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Judge Michael J. Reagan

Case Management Procedures

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Civil Cases

Conflicts of Interest

So the Court quickly can identify potential conflicts of interest, all counsel for non-governmental parties must disclose interested parties and affiliates in accord with Federal Rule of Civil Procedure 7.1.

Counsel shall provide updated information as necessary throughout the pendency of the action. Additionally, for all cases other than class actions, counsel shall list all parties in the caption of pleadings so Judge Reagan can assess whether any possible basis for disqualification exists.

Disclosure of Interested Parties

Any nongovernmental corporate party must file (and, where applicable, supplement) a corporate disclosure in compliance with Federal Rule of Civil Procedure 7.1.

Rule 26(a)(3) Disclosures

Although Federal Rule of Civil Procedure 26(a)(3) directs parties to "file" certain information regarding the evidence expected to be presented at trial, Judge Reagan requires this information to be included instead in the parties' joint Final Pretrial Order (*see below*).

Motion Practice

Discovery-related and non-dispositive motions are handled by the Magistrate Judge assigned to the case. Judge Reagan rules on dispositive motions and motions to continue trial settings.

- ***Pleadings***
All pleadings must be filed with the Clerk's Office via the electronic case filing (CM/ECF) system.
- ***Responses & Replies***
In accord with Local Rule 7.1(c), Judge Reagan allows 30 days for parties to file memoranda responding to dispositive motions, post-trial motions, and motions to remand. For motions other than these, Local Rule 7.1(g) governs response deadlines and supporting brief requirements.

Responsive memoranda can be no longer than 20 pages, unless written leave of Court is obtained. Reply briefs are strongly discouraged. If filed, reply briefs may be no longer than 5 pages and must be filed within 14 days of service of the response. See Local Rule 7.1(c).

These deadlines and page limits may be altered by Judge Reagan, where appropriate or necessary in a particular case.

- ***Oral Argument***
If Judge Reagan believes oral argument is necessary, his Courtroom Deputy will notify all parties of the hearing date.

- **Teleconferences/Video Conferences**

If the Court orders a teleconference or video conference, instructions for participating will be included in the CM/ECF notice setting the matter. In the rare case where the Court orders the parties to arrange a teleconference, counsel are responsible for setting up the teleconference with a professional teleconference provider, the cost of which shall be shared by the parties equally, unless Judge Reagan orders otherwise.

- **Motions in Limine**

Motions in limine must be filed no later than 14 calendar days before the Final Pretrial Conference. Responses to motions in limine must be filed no later than 7 calendar days before the Final Pretrial Conference. If no Final Pretrial Conference will be held in the case (e.g. prisoner litigation), all motions in limine must be filed no later than 21 calendar days prior to trial, and responses thereto must be filed no later than 14 calendar days prior to trial.

- **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.

- **Motions to Dismiss**

In any dismissal motion filed before Judge Reagan, 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 entire case or just certain parties or claims; and (3) whether dismissal is sought with prejudice or without prejudice.

See Local Rule 7.1(c) for briefing deadlines governing dismissal motions, subject to modification by Judge Reagan via Order in a particular case.

- **Motions to Remand**

See Local Rule 7.1(c).

Final Pretrial Order

Counsel shall prepare a [Final Pretrial Order](#) using Judge Reagan's approved form. This form is different from Final Pretrial Orders used by other Judges. It is also mandatory.

In accord with Local Rule 16.2(b)(1), the parties shall submit a signed, joint Final Pretrial Order no later than 3 business days prior to the Final Pretrial Conference. In certain cases, the Court will permit counsel to simply submit the proposed Final Pretrial Order at the Final Pretrial Conference. (Counsel may contact the assigned law clerk to determine the proper deadline for a particular case.) In either situation, counsel shall e-mail the Final Pretrial Order to Judge Reagan's proposed document in-box at the following address: MJRpd@ilsd.uscourts.gov. Additionally, counsel should notify the appropriate law clerk (by telephoning 618/482-9225 and asking for the law clerk assigned to the case).

- **Jury Instructions**

Each party must submit jury instructions to the Court **no later than two business days prior to the commencement of trial, unless directed otherwise by the Court in a particular case.**

In non-diversity cases the Court prefers the Seventh Circuit Pattern Jury Instructions. In cases where the Court sits in diversity, the Seventh Circuit Pattern Jury Instructions should be used for

the preliminary and cautionary instructions, and the IPI or comparable state instructions will be used for the substantive law.

Jury instructions *are not* filed with the Clerk of the Court. Rather, they are submitted to Judge Reagan's chambers to the law clerk assigned to the particular case.

Instructions should be printed on 8.5" x 11" paper. Text should *not be* all capital letters.

Each instruction should be submitted both in "marked" and "clean" form. The clean instructions should contain only the text of the instructions, not any other writing, not even "Instruction No. ____." The marked instructions should contain the text of the instruction (with no heading) but should include at the bottom of the instruction the name of the party submitting it (e.g., Plaintiff's Proposed Instruction No. 1") and a reference to the source of the instruction (e.g., "IPI 1.01"). Counsel should designate the instruction as modified (e.g., "IPI 1.01 MODIFIED"), if the instruction has been modified in any way whatsoever.

Counsel should paperclip each marked instruction to the corresponding clean instruction (placing the marked instruction on top). So, for example, the marked version of Defendant's Proposed Instruction No. 1 should be clipped on top of the clean version of Defendant's Proposed Instruction No. 1, and so forth..

- **Mandatory Exhibit List**

The parties shall prepare an [Exhibit List](#) using Judge Reagan's approved form (a revision of AO Form 187).

Using the form, each party shall state the number and give a brief description of each exhibit they expect to present at trial. Plaintiff's exhibits should be pre-marked and numbered as Plaintiff's Exhibit 1, Plaintiff's Exhibit 2, *et seq.* Defendant's Exhibits should be pre-marked and numbered as Defendant's Exhibit 1, Defendant's Exhibit 2, *et seq.* Letters should not be used to identify exhibits, unless the letter designates a sub-part of a numbered exhibit (e.g., Defendant's Exhibit 17A & 17B).

By 12:00 noon on the business day prior to trial, counsel shall e-mail (in Word Perfect if possible) the Exhibit List to Courtroom Deputy [Debbie DeRousse](#) and tender a paper copy to her on the morning of the first day of trial. Questions regarding the Exhibit List may be addressed to Debbie DeRousse at (618) 482-9298.

Jury Selection

- **Jury Questionnaires**

Jury questionnaires [click here](#) 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 Debbie DeRousse after the jury is selected. Questionnaires are confidential and may not be retained by any party.

- **Venire Panel Seating Chart**

Before jury selection begins, a seating chart/diagram is prepared by the Court. The diagram lists the names and numbers of each of the venire persons in the jury box and the gallery, usually 18 in number, and is provided to each party for use during jury selection. During voir dire, each venire person wears a number which corresponds to his or her number on the diagram.

- ***Voir Dire***
Judge Reagan conducts preliminary voir dire which includes many of the basic questions such as residence, employment, and prior jury service. After Judge Reagan concludes his preliminary questioning, each party may participate in voir dire separately. Counsel may submit proposed voir dire questions in writing to Judge Reagan prior to the trial, preferably at the final pretrial conference. Counsel also may request that Judge Reagan question jurors on certain issues which a party would rather the Judge ask instead of counsel. 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 the parties will be permitted to caucus privately before the striking process begins.

Generally, each side is given 3 peremptory strikes. Plaintiff strikes first. If there are multiple plaintiffs or defendants, the parties may move for additional strikes. Backstriking is not allowed. In its discretion the Court may allow additional peremptory challenges if the size of the venire, after challenges for cause have been determined, permits.

The Court reserves the right to impose the "struck" method of jury selection, whereby each party simultaneously submits a list of jurors it desires to have stricken peremptorily. At the Final Pretrial Conference, Judge Reagan will explain thoroughly his method for selecting the jury.

Typically, twelve jurors will be chosen and all remaining at the end of closing arguments will participate in deliberations pursuant to Federal Rule of Civil Procedure 48.
- ***Jurors***
Jurors are permitted to take notes during trial and may refer to them during deliberations. Jurors are paid a \$40 attendance fee and reimbursed for travel to the courthouse. See the court's website at www.ilsd.uscourts.gov for information/specifics.
- ***Assessment of Jury Costs***
In accord with Local Rule 54.1 of this Court, Judge Reagan may assess juror costs (including per diem and mileage expenses) against one or more parties, if they failed 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.

Trial Procedure

- ***Firm Trial Dates***
Judge Reagan sets and enforces firm trial dates. Motions to continue are not favored. If an attorney has a trial setting in another court on the same date, the Southern District of Illinois setting will remain set until the week before trial. If the other case is older, or circumstances require that it be tried first, the Southern District of Illinois case will be placed on a backup docket. Any case on the backup docket will be called for trial at Judge Reagan's next availability. Generally, parties will receive at least 24 hours notice before trial begins, depending on the length of the trial, complexity of the case, and location of the witnesses. Counsel may contact the law clerk assigned to their case to monitor the chances of their case being called out to trial.
- ***Trial Hours***
Trials generally begin 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. Typically, one 15-minute morning break and at least one 15-minute afternoon break will be taken. Motions, jury instruction 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 Reagan.

- ***Attorney Conference Rooms***
A conference room (Room 213) is available adjacent to Judge Reagan's courtroom for attorney-client or attorney-witness consultation. Please see Judge Reagan's Courtroom Security Officer or Courtroom Deputy for access.
- ***Attorney Availability During Jury Deliberation***
Counsel must give the Courtroom Deputy a telephone, cellular phone, or pager 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 by the Court.
- ***Post-Verdict Juror Interviews***
Counsel may not question jurors after a verdict has been reached, without prior approval of Judge Reagan.
- ***Courtroom Audio System***
An audio/video system in Judge Reagan's courtroom transmits live audio/video from the courtroom to Judge Reagan's chambers. Attorneys, witnesses, and anyone attending court proceedings should be aware that, unless the microphones near them are deactivated, their statements may be heard in chambers.

Bill of Costs

Federal Rule of Civil Procedure 54(d)(1) provides that costs (other than attorneys' fees) shall be allowed "as of course" to the prevailing party, unless the District Court otherwise directs. Rule 54(d)(1) further provides that such costs may be taxed by the Clerk of Court "on 14 days' notice." Pursuant to Local Rule 54.2, opposing counsel will be allowed 14 days (from the date the Bill of Costs is filed in this Court) to file any objections. If no objections are filed within that 14-day period, the Clerk of Court will tax the appropriate costs. If objections are timely-filed, the matter will be reviewed and resolved by Judge Reagan.

Criminal Cases

Motion Practice

When filing motions, parties should follow the Federal Rules of Criminal Procedure and adhere to the strict deadlines set in the Order for Pretrial Discovery and Inspection issued by the Magistrate Judge at arraignment.

- ***Motion to Dismiss, Motion to Suppress, Motion in Limine***
Generally, motions to dismiss indictments and motions to suppress evidence will be set for hearing. If Judge Reagan determines that a hearing is needed on other motions, the Courtroom Deputy will notify counsel or an e-order will be entered.

Motions to dismiss indictments and motions to suppress evidence must be filed with a supporting memorandum. The supporting memorandum may be combined with the motion in a single pleading or filed separately.

Motions in limine may (but need not) be filed with supporting memorandum or highlighted caselaw. As mentioned above, motions to suppress must be filed by the deadline imposed in the Magistrate Judge's Order for Pretrial Discovery. Counsel are cautioned that this is an early deadline (usually, such motions must be filed within 21 days of arraignment).

By contrast, motions in limine in Judge Reagan's criminal cases must be filed no later than 21 calendar days prior to trial. Responses to motions in limine must be filed no later than 14 calendar days prior to trial.

Cognizant of the Seventh Circuit's concerns regarding the issuance of rulings on motions in limine on the morning trial commences, see e.g., *United States v. Buckner*, 91 F.3d 34 (7th Cir. 1996), Judge Reagan will attempt to rule on such motions in advance of trial. At times, however, it may be necessary to reserve ruling on motions in limine. The Court will set a hearing where helpful or necessary to resolve issues raised by the motions in limine..

No Final Pretrial Conference

Typically, no Final Pretrial Conference is held in Judge Reagan's criminal cases. However, a conference may be requested via motion filed by any party.

Jury Selection

Each party must submit a complete set of jury instructions to the Court **no later than two business days prior to the commencement of trial, unless directed otherwise by the Court in a particular case.**

Questions regarding the deadline for submitting proposed instructions may be addressed to the law clerk assigned to that case. Jury instructions *are not* filed with the Clerk of the Court. Rather, they are submitted to Judge Reagan's chambers to the law clerk assigned to the particular case.

Instructions should be printed on 8.5" by 11" paper. Text should *not be* in all capital letters.

Each instruction should be submitted both in "marked" and "clean" form. The clean instructions should contain only the text of the instructions, not any other writing, not even "Instruction No.____." The marked instructions should contain the text of the instruction (with no heading) but should include at the bottom of the instruction the name of the party submitting it (e.g., Plaintiff's Proposed Instruction No. 1") and a reference to the source of the instruction (e.g., "Seventh Circuit Pattern No.____"). Counsel should designate the instruction as modified (e.g., "Seventh Circuit Pattern No.____ MODIFIED"). if the instruction has been modified in any way whatsoever.

Counsel should paperclip each marked instruction to the corresponding clean instruction (placing the marked instruction on top). So, for example, the marked version of Defendant's Proposed Instruction No. 1 should be clipped on top of the clean version of Defendant's Proposed Instruction No. 1, and so forth.

Trial Procedure

- ***Firm Trial Dates***

The Court sets and enforces firm trial dates. If a criminal case is not reached for trial on the date originally set, a new firm trial date will be set in compliance with the Speedy Trial Act. **The Court places upon the Government the obligation to determine includable and excludable days in making Speedy Trial Act calculations and to notify the Court of any potential Speedy Trial problems.**

- ***Trial Hours***

Trials generally begin 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., so the jurors may travel back to their homes. In trials that proceed 9:00 a.m. to 4:30 p.m. daily, an hour lunch break is taken around noon. Typically, a 15-minute morning break and at least one 15-minute afternoon break will be taken. Motions, jury instruction 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 Reagan.

- ***Courtroom Audio System***

Judge Reagan's courtroom transmits live audio/video from the courtroom to Judge Reagan's chambers. Attorneys, witnesses, and anyone attending court proceedings should be aware that, unless the microphones near them are deactivated, their statements may be heard in chambers.

- ***Attorney Conference Rooms***

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- ***Attorney Availability During Jury Deliberation***
Counsel should give the courtroom deputy a telephone, cellular phone, or pager number where they can be reached when the jury indicates it has a verdict or a question. Counsel should be able to arrive in the courtroom within 10 minutes after being contacted.
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Correspondence with the Court

Absent exigent or special circumstances, Defendants in criminal cases are not to attempt to contact, correspond with, or send letters directly to Judge Reagan. All out-of-court communication with Judge Reagan should be made through counsel via motion

Miscellaneous

Courtroom Demeanor

Attorneys may sit or stand anywhere they desire while addressing the Court, the jury, or any witness, providing the attorney may clearly be heard. Attorneys who are soft-spoken will be required to use a portable microphone or the microphone at the podium or counsel table. Attorneys must only request permission to approach a witness once and need not seek permission thereafter. **Side-bar conferences are permitted only in extraordinary circumstances**, since adequate time is available at the end of the day to discuss witness problems and other issues

Disclaimer and Notice

To the extent Judge Reagan's preferences conflict with the Federal Rules of Criminal and Civil Procedure, the Rules govern.

Attorneys must examine this web page on a regular basis, since changes are made to this page without notice.

Electronic Case Filing System

On January 20, 2004, this District court transitioned to a system of electronic filings referred to as "CM/ECF." That system requires electronic, rather than paper, filing of all pleadings - with a few narrow exceptions (e.g., pleadings filed by prisoners; sealed documents in criminal cases). Additionally, the Court's own Orders are sent to the parties electronically rather than by regular mail. Participation in CM/ECF is mandatory.

Attorneys with questions about CM/ECF should consult the Court's web-site at www.ilsd.uscourts.gov, which includes the Electronic Filing Rules and the Electronic Case Filing User's Manual. Additionally, the web-site explains how attorneys can register as "users" of the CM/ECF system. Depending upon the volume of requests at any given time, it may take up to three business days to obtain a password.

NOTE 1: When a CM/ECF user files a motion electronically, the system automatically assigns a deadline for filing the response to that motion. That deadline appears in the docketing entry with the filing of the motion. **Be aware that the system's automatic motion response deadline may not be accurate** if the Court, by separate Order, has delineated a specific deadline. In other words, any Court-imposed deadline trumps the system-generated deadline.

NOTE 2: Judge Reagan and his law clerks, on a daily basis, print activity reports for their cases. They also receive daily NEFs (notices of electronic filing) for certain cases. This system does not always result in immediate notification as to newly-filed motions. For this reason, if an attorney e-files an urgent or time-sensitive motion, he/she should: (a) deliver a paper courtesy copy to the law clerk assigned to the case, (b) fax a copy directly to chambers (marked to the attention of the assigned law clerk) at 618-482-9126, or (c) telephone the law clerk assigned to the case and alert him/her that the motion has been filed.

NOTE 3: Sealed, ex parte motions do not show-up on case-management reports, so you must immediately notify chambers if you have filed such a motion.

July 14, 2011

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