2. Expert Witnesses**

Expert reports and discovery may be deferred until after dispositive motions upon agreement of the parties and the Court.

#### **3. Discovery/Deposition Disputes**

The Court's practice regarding discovery disputes is set forth in a case management order that is issued after the Rule 16 conference. Counsel are encouraged but not required to contact Chambers when a discovery dispute arises so that it may be promptly addressed without the need for a written motion or response. Counsel must meet and confer in an effort to resolve a discovery dispute prior to bringing a discovery issue to the Court's attention. All written motions must be accompanied by the certification required by Federal Rule of Civil Procedure 37(a)(1). With respect to discovery disputes that arise during a deposition, counsel may

but are not required to jointly call the Court to resolve the matter at that time.

#### **4. Stay of Discovery**

The filing of a motion to dismiss or other dispositive motion generally will not stay discovery. Participation in an ADR process will not stay discovery. A stay of discovery may be sought by motion but will be granted only if the right to relief is clear or some other compelling reason exists.

#### **5. Limitations on Discovery**

The Court follows the Federal Rules of Civil Procedure regarding this matter and does not impose additional restrictions or limitations.

### **C. Preliminary Injunctions**

Either upon consent of the parties or referral by a District Court Judge to Magistrate Judge Dodge, a briefing schedule will be issued and a hearing date will be scheduled. Requests for and the use of expedited discovery are considered on a case-by-case basis.

### **D. Motions for Summary Judgment**

Unless the parties are otherwise directed by the Court, motions for summary judgment and responses in opposition thereto must comply with the requirements of LCvR 56. A party's failure to adhere to these requirements may result in the motion for summary judgment being decided against the party's position. Supporting and opposing briefs shall include a statement of facts that summarizes the facts relevant to that party's position.

### **E. Trial Procedures**

#### **1. Compliance with Local Rule 16.1 C**

The content of pretrial statements shall comply with LCvR 16.1 C.1.

#### **2. Scheduling of Cases**

For cases in which the parties have consented to jurisdiction before Magistrate Judge Dodge, a date certain will be given for trial following the resolution of any Rule 56 motions or, if none are filed, at the post-discovery status conference. Vacation schedules and conflicts with the personal/professional obligations of counsel, parties and witnesses will

be accommodated whenever possible. The Court must be notified of any conflicts as soon as possible.

### **3. Trial Hours/Days**

Generally, cases will be tried Monday through Friday, 9:00 a.m. to 4:00 p.m., with one 15-minute break in the morning and one in the afternoon. Modification of this schedule will be considered as appropriate. Magistrate Judge Dodge will meet with counsel before and after the trial day to discuss trial/evidentiary issues.

### **4. Trial Briefs**

Trial briefs are not required but are encouraged and should not exceed fifteen (15) pages. The filing date for the briefs will be set in a pretrial order.

### **5. Motions in Limine**

The filing date for motions in limine will be set in the pretrial order.

### **6. Voir Dire**

The filing date for proposed voir dire questions will be set in the pretrial order. Counsel may submit proposed voir dire as a supplement to the standard voir dire set forth in LCvR 47 for the Court's consideration. The Court will conduct the voir dire.

### **7. Use of Courtroom Technology**

The parties are required to use trial presentation and courtroom technology. Should the parties require training or other information on the use of courtroom technology, the parties may contact the Court's Courtroom Deputy. The parties are welcome to contact Chambers to schedule a time to visit the courtroom and review the available technology.

### **8. Notetaking by Jurors**

The Court generally allows jurors to take notes unless counsel articulates a valid objection prior to the commencement of trial.



**9. Side Bars**

Side bars will be permitted but only when necessary. Counsel should anticipate matters to be discussed outside of the jurors' presence and raise them either at the beginning or end of each trial day.

**10. Examination of Witnesses Out of Sequence**

The Court will permit examination of a witness out of sequence, either within the party's own case or within an opposing party's case, if a scheduling conflict exists.

**11. Opening Statements and Summations**

There are no court-imposed time limits on opening statements and closing arguments. Defense counsel may defer opening statements.

**12. Examination of Witnesses or Argument by More than One Attorney**

One attorney for each party shall conduct an examination of any witness and may argue any motion or point. However, the parties are also directed to the Statement of the Court Regarding Courtroom Opportunities for Newer Lawyers below.

**13. Examination of Witnesses Beyond Direct and Cross**

Redirect and recross of a witness will be permitted but may not exceed the scope of the immediately preceding line of questions. The Court does not typically permit any further examination.

**14. Videotaped Testimony**

Magistrate Judge Dodge has no special procedures or requirements with respect to the use or admission of videotaped testimony. However, counsel should inform the court in advance of trial of the intention to use such evidence, so that the procedures to be utilized may be discussed.

**15. Reading of Material into the Record**

The Court has no special practice with regard to reading deposition testimony, stipulations and the like into the record. It will be considered

on a case-by-case basis.

## **16. Exhibits**

All exhibits must be listed in the Pretrial Narrative Statements. Unless otherwise ordered, Plaintiff(s) shall use numbers; defendant(s) shall use letters. The parties are expected to comply with Local Rule 16.1.C.5 by exchanging exhibits prior to the final pretrial conference, unless otherwise ordered by the Court, and should be prepared to indicate a position at the final pretrial conference with regard to the authenticity and admissibility of the opponent's exhibits. All exhibits shall be marked before trial. Exhibits may be introduced out of sequence.

Counsel shall obtain the Court's approval in advance for use of any visual aid(s) during opening statements. Otherwise, visual aids are permitted during trial and should be marked and offered into evidence as with any other exhibit.

Counsel for each party will be expected to provide two (2) tabbed exhibit binders to the Court and one (1) binder for each opposing party in advance of trial.

## **17. Directed Verdict Motions**

Magistrate Judge Dodge does not have any special requirements beyond those set forth in the Federal Rules of Civil Procedure. Motions may be made orally or in writing.

## **18. Jury Instructions and Verdict Forms**

The Court requires counsel to confer and submit a single set of agreed upon jury instructions and a proposed verdict form. To the extent that the parties cannot agree on a particular instruction or form, the various versions proposed by the parties and/or any objections shall be included where appropriate in the document. The date and details for filing same will be set in a pretrial order. The Court will hold charging conference at which time counsel will receive the final charge and verdict form to be given to the jury.

## **19. Proposed Findings of Fact and Conclusions of Law**

In any non-jury trial, Magistrate Judge Dodge requires the submission of proposed findings of fact and conclusions of law. The filing date will be established by order.

## **20. Offers of Proof**

Generally, offers of proof should not be required since the Court sets aside time before and after a trial day to discuss trial/evidentiary matters with counsel. Should the need arise during trial, however, the Court does not impose any restrictions.

## **21. General Courtroom Rules**

Magistrate Judge Dodge will not tolerate any demonstration of hostility, discrimination or bias of any kind. Counsel shall conduct themselves with courtesy and civility at all times. All parties and party representatives are also expected to conduct themselves in a similarly appropriate manner.

### **F. Jury Deliberations**

#### **1. Written Jury Instructions**

Each juror will be given a written copy of the jury instructions.

#### **2. Exhibits in the Jury Room**

All admitted exhibits will be given to the jury for use in deliberations as long as counsel agrees upon the exhibits that are provided.

#### **3. Jury Requests to Read Back Testimony or Replay Tapes During Deliberations**

Where appropriate, and after conferring with counsel, Magistrate Judge Dodge will permit the reading back of testimony to the jury.

#### **4. Jury Questions**

Jury questions must be in writing. The Court will discuss the question with counsel and arrive at a satisfactory instruction/response.

#### **5. Availability of Counsel During Jury Deliberations**

Trial counsel need not remain in the courtroom during deliberations but must be available by telephone and able to return to the courthouse within a reasonably short period of time.

#### **6. Interviewing the Jury**

Magistrate Judge Dodge will inform the jurors that they may speak to counsel but are not required to do so. Counsel shall not approach any juror until the Court has met with the jury and dismissed them.

#### **IV. CRIMINAL CASES**

Criminal cases before Magistrate Judge Dodge are limited to petty offenses, misdemeanor charges and preliminary criminal proceedings (e.g., arraignment, detention hearings and initial appearances). Counsel must be prepared and have conferred with their client prior to scheduled criminal proceedings.

## **V. STATEMENT REGARDING COURTROOM OPPORTUNITIES FOR NEWER LAWYERS**

Courtroom opportunities for relatively new attorneys, particularly those who practice at larger firms or in more complex areas of the law, have declined precipitously in recent years.

The Court encourage the active participation of such attorneys in all court proceedings. Based on my experience, these newer lawyers are more than up to the task, and they can effectively handle not only relatively routine matters (such as discovery motions), but also, where appropriate, more complex matters (such as motions for summary judgment or the examination of witnesses at trial).

In an effort to increase advocacy opportunities for newer lawyers, with notice in advance, the Court will consider relaxing the usual requirement that only a single lawyer may present an argument and will allow a more experienced lawyer to "back up" a newer lawyer in the examination of witnesses so long as doing so will not unduly prolong the proceeding, not prejudice the opposing party, and not result in undue "double dipping". Such new lawyers who actively participate in evidentiary hearings, including examining a witness at trial, should be accompanied and supervised by a more experienced attorney.

Of course, even relatively inexperienced attorneys will be held to the same professional standards with regard to any matter as to which experience is largely irrelevant. In particular, all attorneys appearing in court are expected to be appropriately prepared, regardless of experience. For example, any attorney who is arguing a motion for summary judgment is expected to be thoroughly familiar with the factual record and the applicable law.

Further, all attorneys appearing in court should have a degree of authority commensurate with the proceeding that they are assigned to handle. By way of example only, an attorney appearing at a scheduling conference ordinarily must have the full authority to propose and agree to a discovery or trial schedule and any other matters reasonably likely to arise at the conference, to address and argue any then-pending motion, and to discuss the status of any settlement discussions.