



Judge Sara L. Ellis

CASE MANAGEMENT PROCEDURES

Procedures to be followed in Cases Assigned to Sara L. Ellis

Important Information: Judge Ellis will not be sitting from April 14 to April 18, 2014.

Change to Judge Ellis' motion schedule:

Effective immediately and beginning Thursday, March 6, 2014, Judge Ellis will hear both criminal and civil motions at 1:30PM. This change only affects the Thursday motion call. Motion schedule as follows: Tuesday and Wednesday, civil motions shall be noticed for hearing at 9:30AM and criminal motions at 10:00AM. Thursday, both civil and criminal motions shall be noticed for 1:30PM.

Please note that this Court's procedures for summary judgment motions depart from the Local Rules. Please see the case management procedure for Summary Judgment Practice for further information.

Parties directed to file discovery plans with the Court should refer to Section 6.A of the Initial Status Report template for the information that should be included in their submission.

Bankruptcy Appeals

Briefs on appeals from the United States Bankruptcy Court must be filed within 15 days of the entry of judgment by the Bankruptcy Court. Any motions to extend time must be filed within the 15-day period. Briefs are limited to 15 pages each.

Cases Reassigned to Judge Sara L. Ellis

This case has been reassigned to the calendar of Judge Sara L. Ellis. All previously set status dates are stricken. All previously set discovery schedules remain intact. All previously set briefing schedules remain intact. Parties will not be required to file proposed orders along with their dispositive motions. All noticed motion dates are vacated. The Court will set new dates for filed but un-noticed motions at the reassignment joint status conference. The parties are directed not to notice any motions, with the exception of emergency motions, prior to appearing at the reassignment joint status conference. For all emergency motions arising prior to the date scheduled for the reassignment joint status conference, the parties are directed to contact chambers.

To help the Court learn about the case, it is hereby ordered that within 10 calendar days of this order's entry, counsel are to confer, prepare, and file a

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CONTACT INFORMATION:

Courtroom 1719
Chambers 1778
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Court Reporter
 Patrick Mullen
 (312) 435-5565
 Room 1714

Courtroom Deputy
 Rhonda Johnson
 (312) 702-8864
 Room 1720

Judicial Assistant
 Janet Pawlik

Room

Law Clerk
 Daniel Monico

Room

Law Clerk
 Maria Domanskis

Room

joint status report, not to exceed five pages. If the defendant's counsel has not yet filed an appearance, the status report should be prepared by the plaintiff's counsel. The report shall contain the information requested in the Initial Status Report For Reassigned Case found below.

[Initial Status Report for Reassigned Case](#)

Consent to Proceed Before Magistrate Judge

Every case has an assigned Magistrate Judge, and in civil cases the parties may consent to have the assigned Magistrate Judge try the case. In many cases, consent to refer the entire case to the Magistrate Judge may offer significant efficiencies and greater certainty in scheduling the trial. All counsel in civil cases should inform their clients of this option and discuss it with opposing counsel.

[Magistrate Judge Consent Form](#)

Correspondence with the Court

Unless directed by the Court and with the exception of courtesy copies, **neither counsel nor pro se litigants may communicate about a case by letter**. All communications must be made in the form of a motion, brief, or a status report, properly noticed and served on opposing counsel.

Courtesy Copies

Courtesy copies are required for: all motions noticed for presentment before Judge Ellis; all filings that total 50 pages or more including exhibits; pretrial orders (and the attendant evidentiary motions and jury instructions if separately filed); and all filings that include any attachments or exhibits that are not readable in their electronic format. Unless Judge Ellis orders otherwise, courtesy copies are not required for any filings that do not meet this description, including pleadings. When a courtesy copy is required, it should be delivered to the Courtroom Deputy, not to chambers, within 24 hours of the filing. The Court prefers courtesy copies printed after a pleading is filed, with the CM/ECF header stamp on the document.

Discovery Motions and E-Discovery

Discovery Motions

The Court believes that parties can and should work out most discovery disputes, and thus discourages the filing of discovery motions. The Court will not hear or consider any discovery motions unless the parties have complied with the meet and confer requirement under [Local Rule 37.2](#). Any discovery motion must state with specificity when and how the movant complied with [Local Rule 37.2](#).

Parties are reminded that compliance with [Local Rule 37.2](#) requires a **good faith effort** to resolve discovery disputes and, other than in exceptional circumstances, **communication that takes place face to face or by telephone. The mere exchange of correspondence will not normally be sufficient to comply with [Local Rule 37.2](#).**

If the parties do not resolve their disagreements through this procedure, the parties must file a **joint** motion of no more than five pages. The joint motion must set out each issue in a separate section and include in that section each party's position (with appropriate legal authority) and proposed compromise. (This process allows a side-by-side analysis of each disputed issue.) If the disagreement concerns specific discovery that a party has propounded, such

as interrogatories, requests for production of documents, or answers or objections to such discovery, the parties must reproduce the question/request and the response in its entirety in the motion.

All parties must be fully prepared to orally argue any discovery motion on the date that it is presented. The Court most often will decide discovery motions after oral argument at the motion call and without additional briefing. If after argument the Court believes that the motion requires further briefing, the Court normally will set an expedited briefing schedule so that the matter can be resolved promptly.

The Court reminds the parties that there is no "order" or sequence in which discovery must take place; thus, one party's alleged failure or inability to respond to discovery will not excuse any other party's prompt compliance with discovery requests. The Court also reminds parties that the pendency of a motion, such as a motion to dismiss, does not – absent court order – operate as a stay of discovery.

E-Discovery

If the parties have reached an impasse regarding the discovery of voluminous records from a database, server, computer, service provider or similar electronic storage facility (ESF), before filing a motion to compel, the parties are required to meet and confer with an IT representative of the ESF to be searched in order to determine the most effective way to retrieve the requested material. The party seeking the discovery should also bring its IT specialist to this meeting in order to discuss the proper format for the retrieval of the records. This electronic discovery conference must take place in person and both sides should be prepared to discuss specifically the parameters of both the search and the ESF.

For more information regarding the Voluntary E-Mediation Program, please refer to: <http://www.discoverypilot.com/content/e-mediation-program>.

Initial Status Reports

The Court will promptly schedule an initial status hearing for newly-filed cases. In most cases, the initial status hearing will be conducted within approximately 60 days of the filing of the complaint. At least seven days prior to the initial status hearing, the parties must file a joint Initial Status Report, not to exceed five pages in length, in the format of the template at the link below.

[Initial Status Report](#)

Jury Instructions

The Court prefers that the parties use the Seventh Circuit's Pattern Jury Instructions when possible, bearing in mind that statutory and binding case law govern over the pattern instructions.

In addition to being filed in connection with the Final Pretrial Order, proposed jury instructions should be submitted by e-mail to the Court at Proposed_Order_Ellis@ilnd.uscourts.gov in a format compatible with Word.

See the Final Pretrial Orders section for further requirements that parties must follow in drafting and presenting proposed jury instructions.

[Pattern Civil Jury Instructions](#)

Motion Practice

Schedule

Civil motions will be heard Tuesday, and Wednesday at 9:30 a.m.

Criminal motions will be heard Tuesday, and Wednesday at 10:00 a.m.

Civil and criminal motions will be heard Thursday at 1:30 p.m.

All motions must be filed no later than the third business day (excluding federal holidays and weekends) before the day the motion is to be heard. For example, absent a holiday, (1) a motion filed on a Monday may be noticed for the upcoming Thursday; and (2) a motion filed on a Thursday may be noticed for the following Tuesday.

Motions must be noticed for a date certain. Judge Ellis' main web page lists any dates on which she will not be available to hear motions. After 4:00 p.m. on the afternoon prior to the hearing date, counsel should check the call sheet posted on Judge Ellis' web page to determine whether an appearance is necessary. If an appearance is not required, counsel for the movant is directed to notify the respondent(s) accordingly.

Electronic filing

The Court strongly encourages counsel to convert any word-processed document into a pdf document by printing or publishing to pdf, rather than manually scanning a paper copy into .pdf. The former method of conversion generates searchable optical character recognition (OCR) text; the latter does not.

Extensions of Time

A party seeking an extension of time must contact all other parties in the case to determine whether they object to the extension. Any motion for extension of time should indicate whether it is the first or subsequent extension request and shall include the reasons for the request, any previous relief granted, and whether any other party objects to the extension. Please do not call chambers or the Courtroom Deputy to request an extension of time.

Unopposed Motions

Joint, uncontested, and agreed motions must be so identified in the title and body of the motion. Unless the Court has told a party it need not appear, counsel for all parties to which the motion is directed are expected to be present whether or not the motion is opposed. After 4:00 p.m. on the afternoon prior to the hearing date, counsel should check the call sheet posted on Judge Ellis' web page to determine whether an appearance is necessary. If an appearance is not required, counsel for the movant is directed to notify the respondent(s) accordingly.

Emergency Motions

Requests to set a hearing on an emergency motion must be made to the Courtroom Deputy with as much advance notice as possible. All reasonable efforts must be made to give actual notice to opposing counsel. Emergency motions must recite that the movant has made good faith efforts to resolve the emergency with opposing counsel or that despite good faith efforts the movant has been unable to resolve it and that the issue is of such a nature that a delay in hearing it would cause serious harm to a party in interest.

Meet and Confer Requirement

The discovery meet and confer requirement can have the same salutary effect on other disputes that it has in connection with discovery disputes. A candid discussion between the parties prior to filing motions to dismiss, motions for summary judgment, motions in limine and the like can limit the scope of such motions or eliminate the need for them to be filed at all.

Thus, the Court will apply the meet and confer requirement not just to discovery motions, but to all motions that a party wishes to file. The instructions concerning what must be done to comply with the discovery meet and confer requirement will be applied with equal force to all other motions.

In particular, with respect to any motions for summary judgment, the Court requires the moving party to advise the opposing party in a short letter (e.g., 2-3 pages) of the basis for the motion (including relevant legal authority). **Do not file the letter with the Court.** The Court requires the moving party and the opposing party to meet and confer, during which time the opposing party should advise the moving party of factual matter or legal authority that it believes would defeat the motion. After this consultation, if the movant still wishes to file the motion, the movant should do so and the Court will address it. Any motion must state with specificity what the parties did to comply with the meet and confer requirement.

Memoranda of Law

Memoranda of law must comply with Local Rules 5.2 and 7.1. Please only attach copies of any cited authorities that are not available on Westlaw or Lexis.

Patent Cases

Judge Ellis follows the Local Patent Rules for the Northern District of Illinois in all patent cases, unless ordered otherwise.

[Local Patent Rules](#)

[Local Patent Rules Appendix A](#)

[Local Patent Rules Appendix B](#)

[Estimated Patent Case Schedule](#)

Preemptive Class Certification Motions

Presumably to address the concerns raised by the Seventh Circuit Court of Appeals in *Damasco v. Clearwire Corp.*, 662 F.3d 891, 897 (7th Cir. 2011), in many putative class action cases, plaintiffs are filing class certification motions contemporaneously with their complaint. Consideration of such motions at that early stage is premature. Accordingly, the Court asks that the parties consider entering into a stipulation that would obviate the need for the parties to address the premature motion for class certification, while also addressing the mootness concerns raised in *Damasco*. An example stipulation, used in *Hayden v. Fresh Express, Inc.*, No. 12 C 1583 [#18], may be found [here](#).

Pretrial Orders

The Court's guidelines for pretrial orders are set forth in the document linked below:

[Final Pretrial Orders](#)

The Court intends to ask the questions in the following document during *voir dire*:

[Questions for Prospective Jurors](#)

Proposed Orders

Proposed orders on routine motions, such as motions for extensions of time, are unnecessary. Proposed orders should not be submitted for dispositive motions. Proposed orders should not be filed directly onto the docket as stand-alone entries or as attachments to motions, even if the parties agree on the order. Instead, unless the Court has directed otherwise, a party must file a motion asking the Court to enter the order. For example, even proposed orders such as stipulated protective orders require the Court's approval before actually being given full effect and entered. Contemporaneously with filing a motion to enter a proposed order, the movant must e-mail the proposed order to Proposed_Order_Ellis@ilnd.uscourts.gov. This will allow the Court to edit the order if necessary. The subject line of the e-mail must include the case number and name, the docket number of the corresponding motion, and the title of the order that is proposed. Attachments must be submitted to the Court in a format compatible with Word, which is a "Save As" option in most word processing software. Proposed orders should also be served on all parties.

Pro Se Litigants

[Click here](#) for Pro Se Litigant information.

If you are a *pro se* litigant with a case in this district, the [District Court Self-Help Assistance Program](#) may be able to provide you with assistance regarding your case. The help desk attorney operates by appointment only. Appointments are made at the Clerk's Office Intake Desk on the 20th floor or by calling 312-435-5691.

Use of the help desk attorney is not a substitute for an attorney. You should seriously consider trying to obtain professional legal assistance. Below are lists of organizations that may be able to offer you free or low-cost legal assistance or a referral to an attorney if you can afford to pay for legal services.

- [Free or low-cost legal services](#)
- [Referral Services](#)

Additional Resources/Information:

- [Filing a Civil Case Without An Attorney: A Guide For The Pro Se Litigant](#)
- [Title VII and Section 1981: A Guide for Appointed Attorneys in the Northern District of Illinois](#)
- [The Americans With Disabilities Act An Age Discrimination In Employment Act: A Guide for Appointed Attorneys in the Northern District of Illinois](#)

- [Local Rule 56.2 - Notice to Pro Se Litigants Opposing Summary Judgment](#)

Protective Orders

All counsel requesting entry of an order to preserve the confidentiality of materials disclosed in discovery must base the proposed order on the [Model Confidentiality Order](#) contained in the Local Rules (Form LR 26.2).

The Model Confidentiality Order provides that counsel should include or delete language in brackets as necessary to the specific case. **Any other changes to this model protective order proposed by the parties must be shown by redlining that indicates both deletions and additions to the model text.** Counsel are encouraged to include comments with any such proposed changes explaining why the changes are sought.

Settlement Conferences

The Court urges parties to undertake settlement negotiations at the earliest practicable point in the litigation. Parties who desire a settlement conference should request one in open court or by telephone call to the courtroom deputy. Settlement conferences usually will be referred to the assigned Magistrate Judge.

The Court has prepared a Standing Order setting forth its settlement conference procedures. Counsel and their clients must read and follow the procedures in the Standing Order prior to any settlement conference with the Court.

- [Standing Order for Settlement Conferences](#)

In the event that the parties seek to have this Court retain jurisdiction to enforce the terms of a settlement agreement, counsel should review the following Seventh Circuit cases (among any other pertinent authorities: *Dupuy v. McEwen*, 495 F.3d 807 (7th Cir. 2007); *Blue Cross & Blue Shield Association v. American Express Co.*, 467 F.3d 634 (7th Cir. 2006); *Shapo v. Engle*, 463 F.3d 641 (7th Cir. 2006); and *Lynch v. SamataMason Inc.*, 279 F.3d 487 (7th Cir. 2002). The parties may also wish to review the article, "[What's an Attorney to Do? Ensuring Federal Jurisdiction Over Settlement Agreements in Light of Recent Seventh Circuit Cases](#)," by Judge Denlow.

Summary Judgment Practice

Meet and Confer Requirement

With respect to any motions for summary judgment, the Court requires the moving party to advise the opposing party in a short letter (*e.g.*, 2-3 pages) of the basis for the motion (including relevant legal authority). **Do not file the letter with the Court.** The Court requires the moving party and the opposing party to then meet and confer, during which time the opposing party should advise the moving party of factual matter or legal authority that it believes would defeat the motion. After this consultation, if the movant still wishes to file the motion, the movant should do so and the Court will address it. Any motion must state with specificity what the parties did to comply with the meet and confer requirement.

Motions for Summary Judgment

Motions for summary judgment and responses must comply with Local Rules 56.1(a)(1)-(2) and 56.1(b)(1)-(2), as well as the procedures outlined herein. Parties are directed to file a **joint statement of undisputed material facts** that the parties agree are not in dispute. The joint statement must include – for each undisputed fact – citations to admissible evidence. The joint statement of undisputed material facts shall be filed separately from the memoranda of law and shall include the line, paragraph, or page number where the supporting material may be found in the record. **The parties may not file – and the court will not consider – separate statements of undisputed facts.** If the nonmoving party refuses to join in the statement, the moving party will nevertheless be permitted to file the motion, accompanied by a separate declaration of counsel explaining why a joint statement was not filed. Failure to stipulate to an undisputed fact without a reasonable basis for doing so may result in sanctions.

The parties shall not file more than 120 statements of undisputed material facts without prior leave of the Court. In complex cases, the Court might request that the parties submit a timeline of events in addition to the joint statement of undisputed material facts.

The Local Rules and the Court's procedures are not mere technicalities. Failure to abide by them may result in the Court striking briefs, disregarding statements of fact, deeming statements of fact admitted, and denying summary judgment. See *Cracco v. Vitran Express, Inc.*, 559 F.3d 625, 632 (7th Cir. 2009).

Motions to strike are strongly disfavored. *Custom Vehicles, Inc. v. Forest River, Inc.*, 464 F.3d 725, 727 (7th Cir. 2006) (Easterbrook, J., in chambers). For example, if a party believes that the other side's brief contains inaccurate facts or an unsupported assertion, then the complaining party should so argue in the response or reply brief. Motions to strike almost always would require the Court to decide significant issues (and, indeed, the underlying motion) on the merits and would multiply the briefs (because the other side should be allowed to respond). *Id.* at 727. Only on very rare occasions is a motion to strike appropriate, such as when an entire brief is defective. When it is appropriate, the motion must be made very promptly after the filing of the purportedly-offending brief.

Summary Judgment Deposition Testimony Evidence

Parties submitting deposition testimony in support of or in opposition to summary judgment motions are to provide a cover sheet to the deposition stating the name of the witness, the date of the deposition, and the deponent's title and/or role in, or relationship to, the pending litigation (e.g., "John Doe, plaintiff's human resources manager" or "Jane Doe, plaintiff's union representative"). Also, parties are to provide the court with an entire transcript of deposition testimony submitted in support of their respective positions, preferably in the condensed transcript format where multiple deposition transcript pages are reduced to one page.