Introduction to Federal Practice

sponsored by

The Federal Bar Association
Northern District of Ohio Chapter

and the

United States District Court
Northern District of Ohio

December 1, 2016

District Judges

Chief Judge Solomon Oliver, Jr.
Donald C. Nugent
Patricia A. Gaughan
James S. Gwin
Dan A. Polster
John R. Adams
Christopher A. Boyko
Jack Zouhary
Sara Lioi
Benita Y. Pearson
Jeffrey J. Helmick
James G. Carr

Magistrate Judges

George J. Limbert
William H. Baughman, Jr.
James R. Knepp, II
Kathleen B. Burke
Thomas M. Parker
Jonathan D. Greenberg
David A. Ruiz

United States District Court
Northern District of Ohio

Federal Bar Association
Introduction to Federal Practice Seminar

December 1, 2016
1:15 p.m. - 4:15 p.m.

Courtroom 19A

12:45 - 1:15 p.m.	Registration	
1:15 - 1:35 p.m.	Welcome and Introduction Honorable Patricia A. Gaughan	
1:35 - 1:55 p.m.	Role of the Magistrate Judge Magistrate Judge Thomas M. Parker	Tab A
1:55 - 2:45 p.m.	Court Programs, Accessing Court Information, Electronic Filing Geri M. Smith, Clerk of Court Vicky Mizell, Chief Deputy Clerk	Tab B
2:45 - 3:00 p.m.	Break	
3:00 - 3:45 p.m.	Local Rules and Practice Cathy Garcia-Feehan, Career Law Clerk to Judge Jeffrey J. Helmick	Tab C
3:45 - 4:05 p.m.	Electronic Courtrooms David Zendlo, Administrator of Courtroom Technology	Tab D
4:05 - 4:15 p.m.	Swearing-in Ceremony by Geri M. Smith, Clerk of Court	
4:15 - 4:40 p.m.	Mini Court House Tour Jody Wilson, Operations Specialist	

United States District Court
Northern District of Ohio

Local Rules - Presentation

With an Emphasis on Civil Rules, Including:
Differentiated Case Management
Discovery
Motion Practice
Alternative Dispute Resolution

Local Rules Appendix

American College of Trial Lawyers

Code of Pretrial Conduct and Code of Trial Conduct

December 1, 2016

United States District Court
Northern District of Ohio

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Local Rules Appendix

American College of Trial Lawyers

Code of Pretrial Conduct and Code of Trial Conduct

December 1, 2016

UNITED STATES DISTRICT COURT
Northern District of Ohio
801 West Superior Avenue
Cleveland, OH 44113-1834

SOLOMON OLIVER, JR.
CHIEF JUDGE

(216) 357-7171
(216) 357-7176 FAX

Dear Litigant,

The United States District Court for the Northern District of Ohio provides litigants with several options to assist them to achieve a fair and speedy resolution of their disputes. One important option is the opportunity to consent to the trial jurisdiction of the experienced magistrate judge assigned to your case.

A magistrate judge may conduct any or all proceedings, including trial, in a jury or nonjury civil matter and order the entry of judgment upon the consent of the parties (28 U.S.C. §636(c). Because they do not hear criminal felony matters, magistrate judges can often establish civil trial dates sooner, and adhere to those dates more firmly, than Article III judges whose civil dockets are often interrupted by the requirements of the criminal Speedy Trial Act.

The Court encourages litigants to consent to the trial jurisdiction of the magistrate judge assigned to their case. The magistrate judge can help litigants proceed with the case at a pace agreeable to the parties and may have more flexibility in scheduling. Consent to the magistrate judge need not add any additional steps to the litigation process. Appeals upon judgments in a case disposed of by a magistrate judge on consent of the parties must be taken directly to the United States Court of Appeals for the Sixth Circuit (Local Rule 73.2).

Litigants give consent to the trial jurisdiction of a specific magistrate judge, not to magistrate judges in general (Local Rule 73.1 (b). Where the litigants have consented to the trial jurisdiction of a magistrate judge and that magistrate judge is no longer able to work on the case, the case will be returned to the assigned Article III Judge and the parties may consent or refuse to consent to the trial jurisdiction of any magistrate judge subsequently assigned to the case. Litigants who wish to consent to the trial jurisdiction of the magistrate judge assigned to their case should complete the enclosed Consent to Exercise of Jurisdiction by a United States Magistrate Judge and Order of Reference form. Please note that the form requires all parties to signify their consent.

Sincerely,

Solomon Oliver, Jr.

Solomon Oliver, Jr.
Chief Judge

attachments

United States Magistrate Judges

Their Function
And Purpose
In Our
Federal Courts

A Publication of Federal Magistrate Judges Association

Understanding the Function and Purpose of United States Magistrate Judges.

The backbone of an independent federal judiciary is life-tenured judges appointed under Article III of the Constitution. In America's federal trial courts, justice is administered by life-tenured District Judges, and by judges who serve fixed-terms: United States Magistrate Judges and United States Bankruptcy Judges.

This brochure illuminates the function and purpose of United States Magistrate Judges who are independent judges serving federal district courts in an adjunct capacity by dealing with cases, or parts of cases, assigned to them by district judges.

Title and Manner of Addressing a United States Magistrate Judge.

- ***The official title of these judges is"United States Magistrate Judge."***
- ***A United States Magistrate Judge should be addressed, orally and in writing, as "Judge_____ ," to be consistent with the position's judicial role and official title as prescribed by law.***
- ***Although some state courts have a judicial officer called a "magistrate," that title as applied to a United States Magistrate Judge is obsolete. To address these judges simply as "Magistrate" is akin to improperly addressing a Lieutenant Colonel as "Lieutenant," or a Bankruptcy Judge as "Bankruptcy."***

Answers to Some Commonly Asked Questions.

Q: What are the standards for selecting a federal magistrate judge?

A: To be appointed as a magistrate judge, an individual must:

- have been a member in good standing of the bar of the highest court of a State, District, Territory, or Commonwealth of the United States for at least five years;
- be determined by the appointing district court to be competent to perform the duties of the office;
- be unrelated to a judge of the appointing court; and
- be selected pursuant to standards promulgated by the Judicial Conference of the United States.

Q: What's the difference between a district court judge and a "magistrate judge's court"?

A: There is no "magistrate court." Both district and magistrate judges preside in United States District courts created under Article III of the Constitution.

Q: What's the difference between district and magistrate judges?

A: District judges are life-tenured judges nominated by the President and confirmed by the Senate. Magistrate judges are fixed-term judges appointed by district judges for eight-year renewable terms via a merit selection process.

Q: How do civil litigants request trail before magistrate judges?

A: All parties must consent in writing and the case must be officially transferred by the district judge. Forms are available from the clerk of court.

Q: Are a party's rights affected when litigants consent to have a magistrate judge hear a case?

A: Consenting to jurisdiction of a magistrate judge does not eliminate substantive or procedural rights litigants would otherwise have before a district judge. For example, parties retain their right to have a jury trial.

Q: Do magistrate judges handle many civil jury cases?

A: Yes. In 1999, magistrate judges conducted approximately 21 percent of the civil jury trials in United States district courts. When all parties consent, magistrate judges may conduct trials and enter judgments in civil cases of any type or size.

Q: Do magistrate judges handle many criminal cases?

A: Yes. With consent of defendants, magistrate judges may preside in Class A misdemeanor cases, including conducing jury trials. In 1999, magistrate judges terminated 10,733 Class A misdemeanor cases. Although magistrate judges do not preside at felony trials, They may also conduct preliminary and post-conviction proceedings in felony cases. Magistrate judges may conduct trials that dispose of all petty offense cases with the defendant's consent.

The Role of Magistrate Judges.

United States Magistrate Judges are generalist judges with a broad range of responsibilities. While their duties may vary with the specific needs of each district court, Magistrate Judges handle a wide array of federal civil and criminal cases nation wide.

A sampling of the judicial functions performed by Magistrate Judges demonstrates the potential breadth of their authority:

- Presiding at civil jury trials by consent of the parties and entering judgments;
- Presiding at criminal misdemeanor jury trials by consent of the parties and imposing sentences;
- Pretrial case management in complex civil cases;
- Conducting preliminary proceedings in all criminal cases;
- Conducting settlement conferences;
- Hearing and determining pretrial motions;
- Hearing and recommending disposition of summary judgment and other case dispositive motions;
- Reviewing prisoner suits collaterally attacking convictions or complaining of conditions of confinement; and
- Issuing arrest and search warrants.

A Historic Overview.

The United States magistrate judge system evolved from the United States commissioner system established in 1793. In 1965, Congress conducted an exhaustive examination of the commissioner system. Witnesses overwhelmingly favored overhauling the system and enhancing the commissioner position.

The Federal Magistrates Act of 1968 created the position named United States magistrate to denote the break with the commissioner system. The Act increased the criminal trial jurisdiction of these new judicial officers over that of commissioners, and also authorized the new officers to assist judges of district courts in handling a wide range of proceedings in civil and criminal cases.

In 1976, 1979 and 2000, further amendments were enacted which specifically:

- *Authorized magistrate judges to try any civil case upon consent of the parties and to order the entry of final judgment;*
- *Expanded trial jurisdiction of magistrate judges to all federal misdemeanors;*
- *Required that magistrate judges be selected and appointed in accordance with regulations promulgated by the Judicial Conference of the United States;*
- *Expanded magistrate judges' civil and criminal contempt authority;*
- *Gave magistrate judges plenary authority in Class B and C misdemeanor cases without the consent of the defendant; and*
- *Gave magistrate judges authority to sentence juvenile defendants to terms of imprisonment in misdemeanor cases.*

UNITED STATES DISTRICT COURT
Northern District of Ohio

_____

Plaintiff

v.

_____

Defendant

CONSENT TO EXERCISE OF JURISDICTION
BY A UNITED STATES MAGISTRATE JUDGE
AND ORDER OF REFERENCE

Case Number: _____

CONSENT TO EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of 28 U.S.C. 636(c) and Fed. R. Civ. P. 73, the parties in this case hereby voluntarily consent to have a United States magistrate judge conduct any and all further proceedings in the case, including the trial, and order the entry of a final judgment.

Signatures	Party Represented	Date

ORDER OF REFERENCE

IT IS HEREBY ORDERED that this case be referred to _____ United States Magistrate Judge, for all further proceedings and the entry of judgment in accordance with 28 U.S. C. 636(c), Fed.R.Civ.P. 73 and the foregoing consent of the parties.

_____ _____

Date *United States District Judge*

NOTE: RETURN THIS FORM TO THE CLERK OF THE COURT ***ONLY IF*** ALL PARTIES HAVE CONSENTED ***ON THIS FORM*** TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE.

UNITED STATES DISTRICT COURT
Northern District of Ohio

NOTICE & ORDER

Pursuant to 28 U.S.C. §636(c)(1) and LR 73.1, a Magistrate Judge of the Northern District of Ohio may, upon consent of all parties to an action, and entry of an order of reference by the Judge, exercise trial jurisdiction in civil actions, both jury and non-jury, and enter final judgment therein.

If all parties to this action consent and an order of reference is entered, the case will be assigned to a Magistrate Judge pursuant to LR 73.1. If all parties do not consent, or if an order of reference is not entered, the action will remain with the Judge to whom it is assigned. The decision of counsel on this matter of consent is entirely voluntary. Your response is joint, and disclosure of individual decisions is not required.

Pursuant to Local Civil Rule 73.1, Recusal, Resignation or Death of Magistrate Judge, where the parties have consented of the transfer of a civil case to a Magistrate Judge under section (a) above, if the Magistrate Judge thereafter recuses, resigns or dies, the case shall be returned to the District Court Judge. The Clerk shall immediately assign another Magistrate Judge by the random draw and notify the parties of such new assignment. Within ten (10) days after such notification by the Clerk, the parties shall indicate their consent, or lack thereof, to transferring the case to the newly-assigned Magistrate Judge under 28 U.S.C. §636(c). If the parties do not consent to the transfer, the case shall remain with the District Court Judge.

At the time the last appearance of counsel is made on behalf of the named defendant, the parties are to communicate with each other on this matter. ***It is the responsibility of plaintiff's counsel to initiate such consultation. The response is to be returned within ten (10) days of the last appearance.*** The response must contain the signatures of all counsel.

Pursuant to 28 U.S.C. §636(c)(3) all appeals relating to magistrate consent cases must be heard only in the court of appeals.

Please file the proposed consent electronically using the civil event "Notice". Parties representing themselves should sign and send form to the Clerk's Office. If an order of reference is entered by the Court, you will be advised by the Clerk as to which Magistrate Judge the has been assigned for further proceedings.

Geri M. Smith,
Clerk of Court

(See form on the reverse side)

United States District Court
Northern District of Ohio

Introduction to the Federal Courts

1. Judicial Officers and Venue

2. Northern District of Ohio Web Site: www.ohnd.uscourts.gov

    a. Emergency Filing Information

3. Judiciary Web Site: www.uscourts.gov

    a. Judiciary Email Updates

4. Federal Judicial Center Web Site: www.fjc.gov

5. Judicial Panel on Multidistrict Litigation: http://www.jpml.uscourts.gov

    a. Brochure

6. Court House Amenities for Attorneys

    a. U.S. Courts Library

    b. Attorney Lounge - Carl B. Stokes U.S. Court House - 7th Floor

    c. Attorney Wireless Connectivity

    d. Electronic Courtrooms (see separate section)

7. Electronic Filing Brochure

    a. Electronic Filing Brochure

    b. Attorney Best Practices

    c. Training Opportunities

    d. Clerk's Office Accepts Complaints and Filing Fees Over the Internet 24/7

    e. Payment of Filing Fees Over the Internet - Appeals / Pro Hac Vice Motions

    f. PACER - Public Access to Court Electronic Records

g. Local Civil and Criminal Rules

1. LR 5.1 Filing By Facsimile or Electronic Means

2. LR 8.1 General Rules of Pleading (privacy provisions)

3. LCrR 49.2 Filing By Facsimile or Electronic Means

4. LCrR 49.1.1 General Rules of Pleading (privacy provisions)

5. Federal Civil Rule Changes Effective December 1, 2015

h. Electronic Filing Policies and Procedures Manual

8. Copy Requests - Transcripts

a. Local Civil Rule 80.1 and Local Criminal Rule 57.20 Orders for Transcripts from Official Court Reporters

9. Civil Case Opening Documents

a. Civil Cover Sheet

b. Corporate Disclosure Statements

10. Court Programs

United States District Court
Northern District of Ohio

Chief Judge Solomon Oliver, Jr., Cleveland

Hon. Donald C. Nugent, Cleveland
Hon. Patricia A. Gaughan, Cleveland
Hon. James S. Gwin, Cleveland
Hon. Dan Aaron Polster, Cleveland
Hon. John R. Adams, Akron
Hon. Christopher A. Boyko, Cleveland
Hon. Jack Zouhary, Toledo
Hon. Sara Lioi, Akron
Hon. Benita Y. Pearson, Youngstown
Hon. Jeffrey J. Helmick, Toledo
Hon. James G. Carr, Toledo

Magistrate Judge George J. Limbert, Youngstown
Magistrate Judge William H. Baughman, Jr., Cleveland
Magistrate Judge James R. Knepp, II, Toledo
Magistrate Judge Kathleen B. Burke, Akron
Magistrate Judge Thomas M. Parker, Cleveland
Magistrate Judge Jonathan D. Greenberg, Cleveland
Magistrate Judge David A. Ruiz, Cleveland

Clerk of Court Geri M. Smith

Court Locations and County Venue (see Local Rule 3.8)

Eastern Division:

Akron: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas, and Wayne

Cleveland: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina, and Richland

Youngstown: Columbiana, Mahoning, and Trumbull

Western Division:

Toledo: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood, and Wyandot

http://www.ohnd.uscourts.gov/

United States District Court
Northern District of Ohio

Honorable Solomon Oliver, Jr., Chief Judge

October 27, 2016

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- Rules and Orders
- U.S. Pretrial Services and Probation Office

Geri M. Smith, Clerk of Court | Robin E. Grimes, Chief U.S. Pretrial Services and Probation Officer

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News

Constitution Day 2016: New Citizens to Take Oath at Iconic Sites
September 12 2016

Students will participate in real-life civics lessons at naturalization ceremonies scheduled at National Park Service sites and other, iconic places from Ellis Island to Pearl Harbor, in celebration of Constitution Day and Citizenship Day on Friday, September 16. Some ceremonies, including the Ellis Island naturalization, can be viewed by live stream starting at 10:45 a.m. EDT on September 16 from uscourts.gov.

Read More

ACS Northeast Ohio Chapter, Cleveland-Marshall Student Chapter, the Federal Bar Association, and the Cleveland Marshall College of Law Center for Cybersecurity and Privacy Protection
September 8 2016

Join the ACS Northeast Ohio Chapter and the Cleveland-Marshall Student Chapter, the Federal Bar Association, and the Cleveland Marshall College of Law Center for Cybersecurity and Privacy Protection for an analysis of the legal framework underpinning civil liberties and privacy rights in a society where far-reaching technology is an increasingly prevalent part of our lives. We will also discuss how privacy rights and national security interests must be balanced and the future implications of the Apple iPhone dispute and what we can glean from it about this ever-changing area of law.

Read More

Modifications to Local Criminal Rules 6.1(b), Local Civil Rule 3.10 and Local Criminal Rule 57.17, and Local Criminal Rule 32.2
September 1 2016

Modifications to Local Criminal Rule 6.1(b) regarding Grand Jury Practice, Local Civil Rule 3.10 and Local Criminal Rule 57.17 regarding the Miscellaneous Docket, and Local Criminal Rule 32.2 regarding Time Limits on PSRs and Sentencing Memoranda.

Read More

Proposed Amendments Published for Public Comment - August 2016
August 12 2016

The Judicial Conference Advisory Committees on Appellate, Bankruptcy, Civil, and Criminal Rules have proposed amendments to their respective rules and forms and have asked that they be circulated to the bench, bar, and public for comment. The proposed amendments and the advisory committees' reports explaining the proposed changes are posted on the Judiciary's website at: http://www.uscourts.gov/rules-policies/proposed-amendments-published-public-comment. The information is posted in a printable format for those who prefer hard copy documents. The public comment period ends February 15, 2017.

Read More

Passing of Judge David D. Dowd, Jr.
August 4 2016

Solomon Oliver, Jr., Chief Judge, United States District Court for the Northern District of Ohio, announced today the passing of Judge David D. Dowd, Jr. of Massillon, Ohio, who served on our court in Akron for more than thirty years. Judge Dowd was appointed by President Ronald Reagan in 1982. He continued to hear and decide cases while serving as a Senior Judge on the court from 1995 until he retired in 2014. Prior to being appointed to the federal court, Judge Dowd served as a legal officer in the Judge Advocate General Corps of the U.S. Army and had a distinguished career in Massillon, Ohio in private practice, in Stark County as an Assistant Prosecuting Attorney and as County Prosecuting Attorney, as a Judge on the Fifth District Court of Appeals of Ohio and on the Ohio Supreme Court. Judge Dowd received his undergraduate degree from the College of Wooster and his law degree from the University of Michigan Law School.

Chief Judge Oliver stated, "To say that David Dowd will be sorely missed is an understatement. He was an outstanding judge and colleague. David set a high standard for judges and lawyers. He was a trusted friend and mentor to all of us who served on the court. He freely shared his thoughts and ideas about all aspects of judging and was always willing to take on an extra assignment if it would help the court. He was always well prepared, principled and fair, having the courage of his convictions. That is why the lawyers and parties who appeared before him, regardless of outcome, held him in such high esteem."

In 1988, the Judicial Conference of the United States appointed Judge Dowd to a four-year term on the Board of the Federal Judicial Center. In 1990, Chief Justice William H. Rehnquist appointed Judge Dowd to the Ad Hoc Committee on Asbestos Litigation, and in 1996 Chief Justice Rehnquist appointed Judge Dowd as one of the judges on the newly-created Alien Terrorist Removal Court (ATRC). Judge Dowd's term on this court was subsequently extended. The ATRC was established by the Antiterrorism and Effective Death Penalty Act of 1996 as part of our country's response to the first attack on the World Trade Center in 1993 and the bombing of the Alfred P. Murrah Federal Building in Oklahoma City in 1995. Judge Dowd served as a member of the Advisory Committee on the Federal Rules of Criminal Procedure and in that capacity he also served as a liaison to the Advisory Committee on the Federal Rules of Evidence.

The flag will be flown at half staff at all of the courthouses in the Northern District of Ohio for three days, this Friday through Tuesday of next week. The United States District Court for the Northern District of Ohio extends to the 40 northernmost counties of the state, and holds court and has judicial officers in Toledo, Cleveland, Akron and Youngstown.

Read More

News Archive

Events

Federal Criminal Practice Seminar - Video Replays
December 9 2016

The Office of the Federal Public Defender for the Northern District of Ohio will hold video replays of the Federal Criminal Practice Seminar which was held on August 19, 2016. A total of 6.5 CLE credit hours are available. The replays will be held at the locations as indicated below. For more information, including registration details, please see the attached flyer.

Cleveland - Friday, October 28, 2016, and Friday, December 9, 2016
Carl B. Stokes U.S. Court House - 7th Floor Auditorium

View All Events

CM/ECF

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To speak with someone in the Clerk's Office
Cleveland: 1-800-385-8498
Akron: 330-252-6000
Toledo: 419-213-5500
Youngstown: 330-884-7400

CM/ECF Asbestos

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http://www.ohnd.uscourts.gov/home/clerk-s-office-and-court-records/electronic-filing/filing-hours/

Filing Hours

Pursuant to Local Rule 77.1 and Local Criminal Rule 56.1:

The Court shall be in continuous session for transacting judicial business on all business days throughout the year. The Electronic Case Filing System (ECF) is available twenty-four hours a day.

The Office of the Clerk shall be open for filing from 9:00 a.m. to 4:00 p.m., Monday through Friday, at the locations of court, which are: Akron, Cleveland, Toledo and Youngstown.

Filings in civil cases, including new complaints or other initiating documents, may be filed 24 hours a day, 7 days a week on the courts electronic filing system. The court encourages electronic filing of new civil actions.

Emergency filings before or after normal business hours, that cannot be made electronically, will be permitted. The attorney of record for any party needing to make emergency filings between 5:00 p.m. and 8:00 a.m., weekends or holidays, may telephone the Court's Security Office which will contact a deputy clerk on duty. The number to call is (216) 522-2150.

The Court's Security Office should also be contacted if an electronic filing requires emergency action.

Courthouse Renamed for Civil Rights Hero

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City, State or ZIP Code | GO

Court Locator

Quick Links

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Judiciary News

- Fiscal Year Bankruptcy Filings Continue Fall — October 28, 2015
- Art Displays Make Courthouse an Inviting Place — October 21, 2015
- Scam Targets Bankruptcy Filers — October 20, 2015

See All News Stories

Federal Courts & the Public

More about the Federal Judiciary

Pathways to the Bench

The work of the federal courts touches upon many of the most significant issues affecting the American people, and federal judges exercise wide authority and discretion in the cases over which they preside.

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2014 Annual Report of the Director

The Director of the Administrative Office of the U.S. Courts reports on activities of the Administrative Office of the United States Courts.

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Federal Court Forms

Here you will find links to standard forms used in the U.S. Courts. Specific court forms or those customized by the courts for their use are available directly from the court.

See Services & Forms

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General Information about the FJC

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Federal Judiciary Homepage

Supreme Court of the United States

U.S. Sentencing Commission

Federal Judicial Center Foundation

The Federal Judicial Center is the education and research agency for the federal courts. Congress created the FJC in 1967 to promote improvements in judicial administration in the courts of the United States. This site contains the results of Center research on federal court operations and procedures and court history, as well as selected educational materials produced for judges and court employees.

- Publications & videos

- International judicial relations

- Federal judicial history

-- Biographies of federal judges since 1789
-- Histories of individual courts
-- Landmark legislation

- Educational programs & materials

-- State-federal judicial education programs
-- Inside the Federal Courts orientation site
-- Resources for managing capital cases
-- Materials on electronic discovery
-- Resources on courtroom technology
-- Discovery protocol for employment cases

Panel Judges
Panel Location
Overview of Panel
Governing Statutes
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- Treatises
- Federal and State Coordination

Employment

Panel Location

United States Judicial Panel on Multidistrict Litigation

Panel Executive: Thomasenia P. Duncan

Clerk of the Panel: Jeffery N. Lüthi

Street Address:	Mailing Address:
Thurgood Marshall Federal	Thurgood Marshall Federal
Judiciary Building	Judiciary Building
One Columbus Circle, NE	One Columbus Circle, NE
Room G-255, North Lobby	Room G-255, North Lobby
Washington, DC 20544-0005	Washington, DC 20544-0005

Clerk's Office: 202-502-2800 | **FAX:** 202-502-2888

JPML CM/ECF Help Desk: 202-502-2822

Office Hours (M-F): 9:00 a.m. to 4:00 p.m Eastern Time

Closed All Federal Holidays

The office is accessible via the **Metro: Union Station** (Red Line).

Map

Origin and Purposes

The United States Judicial Panel on Multidistrict Litigation, known informally as the MDL Panel, was created by an Act of Congress in 1968 – 28 U.S.C. §1407. The job of the Panel is to 1) determine whether civil actions pending in different federal districts involve one or more common questions of fact such that the actions should be transferred to one federal district for coordinated or consolidated pretrial proceedings; and 2) select the judge or judges and court assigned to conduct such proceedings. The purposes of this transfer or "centralization" process are to avoid duplication of discovery, to prevent inconsistent pretrial rulings, and to conserve the resources of the parties, their counsel and the judiciary. Transferred actions not terminated in the transferee district are remanded to their originating transferor districts by the Panel at or before the conclusion of centralized pretrial proceedings.

Historical Summary

Since its inception, the Panel has considered motions for centralization in more 2,400 dockets involving more than 415,000 cases and millions of claims therein. These dockets encompass litigation categories as diverse as airplane crashes, other single accidents such as train wrecks or hotel fires; mass torts, such as those involving asbestos, drugs and other products liability cases; patent validity and infringement; antitrust price fixing; securities fraud; and employment practices. Statistical and other information can be found on the Panel's web site: www.jpml.uscourts.gov

Membership of the MDL Panel

The MDL Panel consists of seven sitting federal judges, who are appointed to serve on the Panel by the Chief Justice of the United States. The multidistrict litigation statute provides that no two Panel members may be from the same federal judicial circuit. The current Chairman of the Panel is Chief Judge John G. Heyburn II, who sits in the Western District of Kentucky. The remaining Panel members, in order of seniority on the Panel are Marjorie O. Rendell (C.A. Third Circuit), Charles R. Breyer (N.D. California), Lewis A. Kaplan (S.D. New York), Sarah S. Vance (E.D. Louisiana), Ellen Segal Huvelle (D. District of Columbia) and R. David Proctor (N.D. Alabama).

For additional information, please contact the Clerk's Office:

United States Judicial Panel
on
Multidistrict Litigation

Jeffery N. Lüthi
Clerk of the Panel

One Columbus Circle, N.E.
North Lobby, Room G-255
Washington, DC 20002-8004

http://www.jpml.uscourts.gov

(202) 502-2800 (202) 502-2888 (Fax)

United States Judicial Panel on Multidistrict Litigation

One Columbus Circle, N.E.
North Lobby, Room G-255
Washington, DC 20002-8004
(202) 502-2800

An Introduction to the United States Judicial Panel on Multidistrict Litigation

Courthouse Amenities

- Attorney Lounge and Wireless Access
- U.S. Courts Libraries
- Courthouse Cafeterias
- Use of Space

Library

The Sixth Circuit Satellite Library in the Northern District of Ohio serves the federal judiciary, employees of federal agencies, members of the federal bar and the local legal community. Other library users are admitted at the discretion of the librarian.

The circulation policy allows court personnel and attorneys who need to take materials to a courtroom during a trial or a hearing to check out items from the library. Library materials are not allowed to circulate out of the courthouse.

The following services are available on the public computers located in the satellite library:
Internet access
WordPerfect
LEXIS & WESTLAW (with your own password)
WebCat®, the online catalog

Library staff will assist with the use of the public computers and provide information about printing charges. In order to keep the computers "virus free" the use of outside disks is not permitted.

The library provides a photocopier for library users. Please see a library staff member for information on the cost of copies. The library will fax materials to non-court personnel for $1.00 per page.

Additional Information

Cleveland
Hours of Operation
Monday - Friday 8:30 A.M. to 5:00 P.M.

Telephone Number
(216) 357-7275

Law Librarian
Irene M. Milan, M.S.L.S., J.D.

Attorney Lounge and Wireless Access

Attorney Lounge

Attorney Lounges are located in the courthouses in Cleveland and Akron.

In Cleveland, the attorney lounge is located on the 7th floor of the Carl B. Stokes U.S. Court House. Wireless access, telephones, a printer, a scanner, and a copier are available.

In Akron, the attorney lounge is located on the B-3 Level of the John F. Seiberling Federal Building and U.S. Courthouse. Wireless access, telephones, a printer, a scanner, and a copier are available.

Attorney Wireless

The U.S. District Court for the Northern District of Ohio is pleased to provide wireless internet access to attorneys admitted to practice in the district at court locations in Akron, Cleveland, Toledo, and Youngstown. Wireless access is also available in the Canton and Youngstown U.S. Bankruptcy Courthouses.

In the John F. Seiberling Federal Building and U.S. Courthouse in Akron wireless access is provided on the 4th and 5th floors.

In the Carl B. Stokes U.S. Court House in Cleveland wireless access is provided on all court floors, the 7th floor (which includes the cafeteria and attorney lounge) and the Circuit Satellite Library located on the 20th floor.

In the James M. Ashley and Thomas W.L. Ashley U.S. Courthouse in Toledo wireless access is provided on all court floors.

In the Thomas D. Lambros Federal Building and U.S. Courthouse in Youngstown, wireless access is provided on the 2nd and 3rd floors.

Additional Information

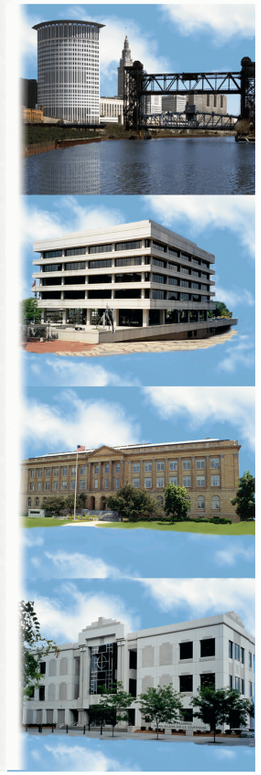
Troubleshooting Tips for Attorney Wireless Accounts

Clerk's Office
United States District Court
Northern District of Ohio
801 West Superior Avenue
Cleveland, Ohio 44113-1830

United States District Court Northern District of Ohio

Help Desk: 800-355-8498
216-357-7000

Electronic Filing



Electronic Filing

The U.S. District Court for the Northern District of Ohio is a leader in electronic filing and is proud to have been the first Court to accept an electronic filing over the Internet. Using the Case Management/Electronic Case File (CM/ECF) system, attorneys can:

- File complaints and initiating documents, except in criminal cases;
- File subsequent pleadings and documents;
- Retrieve up-to-the-second docket sheets;
- Retrieve most case documents; and
- Receive electronic notification of filings.

CM/ECF was developed by the Administrative Office of the U.S. Courts and is used by Federal Appellate, District and Bankruptcy courts throughout the country. The system provides unprecedented access to Court records and has proven that widely available and inexpensive technology can accommodate electronic filing in federal cases.

Transcripts of Court Proceedings

CM/ECF is continually evolving and providing new services. For example, when court reporters fulfill orders for transcripts of Court proceedings, the transcripts are now filed electronically. During the first 90 days after filing, transcripts are only available for viewing at public access terminals within our courthouses; they will not be available over the Internet during that time. The transcripts are also available for purchase from the court reporter. Counsel of record are responsible for informing the court reporter within 21 days after the filing if the transcript contains social security numbers, financial account numbers, birth dates, the names of minor children, or in criminal cases only, home addresses that must be redacted to protect privacy interests pursuant to the E-Government Act, Local Rule 8.1 and Local Criminal Rule 49.1.1. After 90 days, the transcripts (redacted if necessary) will also become available to the public from the Clerk's Office and over the Internet through PACER.

How are documents prepared?

Attorneys create documents on their own computers using standard word processing software. However, instead of printing the documents on paper and delivering them to the Court, documents are converted to a portable document format (PDF) that allows everyone to view the documents, regardless of the type of system used to create or view them.

How do I file electronically?

Attorneys access the Court's electronic filing system over the Internet. After entering a Court assigned user name and password, attorneys enter the case number in which their document is to be filed, the name of the party for whom the document is being filed and the type of document being submitted (answer, answer with cross-claim, etc.). The document is then transmitted to the Court's computer.

What happens next?

Once the document is received by the Court, the electronic filing system:

- Sends a receipt to the sender verifying that the document has been received;
- Updates the docket sheet and provides immediate access to the event and the document to anyone with access to the system;
- Sends a notice of the filing to all parties who have agreed to receive electronic notice.

What if the document was not created on a computer?

The Court seeks to have as many documents as possible filed electronically, but recognizes, however, that some documents may not be available in electronic format – for example, certain medical records. Nevertheless, many of those documents can be easily and inexpensively scanned for electronic filing. Documents or objects that cannot be scanned reasonably can be filed and served in the traditional manner. Advance planning will help avoid the need to make last minute decisions on such matters.

Are any documents precluded from being filed electronically?

Documents to be placed under seal may not be filed electronically and must be filed in the traditional manner. Attorneys should pay close attention to Local Civil Rule 8.1 and Local Criminal Rule 49.1.1 which requires the redaction or exclusion of specific personal identifiers from documents.

What are the benefits?

Electronic filing streamlines the typically time-consuming and costly process of delivering legal documents to the Court and sending copies to all the parties in the litigation. In addition, attorneys can file documents and review cases from anywhere with an internet connection. The system also improves access to Court records by making documents available even when the Courthouse is closed for business.

Who decides if it will be used?

The Court requires attorneys to file and receive notices electronically in all civil and criminal cases, absent a showing of good cause, unless otherwise excluded by the rules, procedures or orders of the Court.

What do I need to do?

To file electronically you must:

- Be admitted to practice in this Court;
- Complete an electronic filing registration form; and
- Secure your passwords and notify the Court if you learn that it has been compromised.
- Have access to the Public Access to Court Electronic Records (PACER) system which allows users to obtain case and docket information from Federal Appellate, District and Bankruptcy courts, and the U.S. Party/Case Index via the Internet.

Upon completion of the registration form, you will be assigned a user name and password that will permit access to the system and serve as your signature on all documents filed under Fed. R. Civ. P. 11.

What equipment do I need?

To file electronically in this Court, parties need the following:

- a computer running a Windows or a Macintosh operating system;
- Adobe Acrobat 3.0 or higher to convert documents to a portable document format (PDF);
- a PDF-compatible word processor like Macintosh or Windows-based versions of WordPerfect and Word;
- Internet access supporting a transfer rate of 28.8 kbs or higher;
- CM/ECF has been tested and works correctly with Netscape 7.x, Internet Explorer 6.0 and Firefox 1.5; and
- Access to a scanner to image non-computerized documents.

What if something goes wrong?

If problems occur, call the Clerk's Office Help Desk (1-800-355-8498) Monday - Friday from 8:00 a.m. to 4:45 p.m. (eastern standard time). A voice mail message may be left at other times.

Is the system secure?

The electronic filing system has several layers of security. A user name and password are required to access the system and documents are encrypted and transmitted through SSL protocol. In addition, the electronic receipt issued by the Court contains a unique validation code ensuring that documents cannot be altered after being received by the Court.

Is training available?

Attorneys and law firm staff may receive training by contacting one of the following numbers:

Cleveland:	216-357-7007
Akron:	330-252-6015
Toledo:	419-213-5500
Youngstown:	330-884-7419

An online tutorial is available on the Court's internet web page at http://www.ohnd.uscourts.gov under Electronic Filing. Registered attorneys can also practice filing and retrieving documents using a training system.

Where can I learn more?

Additional information about the CM/ECF system and electronic filing can be obtained from the Clerk's Office or through the Court's web page at http://ecf.ohnd.uscourts.gov. Available materials include: attorney admission and electronic filing registration forms, an "Electronic Filing Policies and Procedures Manual" and a "User Manual."

Attorney Best Practice Reminders

Civil Cover Sheet
When filing a new case, remember to always submit the completed *Civil Cover Sheet (JS44)* http://www.uscourts.gov/forms/civil-forms/civil-cover-sheet. Both pages should be completed. Section 3 on page 2 is very important and is often overlooked.

Duplicate Text - Party Role/Name
When filing a document, it is not necessary to enter the filing party's name or party role in the free text box. CM/ECF sill automatically prompt you to select the party/parties on whose behalf you are filing. This information will automatically be placed at the end of the docket entry. When one enters the filing party's name/role this would duplicate text in the docket entry, requiring removal by one of our data quality clerks.

Increased PDF Size Limit
The size limitation for PDF documents has been increased from 15MB to 35MB. The CM/ECF Policies and Procedures Manual (Appendix B - Local Civil Rules) has been updated to reflect this change. http://www.ohnd.uscourts.gov/home/rules-and-orders/local-civil-rules/.

Problems Viewing Restricted Documents (documents that are not available to the public and are restricted for viewing by the attorney(s) on the case)
In order to view a restricted document, you must be logged into your CM/ECF account. Restricted documents cannot be viewed using a PACER login. Examples of restricted documents include: most entries in Social Security or ERISA cases; Presentence Reports.

Update Your PACER Account in Preparation for CM/ECF NextGen
In August of 2014 changes were implemented by PACER and included the ability to upgrade PACER accounts. An upgraded PACER account will be mandatory when the court migrates to CM/ECF NextGen. If you have not already done so, please upgrade your PACER account.
pVisit the court's website for instructions on upgrading a PACER account and more information on CM/ECF NextGen. Additional NextGen information can be found on PACER's website.

CM/ECF Compatible Browser
Be sure to use an approved browser for CM/ECF. Google Chrome is not compatible, and is the cause of numerous calls to our Help Desk to report problems. Refer to the CM/ECF User's Manual for more information.

CM/ECF Search Feature

The search feature is a useful tool for finding the correct event for your filing. It is located on the right side of the blue menu bar at the top of the screen. To use, click on the search button, enter a key word from the title of the document being filed, and click Search. A list of possible events will be displayed. Click on one of the events to start filing.
Please note, the search menu option in CM/ECF will not work properly in Internet Explorer 11 unless the browser is added to Compatibility View.
To turn on Compatibility View you should first be in CM/ECF. Under Tools, select Compatibility View Settings. The necessary URL information will automatically fill in the "Add this website" box. Press Add, and then press Close to save and finish.

Training Seminars

The United States District Court for the Northern District of Ohio provides training in the use of its Case Management / Electronic Case Files (CM/ECF) system to all interested attorneys and law firm staff.

The Court now permits attorneys to file documents electronically over the internet in criminal and civil cases. Absent a showing of good cause, the Court expects attorneys to take advantage of the benefits of this new service which include: e-mail noticing of all filings, 24 hour access to file or view documents; immediate access to updated docket sheets and to the documents themselves; potential elimination of paper files that can be misplaced or lost; and potential for savings in copying, courier and noticing costs.

Our training programs provide attorneys and their staffs with the knowledge necessary to use the electronic filing system. Topics include:

- How to prepare documents for electronic filing
- How to file electronically
- How to retrieve electronically filed documents
- How to receive electronic notice of filings
- What to do with material that cannot be filed electronically
- What to do if you have difficulties filing electronically
- Legal issues including: electronic signatures, noticing and retention of original documents and system requirements

In Cleveland, the court conducts Electronic Filing Training Seminars on an as needed basis on Wednesdays:

10:30 a.m. - 11:30 a.m. Overview

11:30 a.m. - 1:00 p.m. Hands-On Training

For information on Civil Case Opening Training click here.

Due to the length of the program in Cleveland, seating is limited. To reserve a seat in Cleveland, please call (216) 357-7007.

Training in electronic filing will also be provided to interested attorneys and law firm staff at other times and other court locations by prior arrangement.

Individuals seeking training in how to file electronically in bankruptcy cases should contact the United States Bankruptcy Court for the Northern District of Ohio at (216) 615-4300.

Additional Information

Training Contact Numbers

Akron:	(330) 252-6016
Cleveland:	(216) 357-7007
Toledo:	(419) 213-5500
Youngstown:	(330) 884-7419

United States District Court
Northern District of Ohio

PAYMENT OF FILING FEES OVER THE INTERNET

The Clerk's Office of the United States District Court for the Northern District of Ohio has accepted credit card payments for filing fees at the intake counter and by phone for the past several years. On Monday, May 1, 2006, we will begin accepting credit card payments over the Internet for the following documents:

- **Notices of Appeal**
- **Pro Hac Vice Motions**

In addition, we expect to be able to accept internet credit card payments for civil case filing fees beginning June 1. **Attorneys are strongly encouraged to pay fees by credit card over the Internet.**

If a filer does not pay the required fee using a credit card over the Internet, they must pay the fee at the Court House, as they have been doing until now, and file the document on paper or return to their office and file electronically. Filers who pay the fee at the Court House but wish to file the document electronically, will need to enter either a prepaid receipt number or a credit card number. The documents cannot be filed without payment.

Benefits to Attorney

- Attorneys will be able to Pay filing fees without the need to travel to the Court.
- Attorneys will be able to review their Internet credit card payment history at any time.

Step by step instructions and additional information regarding credit card payments over the internet can be found on our website at:

http://www.ohnd.uscourts.gov/Electronic_Filing/

HOW PACER WORKS

PACER offers convenient electronic access to:

- Case file documents and opinions
- Listings of all case parties
- Reports of case-related information
- Chronologies of events entered in the case record
- Claims registries
- Listings of new bankruptcy cases
- Judgments or case status
- PACER Case Locator
- Audio files of hearings

PACER SERVICE CENTER
P.O. Box 780549
San Antonio, TX 78278-0549
Phone: (800) 676-6856
Email: pacer@psc.uscourts.gov

PACER

Public Access To Court Electronic Records

At your fingertips

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PACER

Public Access to Court Electronic Records

PACER

Public Access to Court Electronic Records

(PACER) is an electronic public access service that allows users to obtain case information from federal courts. PACER is a service of the United States Judiciary, provided by the Administrative Office of the United States Courts.

PACER offers an inexpensive, easy-to-use alternative for obtaining case information from the Judiciary's Case Management and Electronic Case Files system (CM/ECF), without having to visit the courthouse. PACER allows an Internet user to request information about a particular case or party. The data is immediately available for printing or downloading.

CM/ECF

CM/ECF is the federal courts' system used to manage cases and to allow attorneys to file case documents over the Internet.

Identifying requirements for the next generation of CM/ECF is in process. Refer to the "What's New with PACER" section of the PACER website, for information and updates to PACER and CM/ECF.

REGISTRATION

To register for access, visit the PACER Service Center website at www.pacer.gov. Click on the Registration tab and select the account type. Then fill out an online form and provide a valid email address.

- Provide credit card information to establish an account and receive same- day access.
- Choose to register without credit card information, and you will receive account login information by U.S. mail, usually within one week.

There is no cost for registration.

FEES and BILLING

Congress has authorized the Judiciary to charge fees to fund the costs of PACER and CM/ECF.

The Judicial Conference of the United States has set fees and conditions for services as follows:

- Ten cents per page for access via the Internet, with a total charge of any document, docket sheet, or case-specific report not to exceed $3.00, the fee for 30 pages.
- Transcripts of federal court proceedings are not subject to the 30-page fee limit.
- Digital Audio files are available for $2.40 per file, for courts that provide the service.
- Fees are waived for users who incur less than $15 of use in a quarterly billing cycle.
- Parties entitled to documents as part of a legal process receive one free electronic copy.
- Parties will be charged for replacement copies, whether in paper or electronic form.
- Users are billed quarterly and are allowed to enter a client code of their own choosing to facilitate costs tracking.

Local Civil Rules Related to Electronic Filing

Rule 5.1 Filing by Facsimile or Electronic Means

(a) The Clerk's Office will not accept any facsimile transmission unless ordered by the Court.

(b) Pursuant to Fed. R. Civ. P. 5(e), the Clerk's Office will accept papers filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. A paper filed by electronic means in compliance with this Rule constitutes a written paper for the purposes of applying these Rules and the Federal Rules of Civil Procedure. All electronic filings shall be governed by the Court's Electronic Filing Policies and Procedures Manual and orders of the Court. (See Appendix B.)

(c) The Court requires attorneys to receive notice of filings electronically and to file documents electronically, absent a showing of good cause, unless otherwise excused by the rules, procedures or Orders of the Court. While parties and pro se litigants may register to receive "read only" electronic filing accounts so that they may access documents in the system and receive electronic notice, typically only registered attorneys, as Officers of the Court, will be permitted to file electronically. The Judicial Officer may, at his or her discretion, grant a pro se litigant who demonstrates a willingness and capability to file documents electronically permission to register to do so. Permission to file electronically may be revoked at any time.

Rule 8.1 General Rules of Pleading

(a) In compliance with the policy of the Judicial Conference of the United States, and the Egovernment Act of 2002, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents filed with the Court, including exhibits thereto, whether filed electronically or on paper, unless otherwise ordered by the Court.

(1) Social Security numbers. If an individual's Social Security number must be included in a document, only the last four digits of that number should be used.

(2) Names of minor children. If the involvement of a minor child must be mentioned, only the initials of that child should be used.

(3) Dates of birth. If an individual's date of birth must be included in a document, only the year should be used.

(4) Financial account numbers. If financial account numbers are relevant, only the last four digits of these numbers should be in the document used.

(b) In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may

(1) file a redacted document in the public record and file a reference list under seal. The reference list shall contain the complete personal data

identifier(s) and the redacted identifier(s) used in its(their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal, and may be amended as of right, or

(2) file an unredacted version of the document under seal.

(c) The unredacted version of the document or the reference list shall be retained by the Court as part of the record. The Court may, however, still require the party to file a redacted copy for the public file. The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review each document for compliance with this rule.

(d) Exceptions: Transcripts of the administrative record in social security proceedings and state court records relating to habeas corpus petitions will be exempt from these redaction provisions because those documents will not be made available online.

Local Criminal Rules Related to Electronic Filing

Rule 49.2 Filing by Facsimile or Electronic Means

(a) The Clerk's Office will not accept any facsimile transmission unless ordered by the Court.

(b) Pursuant to Fed. R. Civ. P. 5(e), as incorporated by Fed. R. Crim. P. 49(b), the Clerk's Office will accept papers filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. A paper filed by electronic means in compliance with this Rule constitutes a written paper for the purposes of applying these Rules and the Federal Rules of Criminal Procedure. All electronic filings shall be governed by the Court's Electronic Filing Policies and Procedures Manual and orders of the Court. (See Appendix B to the Local Civil Rules.)

(c) The Court requires attorneys to receive notice of filings electronically and to file documents electronically, absent a showing of good cause, unless otherwise excused by the rules, procedures or Orders of the Court. While parties and pro se litigants may register to receive "read only" electronic filing accounts so that they may access documents in the system and receive electronic notice, typically only registered attorneys, as Officers of the Court, will be permitted to file electronically. The Judicial Officer may, at his or her discretion, grant a pro se litigant who demonstrates a willingness and capability to file documents electronically permission to register to do so. Permission to file electronically may be revoked at any time.

Rule 49.1 General Format of Papers Presented for Filing

Attorneys are required to file documents electronically, absent a showing of good cause, unless otherwise excused by the rules, procedures or Orders of the Court, pursuant to LCrR 49.2(c). The formatting requirements described below apply to documents presented on paper. Documents that are filed electronically should follow the same provisions, where applicable.

All pleadings, motions, and other documents presented for filing shall be on 8½ x 11 inch white paper of good quality, flat and unfolded and shall be plainly typewritten, printed, or prepared by a clearly legible duplication process and double-spaced except for quoted material. Each page shall be numbered consecutively.

Only the original shall be filed. No duplicate of any document shall be accepted by the Clerk of Court, except upon written order of the Judge assigned to the case.

In instances wherein documents are being filed in consolidated or related cases, an additional copy shall be filed for each case number stated in the case caption. In the interest of completeness of the case files, the original document shall be placed in the lead case file and copies of the document shall be placed in each consolidated or related case file.

All documents presented for filing or lodging shall be pre-punched with two (2) normal-size holes (approximately 1/4 inch diameter), centered 2 3/4 inches apart, 1/2 to 5/8 inch from the top edge of the document.

The top margin of the first page of each document filed shall be three (3) inches for use by the Clerk to permit space for the file-stamp without stamping over case information. The title of the Court shall be centered below this 3-inch space.

Signatures on all documents submitted to the Court shall include the typewritten name, address, telephone number, facsimile number, e-mail address and the attorney's Ohio Bar Registration Number, if applicable.

This Rule does not apply to documents filed by pro se litigants, except that the signatures on all documents submitted by pro se litigants must include a typewritten or printed name, address, daytime telephone number, facsimile number and e-mail address, if available.

IMPORTANT LOCAL CIVIL RULES

Rule 16	Rule 7	Rule 37
Rules Relating to Case Management	**Rules Relating to Rulings on Motions**	**Rules Relating to Discovery**
<u>LR 16.1 Differentiated Case Management (DCM)</u> • Adopted in compliance with Civil Justice Reform Act of 1990 ("CJRA") • A system providing for case management based on case characteristics • Marked by these features: assignment of "tracks," Case Management Conference ("CMC"), Case Management Plan ("CMP"), discovery limitations <u>LR 16.2 Tracks and Evaluation of Cases</u> • Tracks: Expedited, Standard, Complex, Administrative, and Mass Tort • Note: Administrative cases are automatically referred to a magistrate judge for R&R. <u>LR 16.3 Track Assignment and CMC</u> • Court typically issues a track recommendation prior to CMC • CMC: final track determination; application of ADR; consent to MJ; disclosure issues; type and extent of discovery, including electronic discovery; case management deadlines and conferences; occasionally, complex litigation issues <u>LR 16.4 through LR 16.7 -- ADR</u>	<u>LR 7.1 Motions</u> • Governed by CMP • Must be in writing • Limits on page lengths for dispositive v. non-dispositive motions • Hearings • Untimeliness • Sanctions for frivolous documents <u>LR 7.2 Dispositive Motions</u> • Usually decided by DJ, but may be referred to MJ • May be scheduled for oral argument <u>LR 7.3 Ruling on Motions</u> • Non-dispositive -- within 30 days of coming at issue • Dispositive -- within 60 days of coming at issue (or briefing is concluded on an R&R)	<u>LR 37.1 Discovery Disputes</u> • Aims at handling these informally and short of motions/briefs BUT • Be sure you know how your own judicial officer handles such disputes <u>LR 37.2 Form of Discovery Motions</u> • Essentially requires movant to include the interrogatory, document request, deposition question, etc., as well as the response alleged to be evasive or incomplete • Discussion and legal authority

SKD

Rule 3.1	Rule 5.2	Rule 67
Assignment of Cases	**Filing Documents Under Seal**	**Deposits / Disbursements**
(b)(3) - Relatedness - case may be reassigned with the concurrence of both transferee and transferor judges with or without a motion **(b)(4) - Refiled, Dismissed, Remanded** - a subsequently refiled case goes back to the judge who had the original case; counsel should bring it to Clerk's attention; judges can sua sponte do an order **(b)(5) - Transfer** - for other reasons, with the concurrence of the transferee judge <u>and</u> the approval of the Chief Judge	• Must be authorized by statute, court rule, or prior court order • If authorized by prior court order, the electronically filed, sealed document must be linked to that order • If authorization is lacking, the Clerk will notify counsel before unsealing the document to allow time until the close of business to withdraw the document • If not withdrawn, document is unsealed	<u>LR 67.1 Deposits</u> • Refers to LR Appendix D - sample order of deposit • Requires certain information • Good idea to have the Finance Office check it before you file the order <u>LR 67.2 Disbursements</u> • Refers to LR Appendix E - sample order of disbursement • Good idea to have the Finance Office check it before you file the order

IMPORTANT APPENDICES TO LOCAL CIVIL RULES

Appendix B - Electronic Filing Policies and Procedures Manual (12/1/2016)

Appendix D - Sample Order of Deposit

Appendix E - Sample Order of Disbursement

Appendix L - Stipulated Protective Order

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

ELECTRONIC FILING

POLICIES AND PROCEDURES MANUAL

December 1, 2016

Introduction

The U.S. District Court for the Northern District of Ohio requires attorneys in civil and criminal cases to file documents with the Court electronically over the Internet thru its Case Management/Electronic Case Files (CM/ECF) system. The Court requires attorneys to file documents electronically, absent a showing of good cause, unless otherwise excused by the procedures set forth below or by Order of the Court. While parties and pro se litigants may register to receive "read only" electronic filing accounts so that they may access documents in the system and receive electronic notice, typically only registered attorneys, as Officers of the Court, will be permitted to file electronically. The Judicial Officer may, at his or her discretion, grant a pro se litigant who demonstrates a willingness and capability to file documents electronically permission to register to do so. Permission to file electronically may be revoked at any time.

1. Authorization for Electronic Filing

Pursuant to Fed. R. Civ. P. 5(d), Fed. R. Crim. P. 49(b) and (c), LR 5.1(b) and LCrR 49.2, the following policies and procedures govern electronic filing in this district unless, due to extraordinary circumstances in a particular case, a judicial officer determines that these policies and procedures should be modified in the interest of justice.

2. Definitions and Instructions

The following definitions and instructions will apply to these Policies and Procedures for Electronic Filing:

2.1 The term "document" shall include pleadings, motions, exhibits, declarations, affidavits, memoranda, papers, orders, notices, and any other filing by or to the Court.

2.2 The term "party" shall include counsel of record and a pro se litigant.

2.3 All hours stated shall be Ohio time.

3. Application of Rules and Orders

Unless modified by approved stipulation or order of the Court or a judicial officer, all Federal Rules of Civil and Criminal Procedure, Local Rules, and orders of the Court will continue to apply to cases filed electronically.

4. Applicable Cases

Electronic filing will be expected in all civil and criminal cases unless otherwise ordered by the Court. The parties will begin filing electronically in a case immediately.

5. Social Security Review and Immigration Cases

Unless otherwise ordered by the Court, in an action for benefits under the Social Security Act, and in an action or proceeding relating to an order of removal, relief from removal, or immigration benefits or detention, access to an electronic file is authorized as follows:

(1) the parties and their attorneys may have remote electronic access to any part of the case file, including the administrative record;

(2) any other person may have electronic access to the full record at the courthouse, but may have remote electronic access only to:

(A) the docket maintained by the Court; and

(B) an opinion, order, judgment or other disposition of the Court, but not any other part of the case file or the administrative record.

Social security transcripts that are available from the Social Security Administration in electronic format should be filed electronically. Social security transcripts that are filed electronically may exceed the 35 megabyte limitation set forth in Section 15 in order to take advantage of the index and hyperlinks within those documents. Social security transcripts that are not available electronically will be filed and served on paper in the traditional manner since scanning that set of documents, and filing or retrieving them electronically, is impractical at this time. Typically, social security transcripts filed manually will not be scanned by the Clerk's Office, but will be maintained in a paper case file.

6. System Requirements

While the system requirements may be set forth more completely in a User's Manual or other Court publication, it is expected that the following hardware and software will be needed to electronically file, view and retrieve documents in the electronic filing system:

- A personal computer running a standard platform such as Windows or Macintosh.
- A PDF-compatible word processor like Macintosh or Windows-based versions of WordPerfect or Word.
- Internet service.
- A CM/ECF-compatible web browser.
- Software to convert documents from a word processor format to portable document format (PDF).
- Adobe Acrobat Reader, which is available for free, is needed for viewing PDF documents.
- A scanner may be necessary to create electronic images of documents that are not in your word processing system.

7. Fees in the District Court

A. On-Line Payment of Fees. All ECF transactions that require a payment shall be paid on-line on the same day that the transaction is docketed.

B. Acceptable Credit Cards. Only VISA, MASTERCARD, AMERICAN EXPRESS, DISCOVER and DINERS CLUB credit cards will be accepted. Debit cards from the above mentioned providers that do not require a "PIN" code will also be accepted.

8. Filing of Case Initiating Documents / Payment of Filing Fee / Service of Summons

Civil case initiating documents (e.g. Complaints, Notices of Removal) can be filed electronically if filer is using a credit card for payment of the required fee. Summons will be issued electronically for parties to perfect service. Criminal case initiating documents (e.g. Informations, Indictments, Complaints) will be filed on paper rather than electronically.

9. General Format of Documents to be Filed Electronically

Electronically filed documents must meet the requirements of Fed. R. Civ. P. 10 (Form of Pleadings), LR 10.1 and LCrR 49.1 (General Format of Papers Presented for Filing), and LR 10.2 and LCrR 49.2 (Designation of District Judge and/or Magistrate Judge) as if they had been submitted on paper. Documents filed electronically are also subject to any page limitations set forth by Court order or by LR 7.1(g) (Length of Memoranda).

10. Filing Documents Electronically

Electronic transmission of a document consistent with the procedures adopted by the Court will, upon the complete receipt of the same by the Clerk of Court, constitute filing of the document for all purposes of the Federal Rules of Civil and Criminal Procedure and the Local Rules of this Court, and will constitute entry of that document onto the docket maintained by the Clerk pursuant to Fed. R. Civ. P. 58 and 79 and Fed. R. Crim. P. 55.

A receipt acknowledging that the document has been filed will immediately appear on the filer's screen. Parties can also verify the filing of documents by inspecting the Court's electronic docket sheet. The Court may, upon the motion of a party or upon its own motion, strike any inappropriately filed document.

Documents filed electronically must be submitted in the Adobe Acrobat PDF format. Documents created on a computer should be converted directly to PDF without scanning. Documents requiring an original signature or documents that cannot be converted directly should be scanned into PDF.

Filing documents electronically does not alter any filing deadlines. All electronic transmissions of documents must be completed (*i.e.,* received completely by the Clerk's Office) prior to midnight in order to be considered timely filed that day. Although parties can

file documents electronically 24 hours a day, attorneys and parties are strongly encouraged to file all documents during normal working hours of the Clerk's Office (8:00 a.m. to 4:45 p.m.) when assistance is available.

11. Civil and Criminal Dockets

Upon the filing of a document, a docket entry will be created using the information provided by the filing party. The Clerk of Court will, where necessary and appropriate, modify the docket entry description to comply with quality control standards.

12. System Availability

The Court's system is designed to provide service 24 hours a day. The parties, however, are encouraged to file documents in advance of filing deadlines and during normal business hours.

The Clerk's Office has established a Help Desk (1-800-355-8498) to respond to questions regarding the electronic filing system and the registration process and to receive voice mail messages. The Help Desk will be staffed business days from 8:00 a.m. to 4:45 p.m., and will be available at all other times to record voice mail messages.

If a party is unable to file electronically and, as a result, may miss a filing deadline, the party must contact the Help Desk to inform the Clerk of Court of the difficulty. If a party misses a filing deadline due to an inability to file electronically, the party may submit the untimely filed document, accompanied by a declaration, as a separate document, stating the reason(s) for missing the deadline. The document and declaration must be filed no later than 12:00 noon of the first day on which the Court is open for business following the original filing deadline. A model form is provided in Appendix A.

13. Registration

In order to effectively use the electronic filing system, users will need both a CM/ECF account and a PACER (Public Access to Court Electronic Records) account.

a. CM/ECF Account: A party seeking to file documents electronically must submit a completed Electronic Filing System Registration form (Appendix B) prior to being assigned a CM/ECF user identification name and password that will serve as that party's signature for all purposes, including Fed. R. Civ. P. 11. Online registration is also available through the Court's web site (www.ohnd.uscourts.gov). Additionally, attorneys seeking to file electronically must be admitted to practice in the U.S. District Court for the Northern District

of Ohio. The completed Registration Form must be signed by the registrant and addressed to:

Ms. Geri M. Smith, Clerk
United States District Court
Attention: Electronic Filing System Registration
801 W. Superior Avenue
Cleveland, OH 44113-1830

Once registration is completed, the party will receive notification by U.S. mail as to his/her user identification name and password.

Parties agree to protect the security of their passwords and immediately notify the Clerk of Court if they learn that their password has been compromised. Parties may be subject to sanctions for failure to comply with this provision.

b. PACER Account: In order to retrieve documents from the CM/ECF system over the Internet, users, including members of the public, must have a PACER account. PACER is a national billing system that provides case information from nearly all federal courts. Users who do not have a PACER account will be unable to view or retrieve docket sheets or documents over the Internet, but may access that information, unless otherwise restricted, at the court house. PACER accounts can be established through the PACER Service Center:

http://pacer.psc.uscourts.gov

PACER Service Center
P.O. Box 780549
San Antonio, TX 78278
(800) 676-6856
(210) 301-6440

Under the PACER system, parties and counsel of record are entitled to one free copy of each document filed in their cases, so long as they retrieve the document within 15 days of filing. Subsequent access to those documents, or access to documents in other cases, are subject to PACER billing fees. See the PACER web site for current rates and details.

14. Service of Electronically Filed Documents

By participating in the electronic filing process, the parties consent to the electronic service of all documents pursuant to Fed. R. Civ. P. 5(b)(3) and 5(b)(2)(E), and must make available electronic mail addresses for service. (Instructions to set up e-mail notification are available at www.ohnd.uscourts.gov/Electronic_Filing/electronic_filing.html.) Upon the filing of a document by a party, an e-mail message will be automatically generated by the

electronic filing system and sent via electronic mail to the e-mail addresses of all parties in the case. In addition to receiving e-mail notifications of filing activity, the parties are strongly encouraged to sign on to the electronic filing system at regular intervals to check the docket in their case.

A certificate of service must be included with all documents filed electronically. Such certificate will indicate that service was accomplished pursuant to the Court's electronic filing procedures. The party effectuates service on all parties by filing electronically. Service by electronic mail will constitute service pursuant to Fed. R. Civ. P. 5(b)(2)(E) and Fed. R. Crim. P. 49(b).

The following is a suggested certificate of service for electronic filing:

Certificate of Service

> I hereby certify that on [date], a copy of foregoing [name of document] was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's system.
>
> s/ [Name of Password Registrant]
> Name of Password Registrant
> Address
> City, State, Zip Code
> Phone: (xxx) xxx-xxxx
> Fax: (xxx) xxx-xxxx
> E-mail: xxx@xxx.xxx
> [attorney bar number, if applicable]

It is the responsibility of the filing party to ensure that all other parties are properly served. Fed. R. Civ. P. 5(b)(3) notes that service by electronic means is not effective if the party making service learns that the attempted service did not reach the person to be served. If a party requiring service is not listed on the electronic filing receipt as having been sent an electronic notice of the filing, the filing party must serve that party by other appropriate means.

15. Electronic Filings

A key objective of the electronic filing system is to ensure that as much of the case as possible is filed and made available electronically. To facilitate electronic filing and retrieval, documents to be filed electronically are to be reasonably broken into their separate component parts. By way of example, most filings include a foundation document (*e.g.,* motion) and other supporting items (*e.g*., memorandum and exhibits). The foundation document as well as the supporting items will each be deemed a separate component of the filing, and each component must be uploaded separately in the filing process. Any component having an electronic file size that exceeds 35 megabytes, with the exception

of social security transcripts as noted in Section 5, should not be filed electronically. Where an individual component is not included in the electronic filing, the filer must electronically file the prescribed Notice of Manual Filing in place of that component and the excluded component must be filed with the Clerk's Office within any deadlines and no later than one business day after the rest of the submission was filed electronically. A model form is provided as Appendix C .

The following example illustrates the application of this section.

> *A party seeks to file a motion, a supporting memoranda, and four exhibits (A, B, C and D). The motion is a text document that after conversion to Adobe PDF has a size of 5kb. The supporting memoranda is a text document that after conversion to PDF has a size of 45kb. Attachment A is a scanned image of a one page document that after conversion to PDF has a size of 200kb. Attachment B is a scanned image of a 60 page document that after conversion to PDF has a size of 37mb. Attachment C is a scanned image of a 10 page document that after conversion to PDF has a size of 1.2mb. Attachment D represents an object that cannot be converted to digital format.*
>
> *Each document should be kept as a separate component (PDF file) rather than being merged together as one file in order to facilitate easy retrieval of any individual component. Each of the components, except for Attachments B and D, should be filed electronically in one submission by filing the motion and attaching the memoranda and exhibits through the electronic filing system. Attachment B, at 37mb, exceeds the 35mb file size standard for conveniently creating, filing and retrieving documents. Attachment D cannot be scanned. In the electronic submission, Attachments B and D should each be replaced by a Notice of Manual Filing form. Attachment B should then be manually filed with the Court on paper, along with a copy of the attachment on disk, and served upon the parties in the traditional, non-electronic manner. Attachment D should be treated as it would if a traditional filing system were being used.*

16. Manual Filings

Parties otherwise participating in the electronic filing system may be excused from filing a particular component electronically under certain limited circumstances, such as when the component cannot be reduced to an electronic format or exceeds the file size limit described in Section 14. Such component must not be filed electronically, but instead must be manually filed with the Clerk of Court and served upon the parties in accordance with the applicable Federal Rules of Civil and Criminal Procedure and the Local Rules for filing and service of non-electronic documents. A party may seek to have a component excluded from electronic filing pursuant to Fed. R. Civ. P. 26(c).

Whenever a party makes an electronic filing which excludes a component that will be filed manually, the electronic filing must include a Notice of Manual Filing in place of that component. A model form is provided as Appendix C.

If the entire filing, including all components, is made manually, a Notice of Manual Filing should not be filed, either electronically or manually.

Whenever it is practical, the Clerk's Office will scan manual filings and enter them into the electronic filing system. Once a document is scanned into the system, Section 22 below provides that the electronic version becomes the official record of the Court and permits the Clerk of Court to retain, return or discard the original. If a party believes that retention of the original is warranted, a copy of the document should be filed with the Court and the party should retain the original. A party may also request at the time of filing or within 10 days thereafter, through a separate document, that the original be returned, rather than discarded, should the Clerk's Office ever determine it is no longer needed by the Court.

The pages of all documents filed manually should be one-sided in order to facilitate scanning by Court staff.

17. Retention of Originals of Documents Requiring Scanning

Originals of documents requiring scanning to be filed electronically must be retained by the filing party and made available, upon request, to the Court and other parties for a period of one year following the expiration of all time periods for direct appeals.

18. Signature Block

The party identification name and password will constitute the party's signature for Fed. R. Civ. P. 11 purposes. All documents filed electronically must include a signature block in compliance with the appropriate Local Civil or Criminal Rule (LR 10.1 or LCrRrR 49.1) and include the typewritten name, address, telephone number, facsimile number, e-mail address and the attorney's Ohio Bar Registration Number, if applicable.

In addition, the name of the password registrant under whose password the document is submitted should be preceded by a "s/" and typed in the space where the signature would otherwise appear.

s/ [Name of Password Registrant]
Name of Password Registrant
Address
City, State, Zip Code
Phone: (xxx) xxx-xxxx
Fax: (xxx) xxx-xxxx
E-mail: xxx@xxx.xxx
[attorney bar number, if applicable]

Documents requiring signatures of more than one party must be filed either by submitting

a scanned document containing all necessary signatures or by listing all of the names of the signatories on the document by means of a “s/[name] (consent)” signature block for each. By submitting such a document, the filer certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filer has been authorized to submit the document on their behalf. Physical, facsimile or electronic signatures may be used to satisfy the requirements of this provision.

19. Sealed Documents

The filing of documents under seal is governed by LR 5.2 and LCrR 49.4, which permits such filings only with prior leave of the judicial officer. Sealed documents may be filed electronically using the events Sealed Motion or Sealed Document. The Court’s electronic filing system will not serve sealed documents. Therefore, all sealed documents must be manually served upon the parties in accordance with the applicable Federal Rules of Civil and Criminal Procedure and the Local Rules for filing and service of non-electronic documents. The Clerk will enter a notice of the filing on the docket for manually filed sealed documents. Accordingly, the party filing a sealed document should not file a Notice of Manual Filing, electronically or on paper.

20. Trial Exhibits

Exhibits “lodged” with the Clerk of Court pursuant to LR 39.1 or LCrR 23.2 will not be filed electronically. Such documents will not be placed into the electronic filing system unless and until they are admitted as part of the official public record. The party submitting the “lodged” exhibits may be required to resubmit the documents in electronic format once they are admitted into the public record.

21. Filing of Discovery Materials

In civil cases, the filing of discovery depositions, interrogatories, requests for production of documents, requests for admissions, and answers and responses thereto will be governed by the Case Management Plan defined in LR 16.1(b)(4), and the determination of whether such materials will be filed electronically or manually will be made by the judicial officer after consulting with the parties. In general, the Court prohibits the filing of discovery material unless it is done in support of a motion.

In criminal cases, no material subject to discovery under Fed. R. Crim. P. 16 should be filed unless otherwise ordered by the Court, pursuant to LCrR 16.1.

22. Official Record

The official Court record will be the electronic file maintained on the Court’s servers. The official record will also include, however, any conventional documents or exhibits filed in accordance with these provisions that have not been otherwise entered into the system because it was impractical to do so. The Clerk’s Office will retain all original indictments and plea agreements after they are scanned and uploaded into the system. The Clerk’s Office may retain, return or discard all other original documents filed with the Court on paper after

they have been scanned into the system, at the discretion of the Clerk of Court, subject to any limitations imposed by statute, judiciary policy or orders of this Court.

23. Remote Public Access

In accordance with the E-Government Act of 2002 and policies set forth by the Judicial Conference (which governs the administration of the U.S. Courts), the Court strives to provide public Internet access to case related documents to the same extent that those documents are available at the court house, with some limitations. The Court restricts remote public access to social security review and government collection cases pursuant to Judicial Conference policy as well as ERISA cases pursuant to General Order 2006-24 because of the sensitive personal data identifiers that appear in many of the documents in those cases.

23. Remote Public Access

In accordance with the E-Government Act of 2002 and policies set forth by the Judicial Conference (which governs the administration of the U.S. Courts), the Court strives to provide public Internet access to case related documents to the same extent that those documents are available at the court house, with some limitations. The Court restricts remote public access to social security review and government collection cases pursuant to Judicial Conference policy as well as ERISA cases pursuant to General Order 2006-24 because of the sensitive personal data identifiers that appear in many of the documents in those cases.

24. Privacy

The E-Government Act of 2002 and the Judicial Conference of the United States Courts' Policy on Privacy and Public Access to Electronic Case Files set forth rules and provide guidance to protect privacy and security concerns relating to the electronic filing of documents and the public availability of documents filed electronically. In accordance with the Act, the following Model Notice has been provided to Courts using the CM/ECF system:

> The Office of the Clerk is now accepting electronically filed pleadings and making the content of these pleadings available on the Court's Internet website via WebPACER. Any subscriber to WebPACER will be able to read, download, store and print the full content of electronically filed documents. The Clerk's Office will not make electronically available documents that have been sealed or otherwise restricted by Court order.
>
> Do not include sensitive information in any document filed with the Court unless such inclusion is necessary and relevant to the case. Remember that any personal information not otherwise protected will be made available over the Internet via WebPACER. If sensitive information must be included, the following personal data identifiers must be partially redacted from the pleading, whether it is filed traditionally or electronically:

1) Social Security numbers: If an individual's Social Security number must be included in a document, only the last four digits of that number should be used;
2) Names of minor children: If the involvement of a minor child must be mentioned, only the initials of that child should be used.
3) dates of birth: If an individual's date of birth must be included in a document, only the year should be used.
4) Financial account numbers: If financial account numbers are relevant, only the last four digits of these numbers should be used.
5) (In criminal cases only) Home addresses: If a home address must be included, only the city and state should be listed.

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers specified above may:

(a) file a redacted document in the public record and file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its(their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal, and may be amended as of right, or

(b) file an unredacted version of the document under seal.

The Court may, however, still require the party to file a redacted copy for the public file.

In addition, exercise caution when filing documents that contain the following:

1) Personal identifying number, such as driver's license number;
2) medical records, treatment and diagnosis;
3) employment history;
4) individual financial information; and
5) proprietary or trade secret information.

Counsel are strongly urged to share this notice with all clients so that an informed decision about the inclusion, redaction and/or exclusion of certain materials may be made. If a redacted document is filed, it is the sole responsibility of counsel and the parties to be sure that all documents comply with the rules of this Court requiring redaction of personal data identifiers. The Clerk's Office will not review documents for compliance with this rule, seal on its own motion documents containing personal data identifiers, or redact documents containing personal identifiers, whether filed electronically or on paper.

The privacy provisions adopted by the Court are set forth under the General Rules of Pleading in LR 8.1 and LCrR 49.1.1.

25. Additional Information

Additional information regarding electronic filing can be obtained by visiting the Court's web site (www.ohnd.uscourts.gov), calling the help desk at 1-800-355-8498 or by writing to:

Ms. Geri M. Smith, Clerk
United States District Court
Attention: Electronic Filing System Registration
801 W. Superior Avenue
Cleveland, OH 44113-1830

Appendix A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

	)	
	)	
Plaintiff	)	Case No.
	)	
v.	)	Judge
	)	
Defendant	)	Declaration that Party was Unable to
	)	File in a Timely Manner
	)	Due to Technical Difficulties
	)	

Please take notice that [Plaintiff/Defendant, Name of Party] was unable to file the [Title of Document] in a timely manner due to technical difficulties. The deadline for filing the [Title of Document] was [Filing Deadline Date]. The reason(s) that I was unable to file the [Title of Document] in a timely manner and the good faith efforts I made prior to the filing deadline to both file in a timely manner and to inform the Court and the other parties that I could not do so are set forth below.

[Statement of reasons and good faith efforts to file and to inform (including dates and times)]

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

s/ [Name of Password Registrant]
Name of Password Registrant
Address
City, State, Zip Code
Phone: (xxx) xxx-xxxx
Fax: (xxx) xxx-xxxx
E-mail: xxx@xxx.xxx
[attorney bar number, if applicable]

Appendix B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
ELECTRONIC FILING ATTORNEY REGISTRATION FORM

This form is used to register for an account on the United States District Court for the Northern District of Ohio Electronic Filing System (the system). Registered attorneys will have privileges to electronically submit documents and to view the electronic docket sheets and documents. Once your registration is complete, a user id and password will be sent to you via email. Please call the Electronic Filing Help Desk at 1-800-355-8498 with any questions.

PLEASE TYPE

Mr. Mrs. Ms.

First Name: _____ Middle Name: _____

Last Name: _____ If appropriate check one: Senior Junior II III IV

Highest state court admitted: _____ Bar ID Number: _____

Are you currently in good standing? Yes No

Firm Name: _____

Address: _____

_____

City: _____ State: _____ Zip Code: _____

Have you relocated to this address within the past year? Yes No

Voice Telephone Number: (_____)_____ Fax Number: (_____) _____

Internet Mail Address: _____

Attorneys seeking to file documents electronically must be admitted to practice in the United States District Court for the Northern District of Ohio pursuant to LR 83.5 and LCrR 57.5.

Date admitted to practice in the U.S. District Court for the Northern District of Ohio: _____

If you are not admitted to practice in this court, please complete which applies:

- Attorney for the United States? Yes No
  Date Applicant's Personal Statement & Oath submitted pursuant to LR 83.5(k) & LCrR 57.5(k): _____

- Date motion to be admitted pro hac vice *granted*: _____ in case number: _____

  Pro hac vice admission fee receipt number: _____

- If Attorney of Record in an MDL action in this court indicate case number: _____

A PACER account is required to view documents on the system. For information regarding PACER call 1-800-676-6856 or visit the website at www.pacer.psc.uscourts.gov

I agree to abide by all Court rules, orders and policies and procedures governing the use of the electronic filing system and consent to receiving notice of filings pursuant to Fed. R. Civ. P. 5(b) and 77(d) and Fed. R. Crim. P. 49(b)-(d) via the Court's electronic filing system. The combination of user id and password will serve as the signature of the attorney filing the document(s). Attorneys must protect the security of their password and immediately notify the Court if they learn that their password has been compromised by an unauthorized user.

_____ _____
Signature of Attorney Date

Submit completed Registration Form to:

Geri M. Smith, Clerk
United States District Court
Attention: Electronic Filing System Registration
801 West Superior Avenue
Cleveland, OH 44113-1830

Revised 8/28/08

Appendix C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

	)	
	)	
Plaintiff	)	Case No.
	)	
v.	)	Judge
	)	
Defendant	)	Notice of Manual Filing
	)	
	)	

Please take notice that [Plaintiff/Defendant, Name of Party] has manually filed the following document or thing

[Title of Document or Thing]

This document has not been filed electronically because

the document or thing cannot be converted to an electronic format
the electronic file size of the document exceeds 35 megabytes (30-60 scanned pages)
[Plaintiff/Defendant] is excused from filing this document or thing by court order.

The document or thing has been manually served on all parties.

Respectfully submitted,

s/ [Name of Password Registrant]
Name of Password Registrant
Address
City, State, Zip Code
Phone: (xxx) xxx-xxxx
Fax: (xxx) xxx-xxxx
E-mail: xxx@xxx.xxx
[attorney bar number, if applicable]

United States District Court
Northern District of Ohio

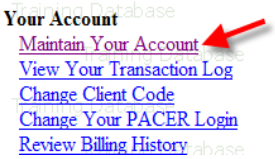
Setting Up E-Mail Notification in CM/ECF

Users can receive e-mail notification of all electronic filings in cases they are interested in by setting the automatic e-mail notification in their user accounts.

- Access the "*Live"* System. Note that the "Live" electronic filing system and the "Training Area" are different systems. Setting your e-mail notification in one system does not set it in the other.)

- Click on "*Utilities*"

- Click on "*Maintain Your Account*"



At the "maintain your account screen", by removing the checkmark by "Add Headers to PDF Documents" you can remove the option of document headers appearing on electronically filed documents.

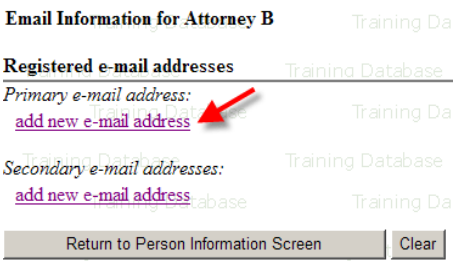
☑ Add Headers to PDF Documents

Example Document Header:

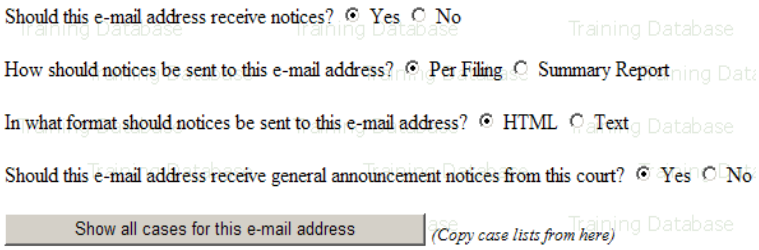
Case 1:09-cv-00049-JG Document 1 Filed 08/06/09 Page 1 of 1

- Click on "*Email Information*"

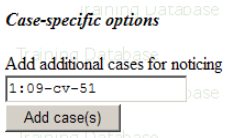
- To add a primary and/or secondary e-mail address, click on the appropriate "*add new e-mail address*" link. Enter your e-mail address in the "*configuration options*" box.



- Upon entering an e-mail address in the “configuration options” box, the following screen will appear. Answer the following questions:

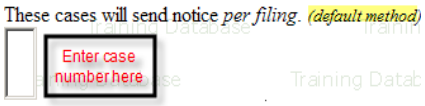


- To receive notification of activity for other cases, enter the case number in the following format YY-#### (ex. 09-51) in the “*add additional cases for noticing*” box and click on “*find the case*”. You do not have to be a party in the cases entered in this field.

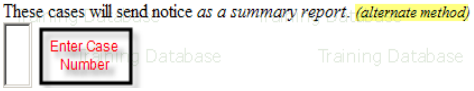


- Select the type of notice you would like to receive. There are two options:

  1) Send notice *per filing* which is the default method. This selection sends notices to you immediately upon filing.



  2) Send notice as a summary report which is an alternate method. This selection will send a summary of notices at the end of the day (usually at midnight). If you seek electronic notice in a large number of cases, this selection is the preferred method.



- Click on “*Return to Person Information Screen*”

- From the Person Information Screen, select “*Submit*” You will receive a confirmation screen listing the cases and e-mail options you have selected.

Note: Failure to select “Submit” will result in no changes being made. Changes have been made only if you receive confirmation of same.

Rule 80.1 Orders for Transcripts from Official Court Reporters

(a) All requests for transcripts from any proceeding held in the United States District Court for the Northern District of Ohio shall be in writing and addressed to the court reporter who took the proceeding, with a copy of such request filed with the Clerk of Court. (See Appendix G.)

(b) Transcripts provided for parties proceeding under the Criminal Justice Act and to parties granted leave to proceed in forma pauperis in habeas corpus proceedings are to be paid for from funds appropriated for this purpose. A CJA 24 form, available from the Clerk's Office, must be used to obtain these transcripts.

(c) A copy of a transcript shall not be represented as an official transcript of a Court proceeding unless it has been certified by a court reporter or electronic court reporter operator of the Northern District of Ohio.

(d) Rates charged for transcripts will be those charged by the Judicial Conference of the United States. The schedule of rates is posted in the Office of the Clerk.

Rule 57.20 Orders for Transcripts from Official Court Reporters

(a) All requests for transcripts from any proceeding held in the United States District Court for the Northern District of Ohio shall be in writing and addressed to the court reporter who took the proceeding, with a copy of such request filed with the Clerk of Court. (See Appendix D.)

(b) Transcripts provided for parties proceeding under the Criminal Justice Act and to parties granted leave to proceed in forma pauperis in habeas corpus proceedings are to be paid for from funds appropriated for this purpose. A CJA 24 form, available from the Clerk's Office, must be used to obtain these transcripts.

(c) A copy of a transcript shall not be represented as an official transcript of a Court proceeding unless it has been certified by a court reporter or electronic court reporter operator of the Northern District of Ohio.

(d) Rates charged for transcripts will be those charged by the Judicial Conference of the United States. The schedule of rates is posted in the Office of the Clerk.

(See LR 80.1) Last revised: 4/7/97. *See* Historical Notes for full revision history.

JS 44 (Rev. 08/16)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ❒ 1 U.S. Government Plaintiff
- ❒ 3 Federal Question *(U.S. Government Not a Party)*
- ❒ 2 U.S. Government Defendant
- ❒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	❒ 1	❒ 1	Incorporated *or* Principal Place of Business In This State	❒ 4	❒ 4
Citizen of Another State	❒ 2	❒ 2	Incorporated *and* Principal Place of Business In Another State	❒ 5	❒ 5
Citizen or Subject of a Foreign Country	❒ 3	❒ 3	Foreign Nation	❒ 6	❒ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- ❒ 110 Insurance
- ❒ 120 Marine
- ❒ 130 Miller Act
- ❒ 140 Negotiable Instrument
- ❒ 150 Recovery of Overpayment & Enforcement of Judgment
- ❒ 151 Medicare Act
- ❒ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ❒ 153 Recovery of Overpayment of Veteran's Benefits
- ❒ 160 Stockholders' Suits
- ❒ 190 Other Contract
- ❒ 195 Contract Product Liability
- ❒ 196 Franchise

REAL PROPERTY
- ❒ 210 Land Condemnation
- ❒ 220 Foreclosure
- ❒ 230 Rent Lease & Ejectment
- ❒ 240 Torts to Land
- ❒ 245 Tort Product Liability
- ❒ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ❒ 310 Airplane
- ❒ 315 Airplane Product Liability
- ❒ 320 Assault, Libel & Slander
- ❒ 330 Federal Employers' Liability
- ❒ 340 Marine
- ❒ 345 Marine Product Liability
- ❒ 350 Motor Vehicle
- ❒ 355 Motor Vehicle Product Liability
- ❒ 360 Other Personal Injury
- ❒ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ❒ 365 Personal Injury - Product Liability
- ❒ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ❒ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ❒ 370 Other Fraud
- ❒ 371 Truth in Lending
- ❒ 380 Other Personal Property Damage
- ❒ 385 Property Damage Product Liability

CIVIL RIGHTS
- ❒ 440 Other Civil Rights
- ❒ 441 Voting
- ❒ 442 Employment
- ❒ 443 Housing/ Accommodations
- ❒ 445 Amer. w/Disabilities - Employment
- ❒ 446 Amer. w/Disabilities - Other
- ❒ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ❒ 463 Alien Detainee
- ❒ 510 Motions to Vacate Sentence
- ❒ 530 General
- ❒ 535 Death Penalty

Other:
- ❒ 540 Mandamus & Other
- ❒ 550 Civil Rights
- ❒ 555 Prison Condition
- ❒ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ❒ 625 Drug Related Seizure of Property 21 USC 881
- ❒ 690 Other

LABOR
- ❒ 710 Fair Labor Standards Act
- ❒ 720 Labor/Management Relations
- ❒ 740 Railway Labor Act
- ❒ 751 Family and Medical Leave Act
- ❒ 790 Other Labor Litigation
- ❒ 791 Employee Retirement Income Security Act

IMMIGRATION
- ❒ 462 Naturalization Application
- ❒ 465 Other Immigration Actions

BANKRUPTCY
- ❒ 422 Appeal 28 USC 158
- ❒ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ❒ 820 Copyrights
- ❒ 830 Patent
- ❒ 840 Trademark

SOCIAL SECURITY
- ❒ 861 HIA (1395ff)
- ❒ 862 Black Lung (923)
- ❒ 863 DIWC/DIWW (405(g))
- ❒ 864 SSID Title XVI
- ❒ 865 RSI (405(g))

FEDERAL TAX SUITS
- ❒ 870 Taxes (U.S. Plaintiff or Defendant)
- ❒ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ❒ 375 False Claims Act
- ❒ 376 Qui Tam (31 USC 3729(a))
- ❒ 400 State Reapportionment
- ❒ 410 Antitrust
- ❒ 430 Banks and Banking
- ❒ 450 Commerce
- ❒ 460 Deportation
- ❒ 470 Racketeer Influenced and Corrupt Organizations
- ❒ 480 Consumer Credit
- ❒ 490 Cable/Sat TV
- ❒ 850 Securities/Commodities/ Exchange
- ❒ 890 Other Statutory Actions
- ❒ 891 Agricultural Acts
- ❒ 893 Environmental Matters
- ❒ 895 Freedom of Information Act
- ❒ 896 Arbitration
- ❒ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ❒ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

- ❒ 1 Original Proceeding
- ❒ 2 Removed from State Court
- ❒ 3 Remanded from Appellate Court
- ❒ 4 Reinstated or Reopened
- ❒ 5 Transferred from Another District *(specify)*
- ❒ 6 Multidistrict Litigation - Transfer
- ❒ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

❒ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ❒ Yes ❒ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Print Save As... Reset

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

I. Civil Categories: (Please check one category only).

1. ☐ General Civil
2. ☐ Administrative Review/Social Security
3. ☐ Habeas Corpus Death Penalty

*If under Title 28, §2255, name the SENTENCING JUDGE: _____

CASE NUMBER: _____

II. **RELATED OR REFILED CASES**. See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regardfor the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action is ☐ **RELATED** to another **PENDING** civil case. This action is ☐ **REFILED** pursuant to **LR 3.1**.

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III. In accordance with Local Civil Rule **3.8**, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant resides in a county within this district, please set forth the name of such county

COUNTY:

Corporation **For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.**

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.

COUNTY:

(3) **Other Cases**. If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.

COUNTY:

IV. The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section **III**, please check the appropriate division.

EASTERN DIVISION

☐ **AKRON** **(Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)**

☐ **CLEVELAND** **(Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina and Richland)**

☐ **YOUNGSTOWN** **(Counties: Columbiana, Mahoning and Trumbull)**

WESTERN DIVISION

☐ **TOLEDO** **(Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca VanWert, Williams, Wood and Wyandot)**

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below**; NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.

V. **Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statue.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

LR - Appendix I

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

	)	
	)	
	)	Case No.
v.	)	
	)	Corporate Disclosure Statement
	)	
	)	

Pursuant to the Corporate Disclosure Statement provisions in Local Civil Rule 3.13(c) and Local Criminal Rule 57.21: Any non-governmental corporate party to a proceeding must file a statement identifying all its parent, subsidiary and other affiliate corporations and listing any publicly held company that owns 10% or more of the party's stock. A party must file the statement upon filing a complaint, answer, motion, response or other pleading in this Court, whichever occurs first. The obligation to disclose any changes will be continuing throughout the pendency of the case.

In compliance with those provisions, this Corporate Disclosure Statement is filed on behalf of:

_____.

1. Is said party a parent, subsidiary or other affiliate of a publicly owned corporation?
_____ Yes _____ No.

If the answer is Yes, list below the identity of the parent, subsidiary or other affiliate corporation and the relationship between it and the named party:

2. Is there a publicly owned corporation, not a party to the case, that has a financial interest in the outcome? _____ Yes _____ No.

If the answer is Yes, list the identity of such corporation and the nature of the financial interest:

_____ _____
(Signature of Counsel) (Date)

U.S. District Court
Northern District of Ohio

Court Programs

Civil Pro Bono Plan

The Court adopted a Civil Pro Bono Program in February, 2007. Under the plan, a judicial officer may instruct the Clerk's Office to select counsel with experience in the subject matter of the case from the list of attorneys who have volunteered to provide Pro Bono services. The Court will reimburse assigned counsel, pursuant to the Pro Bono Civil Case Protocol, up to $1,500 for expenses incurred in providing representation. Additional expenses can be reimbursed upon the approval of the presiding judge. Eighty-seven attorneys have volunteered to serve as Pro Bono counsel. Counsel have been assigned to a total of 104 cases, including 35 civil rights cases, 37 prisoner cases, 3 trademark cases, 2 foreclosure matters, 1 personal injury case, 4 labor cases and 3 ERISA cases. Attorneys interested in volunteering their services may obtain a Pro Bono Application form on the Court's web site.

Criminal Justice Act Plan

The Court has a Criminal Justice Act plan for furnishing representation in criminal cases to any defendant financially unable to obtain adequate representation. The Court maintains panels of attorneys in Cleveland (70) and Toledo (25) and a combined panel for Akron / Youngstown (30). To serve on the CJA Panel attorneys must: 1) be members in good standing of the Federal Bar of this Court, 2) have experience and knowledge of, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, and the United States Sentencing Guidelines and 3) have five (5) years experience in felony trials in state or federal court. In addition, panel attorneys must certify completion of at least one seminar annually on federal criminal defense practice.

Alternative Dispute Resolution

In response to a concern of the early 1990s that civil litigation in the United States took too long and cost too much, the Northern District of Ohio agreed to serve as a Demonstration District for Differentiated Case Management and adopted a wide menu of Alternative Dispute Resolution options designed to provide litigants with quicker, less expensive and generally more satisfying alternatives to traditional litigation and trials. The Court's ADR options are: non-binding, confidential, and inexpensive. The Court maintains a Federal Court Panel comprised of approximately 100 attorneys who serve overwhelmingly on a voluntary basis.

As of August 1, 2011, Local Civil Rules 16.4 through 16.10 have been revised, at the recommendation of the Court's Advisory Group, to establish a maximum rate of $275 per hour that may be charged by panelists for court-annexed services. The charges shall be split equally between the plaintiffs and defendants unless otherwise agreed. In order to retain some of the aspects of pro bono service that have been in place since the inception of the Court's ADR program, the rule revisions also state that no compensation shall be provided for preparation time and that the Court may assign a panelist to provide four and one-half hours (4 ½) of service free of charge to parties that do not have resources to pay the panelist's charge.

More information on ADR is available on our web site. Attorneys with significant experience as ADR neutrals are encouraged to apply to serve on the Panel. Please contact our ADR Administrator, Peggy Nichols, (216-357-7007) with any questions.

Northern Ohio Advisory Group

The Northern District of Ohio has maintained an active attorney Advisory Group for the past 20 years, ever since the Court was named a demonstration district under the Civil Justice Reform Act. The Advisory Group meets with the Court twice each year, in May and November, and is charged with bringing matters of interest to the bar and the community to the attention of the Court. The Advisory Group has also assisted the Court in the implementation of Court adopted programs such as electronic filing and electronic courtrooms and has helped establish default standards for electronic discovery.

The Advisory Group is comprised of over 50 attorneys appointed by the Court and includes representatives from the U.S. Attorney's Office, the Federal Public Defender's Office, the Federal Bar Association and each of the five law schools located with the district. District Judges appoint two members each and each Magistrate Judge appoints one member. Members serve 3-year terms, with eligibility for reappointment to a maximum of 3 terms (nine years total). Members who have completed three terms frequently continue participating in Advisory Group activities in non-voting Emeritus Status.

The Advisory Group is chaired by Jose Feliciano, of Baker Hostetler, and has three standing committees (Civil Rules, Criminal Rules, ADR) as well as ad hoc committees as needed.

Additional information about the Advisory Group and its members is available on the Court's web site.

United States District Court
Northern District of Ohio

Local Rules - Presentation

With an Emphasis on Civil Rules, Including:
Differentiated Case Management
Discovery
Motion Practice
Alternative Dispute Resolution

Local Rules Appendix

American College of Trial Lawyers

Code of Pretrial Conduct and Code of Trial Conduct

Local Rules and Practice Presentation

Presenter: Catherine Garcia-Feehan

I. Important Local Civil Rules

Assignment of cases-Rule 3.1

Case Management-Rule 16

Motions—Rule 7

Discovery-Rule 37

Documents-Rules 5 and 8

Deposits/Disbursements-Rule 67

Attorney Admission/Withdrawal-Rule 83

II. ADR

Options

III. Best Practices

IV. Resources

SOME IMPORTANT LOCAL CIVIL RULES

Rule 3.1	Rule 16	Rule 7
Assignment of Cases	**Case Management**	**Motions Practice**
(b)(3) – Relatedness – case may be reassigned with the concurrence of both the transferee and transferor judges, with or without a motion by counsel **(b)(4) – Refiled, Dismissed, Remanded** – subsequently refiled case goes back to the judge who had the original case; counsel should bring it to Clerk's attention on Civil Cover Sheet; judges can sua sponte do an order **(b)(5) – Transfer** – for other reasons, with the concurrence of the transferee judge <u>and</u> the approval of the Chief Judge	<u>LR 16.1 Differentiated Case Management (DCM)</u> • Civil Justice Reform Act of 1990 • Case management based on case characteristics • Marked by: assignment of tracks, Case Management Conference (CMC), Case Management Plan (CMP), possible discovery limitations [see LR 16.2(b)] [NOTE: New FRCP 26(b)(1) requires discovery to be "proportional to the needs of the case"] <u>LR 16.2 Tracks and Evaluation of Cases</u> • Tracks: Expedited, Standard, Complex, Administrative, and Mass Tort • NOTE: Administrative track cases are automatically referred to a magistrate judge of R&R <u>LR 16.3 Track Assignment and CMC</u> • Track recommendation prior to CMC • CMC: final track determination; application of ADR; consent to MJ; disclosure issues; type and extent of discovery, including electronically stored info (ESI); case management deadlines and conferences; occasionally, complex litigation issues.	<u>LR 7.1 Motions</u> • Governed by CMP • Must be in writing • Limits on page lengths for dispositive vs. non-dispositive motions • Hearings not required • Untimeliness – ground for denial • Sanctions for frivolous documents <u>LR 7.2 Dispositive Motions</u> • Usually decided by DJ, but may be referred to MJ for R&R • May be scheduled for oral argument <u>LR 7.3 Ruling on Motions</u> • Non-dispositive – within 30 days of coming at issue • Dispositive – within 60 days of coming at issue (or briefing is concluded on an R&R)

Rule 37	Rule 5.2	Rule 8.1
Discovery	**Filing Under Seal**	**Compliance with E-Government Act of 2002**
<u>LR 37.1 Discovery Disputes</u> • Aims at handling these informally and short of motions/briefs BUT • Be sure you know how the assigned judicial officer handles such disputes <u>LR 37.2 Form of Discovery Motions</u> • Essentially requires movant to include the interrogatory, document request, deposition question, etc., as well as the response alleged to be evasive or incomplete • Discussion and legal authority required	• Must be authorized by statute, court rule, or prior court order • If authorizing by prior court order, the electronically filed, sealed document must be linked to that order • If authorization is lacking, the Clerk will notify counsel before unsealing the document to allow time until the close of business to withdraw the document • If not withdrawn, document is unsealed	• Personal data identifiers must be excluded or redacted from all documents filed with the court: o Social Security numbers o Names of minor children o Dates of birth o Financial account numbers • The rule sets forth the process for filing documents with personal info • Responsibility rests with counsel, not the Clerk of Court; Clerk will not review • Exceptions: Administrative record in Social Security proceedings and state court records in habeas corpus proceedings

Rule 67	Rule 83
Deposits / Disbursements	**Attorney Admission / Withdrawal**
LR 67.1 Deposits • Refers to LR Appendix D – sample order of deposit • Requires particular information • Good idea to ask the Clerk's Finance Office to check it before you file the order LR 67.2 Disbursements • Refers to LR Appendix E – sample order of disbursement • Good idea to ask the Clerk's Finance Office to check it before you file the order	LR 83.5 Attorney Admission **(c)** – no local office requirement **(d)** – district court practice seminar **(h)** – admission pro hac vice **(l)** – S.D.Ohio reciprocity **(m)** – waiver of seminar LR 83.9 Withdrawal of Counsel May not withdraw (or substitute) unless: • provide written notice to client and other parties obtain leave of court (unless from same firm)

APPENDICES TO LOCAL CIVIL RULES

A – Civil Cover Sheet	**H – Motions Control Program**
B – Electronic Filing Policies and Procedures Manual	**I – Corporate Disclosure Statement**
C – Juror Questionnaire	**J – Pro Bono Civil Case Protocol**
D – Sample Order of Deposit and Investment	**K – Default Standard for Discovery of ESI**
E – Sample Order of Disbursement	**L – Stipulated Protective Order**
F – Consent to Magistrate Judge	**M – Report of Parties' Planning Meeting**
G – Non-Appeal Transcript Order	

ADR OVERVIEW

I. INTRODUCTION

A. Upon the recommendation of the Committee on Alternative Dispute Resolution (ADR), which was established in December, 1990 shortly after the Northern District of Ohio was selected as a pilot district for voluntary arbitration, the new local rules offer and provide guidelines for the use of a broad menu of court-annexed ADR techniques designed to provide quicker, less expensive, and generally more satisfying alternatives to traditional litigation. The ADR techniques provided for in § 16 of the Local Rules are: Early Neutral Evaluation (ENE) and Mediation. A judicial officer may also utilize other methods of court-annexed alternative dispute resolution procedures, such as Arbitration, Summary Jury Trial, and Summary Bench Trial pursuant to L. R. § 16.7. The judicial officer may also recommend or facilitate the use of any extrajudicial procedures for dispute resolution not otherwise provided for by the Local Rules. L.R. § 16.7.

B. Pursuant to L.R. § 16.4(d) the Federal Court Panel consists of persons who, by experience, training, and character, are qualified to act as evaluators, mediators, arbitrators, or other neutrals in one or more of the ADR processes provided for under the Local Rules. Prospective Federal Court Panel members are nominated by the court's Civil Justice Reform Act Advisory Group and confirmed by the judicial officers of the court. Each panelist is appointed for a three year term and appointments may be renewed upon a demonstration of continued qualification. Panelists shall:

1. Undergo such dispute resolution training as the court may prescribe;

2. Take the oath set forth in 28 U.S.C. § 453; and

3. Agree to follow the provisions of § 16 of the Local Rules.

C. The ADR Administrator facilitates and monitors the ADR process by sending notices of selection and providing the parties with relevant lists of qualified members of the Federal Court Panel to act as early neutral evaluators, mediators, or arbitrators. The ADR Administrator also receives the final reports of early neutral evaluators, mediators and arbitrators and, when appropriate, ensures the confidentiality of those reports. Referral Orders shall be electronically filed and docketed by the courtroom deputy assigned to the judicial officer or by the Clerk's office operation specialists. The Notice of Referral to an ADR process, conflict request, ranking sheets, Notice of Designation, Reports of Evaluator, Reports of Mediator, Arbitration Awards, interim reports are docketed events and are processed by the ADR Administrator.

II. ADR SPECIFICS

A. Early Neutral Evaluation (ENE)

1. "Early Neutral Evaluation" (ENE) is a pretrial process involving a neutral evaluator who meets with the parties early in the court of the litigation to help them focus on the issues, organize discovery, work expeditiously to prepare the case for trial, and, if possible, settle all or part of the case. The neutral evaluator provides the parties with an evaluation of the legal and factual issues, to the extent possible, at that early stage of the case. The ENE process described in L.R. § 16.5, et seq., is court-annexed. ENE occurs early in the process and can be recommended at the case management conference. ENE is designed to prepare a civil case for trial by getting the parties to focus on the issues, agree to stipulations, set discovery and overall ready the case for trial. ENE is not generally a settlement tool but settlement may be effected as a result of ENE. L.R. § 16.4(b).

2. Any civil case may be referred to ENE per L.R. § 16.5(a). A case may be selected for ENE at the case management conference (L.R. § 16.5(b)(1)) or at any time:

   a. By the court on its own motion;
   b. By the court on the motion by one of the parties; or
   c. By stipulation of all parties. L.R. § 16.5(b).

3. The Order of Referral to ENE is issued via the court's electronic filing system to all counsel, the parties and the ADR Administrator.

4. The ADR Administrator provides the parties with a list of available neutrals on the Federal Court Panel.

5. A neutral evaluator is selected:

   a. By the parties not later than 10 days after the date of the written notice; or

   b. By the ADR Administrator, if the parties fail to notify the ADR Administrator of a selection within the time frame specified. L.R. § 16.5(c).

6. A Notice of Designation of the Evaluator is issued via the court's electronic filing system to all counsel, the parties if applicable and to the Evaluator. L.R. § 16.5(c).

7. Promptly after receiving the Notice of Designation of the Evaluator, the Evaluator shall schedule the ENE session and file electronic notice through the court's CM/ECF system advising counsel, the parties and the ADR Administrator of the date, time, and location of the ENE session.

8. Unless otherwise ordered by the court, the ENE session must be scheduled not more than 30 days from the Notice of Designation.

9. No later than five (5) days prior to the ENE session, counsel shall submit to the Evaluator and serve on all other parties a written ENE statement. The ENE statement shall:

   a. Identify the person, in addition to counsel, who will attend the ENE session as a representative of the party with decision making authority;
   b. Identify any legal or factual issues whose early resolution might reduce the scope of the dispute or contribute to settlement; and

   c. Describe discovery which is contemplated.

   d. Include as exhibits copies of all pleadings filed by the party submitting the written ENE statement.

10. Within 10 days of the close of the ENE session, the Evaluator shall prepare and submit to the ADR Administrator, the Report of Early Neutral Evaluator. L.R. § 16.5 (g) (2) (J).

    The Report shall include the fact that the ENE process was completed, any agreements reached by the parties, and the Evaluator's recommendation, if any, as to the future ADR processes that might assist in in resolving the dispute.

B. Mediation

1. "Mediation" is a non-binding settlement process involving a neutral mediator who helps the parties to overcome obstacles to effective negotiation. The mediation process described in Local Rule § 16.6, et seq., is court-annexed.

Mediation occurs later in litigation and generally after some discovery has been exchanged. Mediation is designed to calm the emotions of the parties, get the parties to focus on the issues, identify strengths and weaknesses as well as to move the parties toward settlement of the case. L.R. § 16.4(b).

2. Any civil case may be referred to mediation (L.R. § 16.6(a)) when the status of discovery is such that the parties are generally aware of the strengths and weaknesses of the case or any earlier time by agreement of the parties and with the approval of the court. A case may be selected for mediation:

   a. By the court on its own motion;
   b. By the court, on the motion of one of the parties; or
   c. By stipulation of all parties. L.R. § 16.6(b).

3. The Order of Referral to Mediation is issued via the court's electronic filing system to all counsel, the parties and the ADR Administrator. When a case is referred to mediation, the ADR Administrator shall promptly notify counsel and the parties of the names of proposed Mediators taken from the Federal Court Panel. L.R. § 16.6(c).

4. Counsel shall rank the proposed Mediators in order of preference and electronically file the ranked list within 10 days through the court's CM/ECF system. The ADR Administrator shall select the Mediator pursuant to the guidelines set for the in L.R. § 16.6(c). However, nothing shall limit the right of the parties, with the consent of the court, to select a person of their own choosing as the Mediator. L.R. § 16.6(c).

5. The ADR Administrator, after conferring with the selected Mediator concerning potential conflicts of interest and scheduling, shall, pursuant to L.R. § 16.6(c), provide counsel and the parties with a written Notice of Designation of Mediator. Said Notice of Designation of Mediator shall be electronically filed through the court's CM/ECF system.

6. Pursuant to L.R. § 16.6(c), the Mediator shall schedule the mediation conference within 30 days of receipt of the Notice of Designation, unless otherwise ordered by the court. The Mediator shall electronically file a letter/notice with the court's CM/ECF system which sets forth the date, time, and location of the mediation conference.

7. At least 5 days before the mediation conference, pursuant to L.R.§ 16.6(e), counsel shall submit to the Mediator a mediation memoranda which should include, but is not limited to the following:

   a. Copies of relevant pleadings and motions;
   b. A short memorandum stating the legal and factual positions of each party respecting the issues in dispute; and
   c. Such other material as each party believes would be beneficial to the Mediator.

8. Within 10 days from the close of the mediation conference, the Mediator shall prepare and submit to the ADR Administrator the Report of Mediator. L.R. § 16.6(g). Said Report shall include, but is not limited to the following:

   a. If settlement is achieved, the Mediator, or one of the parties at the Mediator's request, shall prepare a written entry reflecting the settlement agreement, which shall be signed by the parties and filed with the ADR Administrator for approval by the court. L.R. § 16.6(g).

   b. If settlement is not achieved, the Mediator shall report in writing to the ADR Administrator that mediation was held, any agreement reached by the parties, and the Mediator's recommendation, if any, as to the future processing of the case. L.R. § 16.6(g)

C. Other ADR Processes

A judicial officer may utilize other methods of court-annexed alternative dispute resolution procedures, including Summary Jury Trial, Summary Bench Trial or Arbitration or recommend or facilitate the use of any extrajudicial procedures for dispute resolution not otherwise provided for by these Local Rules. L.R. § 16.7.

III. <u>ADR-IMPORTANT ITEMS TO KEEP IN MIND</u>

A. Confidentiality

The entire ENE or mediation process is confidential. The parties and the neutral shall not disclose information regarding the process, including the settlement terms, to the court or to third persons unless all parties otherwise agree. Parties, counsel and Mediators may, however, respond to confidential inquiries or surveys by persons

authorized by the court to evaluate the mediation program. Information provided in such inquiries or surveys shall remain confidential and shall not be identified with particular cases.

The ADR process shall be treated as a compromise negotiation for purposes of the Federal Rules of Evidence and state rules of evidence. The neutral is disqualified as a witness, consultant, attorney, or expert in any pending or future action relating to the dispute, including actions between persons not parties to the ADR process. L.R. §§ 16.5(h) and 16.6(h).

B. Filings

Written ENE statements or mediation memoranda are not to be electronically filed or shown to the court. If the Clerk's office receives an ENE statement or mediation memorandum, it will be forwarded to the ADR Administrator for processing.

Similarly, a Neutral's Report shall not be electronically filed with the court and the Clerk's office will forward such reports to the ADR Administrator for processing.

C. Attendance and possible sanctions

Be aware that the "willful failure of a party to attend the [ADR] conference shall be reported by the [Neutral] to the ADR Administrator for transmittal to the assigned Judge, who may impose appropriate sanctions." L.R. §§ 16.5(f) and 16.6(f).

Revised March 2016/CGF

ADR TIMETABLE

Event	Early Neutral Evaluation	Mediation
Order of Referral provided to the ADR Administrator	Standard Procedure	Standard Procedure
ADR Administrator provides Notice of Referral, along with list of neutrals to counsel/parties for consideration and ranking	L.R. 16.5(c)(1)	L.R. 16.6(c)(1) L.R. 16.6(b)(3)(A); For good cause, a party may object to the referral to mediation within 10 days of the Court's Order
Counsel/parties rank neutral Evaluator/Mediator. If counsel/parties fail to provide ranking list to ADR Administrator, the Administrator will select neutral.	L.R. 16.5(c)(1) Not later than 10 days after written notice.	L.R. 16.6(c)(1) Within 10 days of written notice.
ADR Administrator notifies of neutral selection. Neutral conducts conflict check. If no conflicts, Administrator designates neutral as Evaluator or Mediator.	L.R. 16.5(c)(2). No written time frame in rule, usually give neutral 3 to 5 days.	L.R. 16.6(c)(2). No written time frame in rule, usually give neutral 3 to 5 days.
Neutral schedules ADR proceeding. Attendance of parties with settlement authority is mandatory at ADR proceeding. No party can be excused without leave of the court.	L.R. 16.5(c)(3)	L.R. 16.6(c)(3)
Counsel/parties to submit documents, pleadings, etc to the neutral and provide courtesy copy to opposing side.	L.R. 16.5(e): No later than 5 days before evaluation session.	L.R. 16.6(e)(1): At least 5 days before mediation conference.
ADR Proceeding	Scheduling: L.R. 16.5(c)(3); Within 30 days of the receipt by the Evaluator of Notice of Designation Attendance: L.R. 16.5(f)(1) Continuance: L.R. 16.5(c)(4)	Scheduling: L.R. 16.6(c)(3); Not more than 30 days from the date of written notice Attendance: L.R. 16.6(f) Continuance: L.R. 16.6(c)(4)
Interim Report – Final Report submitted to ADR Administrator for processing.	L.R. 16.5.(g)(2)(J); Report within 10 days in writing to ADR Administrator	L.R. 16.6(g)(5); Report within 10 days in writing to the ADR Administrator
Case terminated or returned to the court's docket.	Standard Procedure	Standard Procedure

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When 'Good Enough' Won't Cut It: 3 Tips For Plain Writing

By **Caroline Simson**

Law360, New York (August 7, 2015, 5:25 PM ET) -- It's an easy habit for lawyers backed against unyielding time constraints to dismiss their writing as "good enough," but attorneys who pay no heed to the golden rule of writing — write for others as you would want them to write for you — can expose themselves to problems down the road.

Here, legal writing experts lay out three tips every attorney should follow when faced with a blank screen and a looming deadline.

Treat Your Readers with Empathy

One of the most important things to think about when you're working on a project — whether it's writing a brief for the U.S. Supreme Court or just drafting a letter to a client — is to know your audience and their educational background. Not only is that helpful in terms of setting a tone, but it also helps to quickly establish what you're trying to accomplish, setting up a more concise and acutely targeted draft.

It wouldn't make sense to write a letter to a client that a layperson wouldn't be able to understand, and the same concept rings true with certain documents that could later be the subject of dispute, according to Elizabeth G. Yeargin, a partner in the Ohio-based firm Brouse McDowell LPA and former adjunct professor of legal research and writing at the University of Akron School of Law.

"Clients want succinct understandable language that gets the point across without 'lawyering' it up, if you will," she said.

Breaking yourself of the habit of including old formalisms can be a tough. In some cases, associates may be leery of changing a form document that's been used by the firm for years and has worked in the past. Attorneys, regardless of experience, might think that's what clients expect or want.

But that's often far from true, according to Jeffrey S. Ammon, a partner at the Michigan firm Miller Johnson PLC, who's written about the topic for the Michigan Bar Journal.

"I think the world of clients tolerates ridiculously ambiguous and verbose contract language, and so we get away with it," he said. "I've said to clients, 'Heaven help us if all of you were to wake up one morning and decide that's it, I don't want to read witnesseth, and heretofore, and party of the first part, and licensor and licensee. I don't want to read that crap anymore.'"

Just because a judge gives you a 20-page limit on your brief doesn't mean you have to use the entire 20 pages, according to Christine Azar, a partner with Labaton Sucharow

LLP.

"I had a judge in a case who said you've got a 40-page page limit, but I'll tell you right now I get bored after 20 pages, so keep that in mind," she said.

Avoid Jargon and Unnecessary Words

Regardless of your reader's educational background, it's useful to remember that none of them is likely to appreciate the typical pitfalls that can turn a 20-page brief into an invitation for a midday snooze, like nominalizations, unnecessary or misused words, and, of course, the dreaded legalese.

"Legalese is bad because it sounds pretentious and it really doesn't add any meaning at all," said Chadwick C. Busk of Busklaw PLC, who's written on the topic for the Michigan Bar Journal.

Particularly egregious examples include phrases such as in witness whereof, in consideration of, deemed, and duly, all of which are "just silly," Busk said.

Other examples include here- and there- words such as herein and thereby, according to Joseph Kimble, a professor emeritus at Western Michigan University–Cooley Law School, who led the work of redrafting the Federal Rules of Civil Procedure and the Federal Rules of Evidence.

"Not only are they stuffy and archaic, but they can be ambiguous," he said. "You sometimes don't know whether herein means in this paragraph or in this entire document, and there's lots of cases out there that center on the meaning of the words herein, or therein, or hereby, or thereof."

Particularly if your reader is a judge, he or she isn't going to have a mountain of time to get through the document, according to Matthew Salzwedel, who created the Legal Writing Editor blog and is currently the corporate counsel for a Minnesota-based company. Eliminating unnecessary words or endless sentences that can cause a reader's eyes to glaze over can only help your case, he said.

"Readers, whether they be clients or judges or whoever else, are always looking for a way to tune out," he said. "I believe that a lot of lawyers — who of course think that they're great writers — write for themselves and not for their audience, and so that requires a little humility."

Avoiding unnecessary repetition throughout the document and in individual phrases can be a useful tip, according to Evan Tager, a partner in Mayer Brown's Supreme Court and appellate and class action practices.

"A lot of writers have very clunky kinds of styles, where if you look hard at the sentences or the paragraphs, you see phrases or even full paragraphs that just don't say anything more than what's already been said, and that is a form of lack of clarity," he said. "A careful reader goes into the process assuming that things are being said for a reason."

Make Time for Editing

Even keeping those guidelines in mind, lawyers aren't likely to hit a grand slam their first time at the plate. While most attorneys are under continuous time pressure — both from clients who want their costs kept low and from deadlines in court cases — it's often best to make time for editing to ensure that your first draft is not your last.

Even without hours and hours to put toward redrafting your documents, it's possible to

avoid common grammatical or spelling errors as well as misused words or phrases, by simply printing out the document to see it with fresh eyes, or by using a different font. Making revisions with a pencil can also be a useful tool.

"Read the piece aloud to see how it sounds," Stephen Gillers, a professor at the New York University School of Law, said. "If it's not clear, change it. Unless you're a genius like Shakespeare, Lincoln, or Oscar Wilde, your first draft will be embarrassing. Accept that."

It's often helpful to have another attorney or a layperson who's not involved in whatever you're writing about read your document to ensure your meaning is clear and concise. If possible, set a personal deadline ahead of the actual deadline so you have time for review and edits, according to Wayne Schiess, a senior lecturer at the University of Texas Law School and director of the David J. Beck Center for Legal Research, Writing, and Appellate Advocacy.

"Many lawyers are under deadlines and pressure from clients to keep the bill down, and what gets sacrificed in the written product sometimes is the edit," he said. "You can get the draft done and maybe you clean it up a little, but to really polish and make it really good, it takes a lot of editing time."

If you don't have time for others to read your writing, it can also be helpful to consider whether you'd actually use the word in real conversation, Salzwedal said, noting examples such as pursuant to instead of under, or prior to instead of before.

Another alternative could be to know and watch out for your particular writing foibles with a self-editing checklist, according to Anna Hemingway, an associate professor at Widener University Commonwealth Law School and a nationally known expert in legal writing and legal education.

Even with these tips, it's useful to keep in mind that drafting a really tight, concise, and well-written document is just going to take practice, practice, practice.

"Whatever you're writing, you get better only by committing to a continuing process of learning about it, practicing it, reading good examples and improving," Miller Johnson's Ammon said.

--Editing by Chris Yates and Kelly Duncan.

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THE NATIONAL LAW JOURNAL

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Roberts on Brief-Writing: 'Be Concise'

Tony Mauro, Supreme Court Brief

September 24, 2014

A warning to lawyers who are drafting U.S. Supreme Court briefs this fall: Chief Justice John Roberts Jr. would like you to take a red pencil and lop off 15 pages of verbiage.

Roberts did not say this in so many words, but in a question-and-answer session in Nebraska September 19, the chief justice made it abundantly clear that as he enters his tenth year on the court, he is fed up with lengthy briefs. (His comments begin at the 20-minute mark.)

Chief Judge William Riley of the U.S. Court of Appeals for the Eighth Circuit led the conversation at the University of Nebraska College of Law, before a mix of 500 students, lawyers and judges.

When Riley asked the chief justice for tips on writing persuasive briefs, Roberts answered without hesitation: "I know that every judge in this room will agree with me: Be brief! Be concise."

For most Supreme Court briefs, Roberts said, lawyers are limited to roughly 50 pages. The court's rules put the limit in terms of words, not pages—15,000 words to be exact—but that works out to between 50 and 55 pages. As a result, Roberts said with a long-suffering tone, "every brief you pick up is 50 pages—every one of them, the next one, and the next one, and the next one."

But then, he said, "all of a sudden, you pick up a brief that's 35 pages long. The first thing you do is look at the cover, because you like that lawyer."

Roberts continued, "The second thing you think is, 'He may have a good case, if it only takes 35 pages for him to lay out what the argument is.' And you're going to read that brief a lot more carefully, frankly, than you do with the one that's 50 pages where you feel they are filling the brief."

Once an appellate brief writer himself, Roberts has argued for brevity before. In 2007, he told legal writing expert Bryan Garner drily, "I have yet to put down a brief and say, 'I wish that had been longer.'"

But his Nebraska comments about brief-writing were more pointed and impassioned than before. And his complaints were not limited to length. Briefs should be balanced as well, he said.

"Put yourself in the judge's position," Roberts told the audience. "So many briefs say the case is so clear, that the statute can have no other meaning and ... your client should clearly win. You

pick up the next brief, and it's the same on both sides."

When both sides tell the court that their position is the only possible way to rule, Roberts continued, "They're telling you basically that you are going to be an idiot whichever way you rule."

It is far preferable, Roberts said, to read a brief that starts out with, "This case is a very difficult, close question, and there are good arguments on both sides."

Acknowledging that the opponent has a plausible argument—and then answering it—is the right approach, Roberts said.

"You're going to read that [brief] more seriously, because here is somebody who understands how hard my job is," he said.

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10 Tips for Better Legal Writing

You'll be glad you found your mistakes before your readers do

by Bryan A. Garner

Bryan Garner on Words

Throughout your career as a lawyer, you'll be judged professionally on two main things: your interpersonal skills and your writing. Although the requirements of writing assignments will vary depending on your organization, your supervisor and your clients, here are 10 pointers that will improve your work product.

1 **Be sure you understand the client's problem.** When given an assignment, ask plenty of questions. Read the relevant documents and take good notes. Learn all you can about the client's situation. If you're a junior asked to write a memo or a motion but you aren't told anything about the client's actual problem, ask what it is in some detail. You must be adequately briefed—and that's partly your responsibility. There's almost no way to write a good research memo in the abstract. As you're reading cases and examining statutes, you'll be in a much better position to apply your findings if you know the relevant specifics.

2 **Don't rely exclusively on computer research.** Combine book research with computer research. Don't overlook such obvious resources as *Corpus Juris Secundum* and *American Jurisprudence*. Look at indexes, digests and treatises to round out your understanding of the subject matter. And when it comes to computer research, don't forget Google Books (especially the advanced-search function): It can open up a great variety of fresh resources in addition to what you find with Westlaw or Lexis.

3 **Never turn in a preliminary version of a work in progress.** A common shortcoming of green or hurried researchers, especially when a project is slightly overdue, is to turn in an interim draft in the hope of getting preliminary feedback. That can be ruinous. What busy supervisor wants to read serial drafts? Besides, you should never turn in tentative work—it's better to be a little late than wrong. That goes for turning in projects to impatient clients as well. But keep your supervisor (and, if warranted, your client) updated on the status of your work.

4 **Summarize your conclusions up front.** Whether you're writing a research memo, an opinion letter or a brief, you'll need an up-front summary. That typically consists of three things: the principal questions, the answers to those questions and the reasons for those answers. If you're drafting a motion or brief, try to state on page one the main issue and why your client should win—and put it in a way that your friends and relatives could understand. That's your biggest challenge.

If you're writing a research memo, put the question, the answer and the reason up front. Don't delay the conclusion until the end, as unthinking writers do, naively assuming that the reader will slog all the way through the memo as if it were a mystery novel. And never open with a full-blown statement of facts—despite what you may have learned elsewhere. Why? Because facts are useless to a reader who doesn't yet understand what the issue is. Instead, integrate a few key facts into your issue statement.

5 **Make your summary understandable to outsiders.** It's not enough to summarize. You must summarize in a way that every conceivable reader—not just the assigning lawyer—can understand. So don't write your issue this way: "Whether Goliad can take a tax deduction on the rent-free space granted to Davidoff under I.R.C. § 170(f)(3)?" That's incomprehensible to most readers because it's too abstract and it assumes insider knowledge. Also, it doesn't show any mastery of the problem.

You'd be better off setting up the problem in separate sentences totaling no more than 75 words: "Goliad Enterprises, a for-profit corporation, has granted the Davidoff Foundation, a tax-exempt charity, the use of office space in Goliad's building free of charge. Will the Internal Revenue Service allow Goliad to claim a charitable deduction for the value of the rent-free lease?"

Then provide the brief answer: "No. Section 170(f)(3) of the Internal Revenue Code disallows charitable deductions for grants of partial interests in property such as leases."

Front-loading the information, with a comprehensible question before the answer, is more helpful to your senior colleagues because it achieves greater clarity. Don't presume that your colleagues will (or can) translate your obscurity.

6 **Don't be too tentative in your conclusions, but don't be too cocksure, either.** Law school exams encourage students to use the one-hand-other-hand approach: The outcome could be this, or it could be that. Even experienced lawyers sometimes

hedge needlessly. This approach can look wishy-washy. What's wanted is your best thought about how a court will come down on an issue.

7 **Strike the right professional tone: natural but not chatty.** Some lawyers, especially less experienced ones being encouraged to avoid legalese, end up turning blithely informal and flouting the norms of standard English, especially in email messages. For example, they might write "u" instead of "you" and "cd" instead of "could." Some even use emoticons. Even if you find yourself working for a firm where some people do these things, exercise restraint. Use conventional punctuation and capitalization in your email messages. Your colleagues won't think any less of you, and your supervisors will appreciate your professionalism.

8 **Master the approved citation form.** Find out what the standards are for citing authority in your jurisdiction. In California, lawyers follow the *California Style Manual*. In New York, they should (but frequently don't) follow the *New York Law Reports Style Manual*. In Texas, every knowledgeable practitioner follows the *Texas Rules of Form*. Other states have their own guides. And, of course, *The Bluebook* and the *ALWD Guide to Legal Citation* are widely used as defaults (and sometimes required by court rules). Even if you're not inclined to care much about these things, you'd better learn to obsess over them. Otherwise, you'll look unschooled.

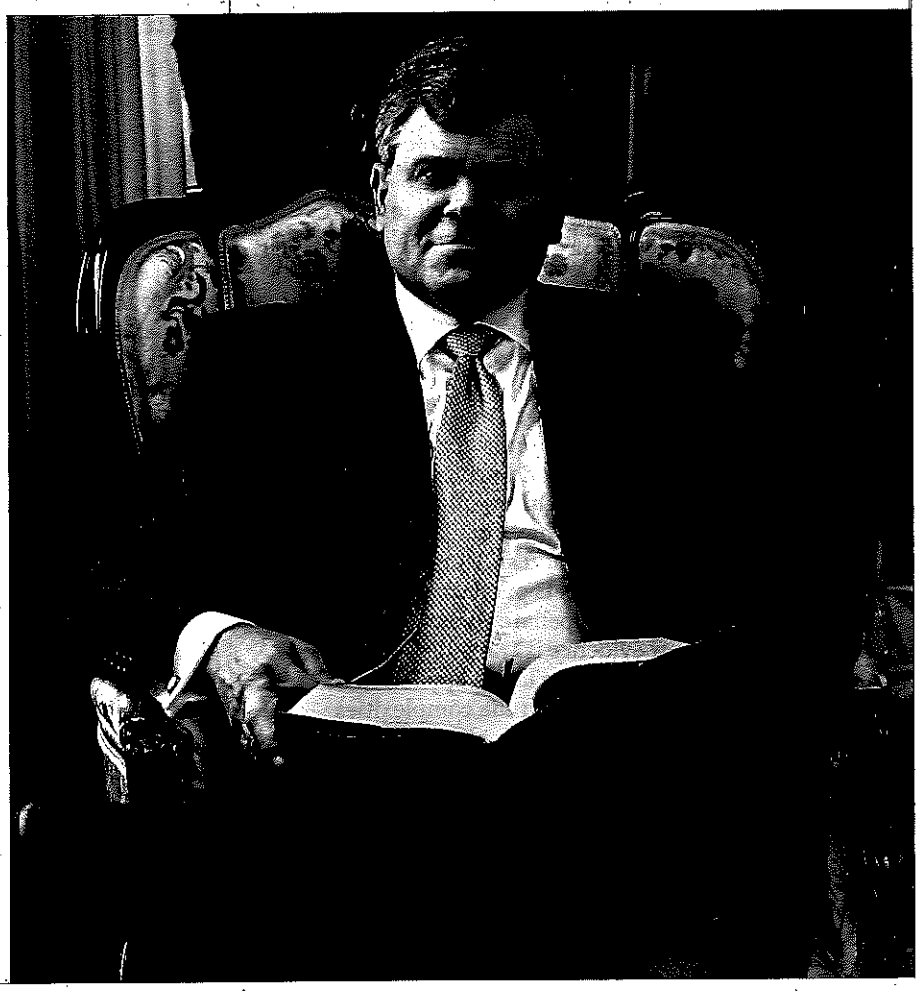
9 **Cut every unnecessary sentence; then go back through and cut every unnecessary word.** Verbosity makes your writing seem cluttered and underthought. Learn to delete every surplus word. For example, *general consensus of opinion* is doubly redundant: A consensus relates only to opinions, and a consensus is general by its very nature. You can replace the phrase *a number of* with *several* or *many*. And *in order to* typically has two words too many—*to* can do the work alone. So instead of *in order to determine damages*, write *to determine damages*.

The late Judge David Bazelon of the U.S. Court of Appeals for the District of Columbia Circuit was a stickler for super-tight prose. Once, when his student clerk, Eugene Gelernter (now a New York City litigator), brought him a draft opinion, the great judge said: "Nice draft, Gene. Now go back and read it again. Take out every paragraph you don't need, then every sentence you don't need. Then go back and take out every word you don't need. Then, when you're done with that, go back and start the whole process all over again." We should all have such a mentor.

10 **Proofread one more time than you think necessary.** If you ever find yourself getting sick of looking at your work product and starting to do something rash such as throwing your hands up and just turning it in at that moment, pull yourself up short. Give it a good dramatic reading. Out loud. You'll still find some slips and rough patches—and you'll be glad you did. Better that you find the problems than your readers do. Learn the lesson that mutilating and reworking your own first drafts actually builds your ego as a writer and editor.

Let's say you're a 30-year lawyer, like me—not a new lawyer. These same pointers hold true. It's a good reminder: Don't take shortcuts. ■

BRYAN A. GARNER is the president of LawProse Inc. He is the author of ~~a number of~~ many books and the editor-in-chief of all current editions of *Black's Law Dictionary*.



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One Judge's "Ten Tips for Effective Brief Writing"

By Douglas E. Abrams *

By the time Chief U.S. Bankruptcy Judge Terrence L. Michael (N.D. Okla.) considered whether to approve a compromise in *In re Gordon* in 2013, the Chapter 7 proceeding had descended into recrimination and acrimony.[1]

To support its motion to compel discovery from the bankruptcy trustee, the lawyer for creditor Commerce Bank alleged that the trustee and the United States had engaged in "a pattern . . . to avoid any meaningful examination of the legal validity of the litigation plan they have concocted to bring . . . a series of baseless claims."[2] "[T]hey know," the bank's lawyer wrote, "that a careful examination of the process will show the several fatal procedural flaws that will prevent these claims from being asserted."[3] "Only by sweeping these issues under the rug will the trustee be able to play his end game strategy of asserting wild claims . . . in hopes of coercing Commerce Bank into a settlement (which the Trustee hopes will generate significant contingency fees for himself)."[4]

The trustee responded that the bank's lawyer had impugned his character with accusations that he had compromised his fiduciary obligations for personal gain. Judge Michael denied the trustee's motion for sanctions on procedural grounds, but criticized the lawyer's personal attack: "If Commerce and/or its counsel have evidence of . . . grossly improper conduct, they have a duty to inform the United States Trustee and, possibly, the State Bar of Oklahoma. . . . Such personal and vitriolic accusations have no place as part of a litigation strategy."[5]

"Leave the Venom at Home"

In his fifteen years on the bankruptcy court bench, Judge Michael had read his share of briefs and other filings. Experience led him to write "Ten Tips for Effective Brief Writing," and to post them on the court's website to guide counsel.[6] He directed the *Gordon* parties to Tip # 9, "Leave the Venom at Home."[7]

"Whether you like (or get along well with) your opposition," the Tip advised, "has little to do with the merits of a particular case. The most effective attack you can make is to persuade . . . me that the other side is wrong. Remember, if you win, they lose."[8] Tip # 9 concluded with an illustrative list of words not to use in brief writing: ridiculous, scurrilous, ludicrous, preposterous, blatant, self-serving, and nonsensical.[9] Seasoned advocates could add others.[10]

Tip # 9 makes good sense. "It isn't necessary to say anything nasty about your adversary or to make deriding comments about the opposing brief," says Justice Ruth Bader Ginsburg. "Those are just distractions. You should aim to persuade the judge by the power of *your* reasoning and not by denigrating the opposing side. . . . If the other side is truly bad, the judges are smart enough to understand that; they don't need the lawyer's aid."[11]

"All advocacy involves conflict and calls for the will to win," explained New Jersey Supreme Court Chief Justice Arthur T. Vanderbilt, but advocates "must have character" marked by "certain general standards of conduct, of manners, and of expression."[12] More than 70 years ago, legendary Supreme Court advocate John W. Davis advised that "controversies between counsel impose on the court the wholly unnecessary burden and annoyance of preserving order and maintaining the decorum of its proceedings. Such things can irritate; they can never persuade."[13] The Chief Justice of the Maine Supreme Court confides that "[a]s soon as I see an attack of any kind on the other party, opposing counsel, or the trial judge, I begin to discount the merits of the argument."[14]

Another leading Supreme Court advocate concurred: "The argument *ad hominem* in a brief is always unpardonable, not simply because it is something no decently constituted brief-writer would include, but because, like all other faults, it fails of its purpose: appellate courts have a hard enough time deciding the merits of the cases presented to them without embarking on collateral inquiries as to the personality or conduct of the lawyers involved. They recoil from any attempt even to ask them to consider such matters, and are always embarrassed by the request."[15]

This rest of this article profiles the Judge Michael's other nine helpful "Tips for Effective Brief Writing." All ten tips warrant careful consideration from lawyers who prepare submissions for trial or appellate courts.

Tip # 1: "Your Goal is To Persuade, Not to Argue"

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"Guests on the Jerry Springer show argue. Lawyers persuade," says Judge Michael. "The idea behind an effective brief is to have the audience (the judge and/or the law clerk) read the brief and say to themselves, 'why are these parties fighting over such an obvious issue?'"[16]

Judge Hugh R. Jones of the New York Court of Appeals posited the advocate's dual objectives this way: "First, you seek to persuade the court of the merit of the client's case, to create an emotional empathy for your position. Then you assist the court to reach a conclusion favorable to the client's interests in terms of the analysis of the law and the procedural posture of the case."[17]

Lawyers, judges, commentators, and court rules commonly label courtroom presentations as arguments. But neither objective defined by Judge Jones leaves much room for lawyers who argue (that is, bicker) in the lay sense of the word. Written and oral "persuasion" more accurately describes the advocate's goal.

Tip # 2: "Know Thy Audience"

"The first thing anyone should do when they begin writing a brief," Judge Michael continued, "is find out whether the judge that will decide their case has already written on the issue. . . . It is extremely frustrating . . . to have counsel in either written or oral argument raise an issue and be completely ignorant of the fact that we decided that issue in a published opinion last week, last month or last year."[18]

Knowing the work product of the judge or the court is easier today than ever before thanks to court websites, Westlaw and Lexis, and similar search engines that place currency only a mouse click away. Federal and state judicial directories can help lawyers get a feel for the bench they will seek to persuade, and so can informal discussion with cooperative friends and acquaintances in the local bar.

Tip # 3: "Know Thy Circuit"

"We are bound by published decisions of the United States Court of Appeals for the Tenth Circuit," said Judge Michael in the Northern District of Oklahoma bankruptcy court. "If they have disposed of an issue, we must follow their lead. . . . I can't [ignore that disposition], even if I wanted to."[19]

First-year law students learn the distinction between binding and persuasive precedent, and the sources of that distinction in the federal and state courts' hierarchies and jurisdictional rules. "Authority based on precedent is content-independent," says Prof. Michael E. Tigar, "in the sense that the obligation to follow it does not depend upon logic or persuasiveness, but upon the authority's position as binding."[20] Speaking about his Supreme Court colleagues, Justice Robert H. Jackson explained, "We are not final because we are infallible, but we are infallible only because we are final."[21]

If the case does not appear controlled by binding precedent, or if a precedent's application to the facts remains open to reasonable question, persuasive precedent can influence the decision. Persuasive force depends on the precedent's logic and reasoning, and on its likely harmony with binding doctrine. Persuasiveness is a judgment call, first for the advocates and ultimately for the court.

Tip # 4: "Know the Facts of the Cases You Cite"

"Real disputes are fact driven, Judge Michael wrote. "For me, the facts of a case are at least as important as the legal analysis. Be wary of the case which is factually dissimilar to yours, but has a great sound bite. Be sure . . . to explain why the factually dissimilar case is applicable to your situation."[22] Judge Michael also advises lawyers to remain "cognizant of the difference between the holding of a case and the dicta contained therein. Most judges . . . find little value in dicta unless we already agree with it."[23]

"Facts," said Justice Benjamin N. Cardozo, "generate the law."[24] In one of his classic essays on advocacy, Justice Jackson confided that "most contentions of law are won or lost on the facts. The facts often incline a judge to one side or the other."[25] After arguing dozens of appeals in the Supreme Court, Davis agreed: "[I]n an appellate court the statement of the facts is not merely a part of the argument, it is more often than not the argument itself."[26]

Judge E. Barrett Prettyman of the U.S. Court of Appeals for the District of Columbia Circuit said this about the perils of citing precedent without appreciating the constraints imposed by the prior decision's facts: A precedent is "authority for the decision there rendered upon the question there presented in the light of the facts there involved, and it is persuasive for the validity of the reasoning used. . . . Sentences out of context rarely mean what they seem to say."[27]

Tip # 5: "Shorter Is Better"

Judge Michael recounted that "Thurgood Marshall once said that in all his years on the Supreme Court, every case came down to a single issue. If that is true, why do most briefs contain arguments covering virtually every conceivable issue (good, bad or indifferent) which could arise in the case. Weak arguments detract from the entire presentation."[28]

"I have yet to put down a brief," reports Chief Justice John G. Roberts, Jr., "and say, 'I wish that had been longer.' . . . Almost every brief I've read could be shorter."[29] Justice Stephen Breyer similarly says that most briefs are too long, and he urges advocates, "Don't try to put in everything."[30]

A few months before ascending to the Supreme Court bench more than 70 years ago, Judge Wiley B. Rutledge advised advocates to be "as brief as one can consistently with adequate and clear presentation of the case."[31] Supreme Court advocate John W. Davis said that the most effective briefs are "models of brevity,"[32] and he praised the "courage of exclusion"[33] because "the court may read as much or as little as it chooses."[34]

Justice Benjamin N. Cardozo warned that unduly prolix briefs threaten to distract the court because "[a] **nalysis is useless** if it destroys what it is intended to explain."[35] Justice Jackson advised that, "Legal contentions, like the currency, depreciate through over-issue. The mind of an appellate judge is habitually receptive to the suggestion that a lower court committed an error. But receptiveness declines as the number of assigned errors increases. . . . [M]ultiplying assignments of error will dilute and weaken a good case and will not save a bad one."[36]

Tip # 6: "Quality Is Job One"

Judge Michael turned to candor and due care. "Check your cites. Make sure they are accurate and that each case you are relying on is still good law. . . . There is nothing more frustrating than being unable to find a case because the citation contained in the brief is wrong. There is nothing less persuasive than finding out that a case you have cited to us has been overruled or misquoted. These flaws weaken your entire presentation."[37]

Similar advice comes from Judge Prettyman: "Whatever else you are in your brief, be accurate. Be accurate in your references to the record. Be accurate in your references to the authorities. Be accurate in your references to statutes. Be accurate in your quotations, of whatever sort they may be."[38]

Judge John C. Godbold of the U.S. Court of Appeals for the Fifth Circuit called accuracy the advocate's "uncompromising absolute," not only because inaccuracy diminishes persuasion, but also because the lawyer's professional credibility may take an enduring hit.[39] "Judges do not always call lawyers on what they think may be purposeful misstatements," explains Prof. James W. McElhaney, "because intent is always hard to prove. But judges talk with each other – their club is a small one."[40]

Tip # 7: "Present the Facts of Your Case Accurately"

Judge Michael warned that "If you are submitting a pre-trial brief, don't allege facts that you cannot prove. As a corollary, don't forget at trial to prove up the facts you promised to prove up in your brief. If you are submitting a post-trial brief, make sure the facts are in the record."[41] "Nothing, perhaps, so detracts from the force and persuasiveness of an argument," said Justice Rutledge, "as for the lawyer to claim more than he is reasonably entitled to claim."[42]

Tip # 8: "Tell Me Exactly What You Want"

"Every brief (and motion, for that matter)," said Judge Michael, "should conclude with a statement telling the judge exactly what you want done in the particular case. We need to know."[43]

Judge Jones advised appellate advocates to conclude with "a succinct, precisely phrased request for the exact remedial relief that you seek,"[44] rather than "leave it to the court in the first instance to fashion the remedy."[45] "Do not simply say, 'Therefore, for the foregoing reasons, the judgment of the lower court should be affirmed (or reversed).' Almost always, you want some particular remedy within an affirmance or reversal."[46]

Tip # 10: "Seek Reconsideration Sparingly"

The first page of this article discussed Judge Michael's Tip # 9, "Leave the Venom at Home." Tip # 10 concerns do-overs.

"If we spend 50 or more hours researching and writing an Opinion (which is not uncommon)," Judge Michael reasoned, "why would one expect us to change our mind unless there is an obvious and egregious error? Most motions to reconsider are a waste of everyone's time. If you don't like the decision, appeal."[47]

Court rules permit motions for reconsideration, but one leading Supreme Court advocate disparages these motions as "the losing lawyers' last gasp and, most often, little more than that. The vast majority have no chance of success and little reason for being filed except for the belief that nothing will be lost by a final effort to avoid defeat."[48] Professor Tigar advises that before pursuing a vain attempt, counsel should make a "searching inquiry into whether it would waste the client's money and – in an extreme case – subject the lawyer to sanctions for dilatory tactics."[49]

"Comprehensive Briefs and Powerful Arguments"

As Justice Louis D. Brandeis ascended to the Supreme Court bench in 1916, he observed that "[a] judge rarely performs his functions adequately unless the case before him is adequately presented."[50] Justice Felix Frankfurter later concurred that "the judicial process [is] at its best" when courts receive "comprehensive briefs and powerful arguments on both sides."[51] Adequate presentation depends on comprehensive, powerful, yet dignified give-and-take about the procedural and substantive law that determines the outcome.

* Douglas E. Abrams, a University of Missouri law professor, has written or co-authored five books. Four U.S. Supreme Court decisions have cited his law review articles.

ENDNOTES

[1]484 B.R. 825 (N.D. Okla. 2013).

[2] *In re Gordon*, 484 B.R. 825, 827 (N.D. Okla. 2013).

[3] *Id.*

[4] *Id.* at 827-28.

[5] *Id.* at 828 (N.D. Okla. 2013).

[6] Terrence L. Michael, Ten Tips for Effective Brief Writing (At Least With Respect to Briefs Submitted to Judge Michael), http://www.oknb.uscourts.gov/sites/default/files/JMFiles/briefwritingtips.pdf.

[7] *In re Gordon*, *supra* note 1, at 830-31.

[8] *Id.* at 830.

[9] *Id.* at 830-31.

[10]*E.g.*, James W. McElhaney, *Twelve Ways to a Bad Brief*, in II McElhaney's Litigation 142, 144 (2013): (adding "manifestly, clearly, fatal, clear beyond peradventure, logic that is fatally flawed, egregious, contumacious, mere gossamer, must necessarily fail, totally inapposite").

[11]*Interviews with United States Supreme Court Justices: Justice Ruth Bader Ginsburg,* 13 Scribes J. Leg. Writing 133, 142 (2010) (quoting Justice Ginsburg) (italics in original).

[12]Arthur T. Vanderbilt, *Forensic Persuasion*, 7 Wash. & Lee L. Rev. 123, 130 (1950).

[13]John W. Davis, *The Argument of an Appeal*, 26 A.B.A.J. 895, 898 (1940).

[14]Leigh Ingalls Saufley, *Amphibians and Appellate Courts*, 14 Maine B.J. 46, 49 (Jan. 1999).

[15]Frederick Bernays Wiener, Briefing and Arguing Federal Appeals § 83, at 258 (1961); *see also, e.g.*, John C. Godbold, *Twenty Pages and Twenty Minutes -- Effective Advocacy on Appeal*, 30 Sw. L.J. 801, 817 (1976) ("Reflections on the adversary throw a shadow on a spokesman's own standards and on the strength of his presentation. . . . [F]irmness, and preservation of one's own points and rights, seldom necessitate strident accusations or even discourtesy.").

[16]Michael, *supra* note 6.

[17]Hugh R. Jones, *Appellate Advocacy, Written and Oral*, 47 J. Mo. Bar 297, 298 (1991), reprinted in 7 Precedent 20 (Winter 2013).

[18]Michael, *supra* note 6.

[19]*Id.*

[20]Michael E. Tigar, Federal Appeals: Jurisdiction and Practice § 1.05, at 12 (2d ed. 1993).

[21]*Brown v. Allen*, 344 U.S. 443, 540 (1953) (Jackson, J.) (opinion concurring in result).

[22]Michael, *supra* note 6.

[23]*Id.*

[24]Lloyd Paul Stryker, The Art of Advocacy 11 (1954) (quoting Cardozo).

[25]Robert H. Jackson, *Advocacy Before the Supreme Court: Suggestions for Effective Case Presentations* 37 A.B.A.J. 801, 803 (1951).

[26]Davis, *supra* note 13, at 896.

[27]E. Barrett Prettyman, *Some Observations Concerning Appellate Advocacy*, 39 Va. L. Rev. 285, 295 (1953).

[28]Michael, *supra* note 1; *see also, e.g.*, John W. Davis, *The Argument of an Appeal*, 26 A.B.A.J. 895, 897 (1940) ("More often than not there is in every case a cardinal point around which lesser points revolve like planets around the sun, or even as dead moons around a planet; a central fortress which if strongly held will make the loss of all the outworks immaterial.").

[29]*Interviews with United States Supreme Court Justices: Chief Justice John G. Roberts, Jr.,* 13 Scribes J. Leg. Writing 5, 35 (2010) (quoting Chief Justice Roberts).

[30] *Interviews with United States Supreme Court Justices: Justice Stephen G. Breyer,* 13 Scribes J. Leg. Writing 145, 167 (2010) (quoting Justice Breyer).

[31]Wiley B. Rutledge, *The Appellate Brief*, 28 A.B.A.J. 251, 254 (1942).

[32]Davis, *supra* note 13, at 895.

[33]Quoted in George Rossman, *Appellate Practice and Advocacy*, 16 F.R.D. 403, 407 (1955).

[34]Davis, *supra* note 13, at 897.

[35]Benjamin **Cardozo,** The Nature of the Judicial Process 127 (1921).

[36]Jackson, supra note 25, at 803.

[37]Michael, *supra* note 1.

[38]Prettyman, *supra* note 27, at 295.

[39]John C. Godbold, *Twenty Pages and Twenty Minutes -- Effective Advocacy on Appeal*, 30 Sw. L.J. 801, 816-17 (1976).

[40]McElhaney, *supra* note 10, at 143.

[41]Michael, *supra* note 1; *see also, e.g.*, Raymond S. Wilkins, *The Argument of an Appeal*, 33 Cornell L.Q. 40, 42 (1947) ("Nothing will forfeit the confidence of the court more effectively than the misstatement of the record or the statement of a fact off the record.").

[42]Rutledge, *supra* note 31, at 254.

[43]Michael, *supra* note 1.

[44]Jones, *supra* note 17, 47 J. Mo. Bar at 304.

[45]*Id.* at 300.

[46]*Id.*

[47]Michael, *supra* note 1; *see also, e.g.*, Robert L. Stern et al., Supreme Court Practice §§ 15.5-15.6, at 726-27 (8th ed. 2002) ("[T]he Supreme Court seldom grants a rehearing of any kind of order, judgment, or decision. . . . [A] rehearing attempt by the losing party to present the same arguments anew, even in improved fashion, has hardly any chance of success.").

[48]Robert L. Stern, Appellate Practice in the United States § 16.1, at 441 (2d ed. 1989).

[49]Tigar, *supra* note 20, § 11.01, at 418 & n.15.

[50]Louis D. Brandeis, *The Living Law*, 10 Ill. L. Rev. 461, 470 (1916).

[51]*Adamson v. California*, 332 U.S. 46, 59 (1947) (Frankfurter, J., concurring).

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Rule 3.1 Assignment of Cases; Related Cases, Refiled, Dismissed and Remanded Cases

(a) Assignment. Subject to the latter provisions of this Rule, upon filing, each civil case shall be assigned by random draw to a District Judge. He or she shall continue in the case or matter until its final disposition. Any case received from the random draw may be transferred, with the concurrence of the receiving District Judge and the approval of the Chief Judge.

A motion to file a new civil case or complaint under seal shall be randomly assigned to a District Judge who will continue to preside over the case.

With regard to all civil proceedings in the Eastern Division of the Court, after each case is assigned by random draw to a District Judge, the Clerk shall immediately assign a Magistrate Judge to the case in accordance with orders of the Court.

(b) Reassignment. Cases shall be assigned other than by random draw only in the instances set forth in this paragraph. Such assignments shall be made by the Clerk in accordance with these Rules. When an additional assignment is thus made to a District Judge under any of the following sub-paragraphs, an electronic card for said District Judge shall be removed from the deck from the same category from which the case would have been drawn.

(1) Disqualification. Should a District Judge be disqualified from hearing a case assigned to him or her, the case shall be reassigned by random draw in the respective division. If the case had been on the docket of the disqualified judge more than three months, the newly assigned district judge may, within one month, transfer a case of the same general age and complexity to the disqualified judge in lieu of having an electronic case assignment card removed from the deck.

(2) Subsequent Proceedings. Subsequent proceedings in civil cases shall be assigned to the District Judge who heard the original case.

(3) Related Cases. A case may be re-assigned as related to an earlier assigned case with the concurrence of both the transferee and the transferor District Judges, with or without a motion by counsel.

(4) Refiled, Dismissed and Remanded Cases. If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State Court, and subsequently refiled, it shall be assigned to the same District Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such case to the attention of the Court by responding to the questions included on the Civil Cover Sheet.

When it becomes apparent to the District Judge to whom a case is assigned that the case was previously filed in this Court and assigned to another District Judge and was discontinued, dismissed without prejudice or remanded to a State Court, the two District Judges shall sign an order reassigning the case to the District Judge who had been assigned the earlier case.

(5) Transfer of Civil Actions. Any case received from the random draw may be transferred, with the concurrence of the receiving District Judge and the approval of the Chief Judge.

(See LCrR 57.9) Last revised 7/12/12. *See* Historical Notes for full revision history.

Rule 16.1 Differentiated Case Management

(a) Purpose and Authority. The United States District Court for the Northern District of Ohio ("Northern District") adopts Local Rules 16.1 to 16.3 in compliance with the mandate of the United States Congress as expressed in the Civil Justice Reform Act of 1990 ("CJRA" or "Act"). These Rules are intended to implement the procedures necessary for the establishment of a differentiated case management ("DCM") system.

The Northern District has been designated as a DCM "Demonstration District." The DCM system adopted by the Court is intended to permit the Court to manage its civil docket in the most effective and efficient manner, to reduce costs and to avoid unnecessary delay, without compromising the independence or the authority of either the judicial system or the individual Judicial Officer. The underlying principle of the DCM system is to make access to a fair and efficient court system available and affordable to all citizens.

(b) Definitions.

(1) "Differentiated case management" ("DCM") is a system providing for management of cases based on case characteristics. This system is marked by the following features: the Court reviews and screens civil case filings and channels cases to processing "tracks" which provide an appropriate level of judicial, staff, and attorney attention; civil cases having similar characteristics are identified, grouped, and assigned to designated tracks; each track employs a case management plan tailored to the general requirements of similarly situated cases; and provision is made for the initial track assignment to be adjusted to meet the special needs of any particular case.

(2) "Case Management Conference" is the conference conducted by the Judicial Officer where track assignment, Alternative Dispute Resolution ("ADR"), and discovery are discussed and where discovery and motion deadlines, deadlines for amending pleadings and adding parties, and the date of the Status Conference are set. Such conference shall, as a general rule, be conducted no later than thirty (30) days after the date of the filing of the last permissible responsive pleading, or the date upon which such pleading should have been filed, but not later than ninety (90) days from the date counsel for the defendant(s) has entered notice of appearance, regardless of whether a responsive pleading has been filed by that date.

The Court may, upon motion for good cause shown or sua sponte, order the conference to be held before such general time frame. Unless otherwise ordered, no Case Management Conference shall be held in any action in which the sole plaintiff or defendant is incarcerated and is appearing pro se.

(3) "Status Conference" is the mandatory hearing which is held at a time set by the judicial officer.

(4) "Case Management Plan" ("CMP") is the plan adopted by the Judicial Officer at the Case Management Conference and shall include the determination of track assignment, whether the case is suitable for reference to an ADR program, the type and extent of discovery, the setting of a discovery cut-off date, directions regarding the filing of discovery materials, deadline for filing motions, deadlines for amending pleadings and adding parties, and the date of the Status Conference.

(5) "Dispositive Motions" shall mean motions to dismiss pursuant to Fed. R. Civ. P. 12(b), motions for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c), motions for summary judgment pursuant to Fed. R. Civ. P. 56, or any other motion which, if granted, would result in the entry of judgment or dismissal, or would dispose of any claims or defenses, or would terminate the litigation.

(6) "Discovery cut-off" is that date by which all responses to written discovery shall be due according to the Federal Rules of Civil Procedure and by which all depositions shall be concluded. Counsel must initiate discovery requests and notice or subpoena depositions sufficiently in advance of the discovery cut-off date so as to comply with this rule, and discovery requests that seek responses or schedule depositions after the discovery cut-off are not enforceable except by order of the Court for good cause shown.

(c) Date of DCM Application. Local Rules 16.1 to 16.3 shall apply to all civil cases filed on or after January 1, 1992 and may be applied to civil cases filed before that date if the assigned Judge determines that inclusion in the DCM system is warranted and notifies the parties to that effect.

(d) Conflicts with Other Rules. In the event that Local Rules 16.1 to 16.3 conflict with other Local Rules adopted by the Northern District, Local Rules 16.1 to 16.3 shall prevail.

Last revised 6/4/07. *See* Historical Notes for full revision history.

Rule 16.2 Tracks and Evaluation of Cases

(a) Differentiation of Cases.

(1) Evaluation and Assignment. The Court shall evaluate and screen each civil case in accordance with subsection (b) of this Local Rule, and then assign each case to one of the case management tracks described in subsection (a)(2).

(2) Case Management Tracks. There shall be five (5) case management tracks, as follows:

(A) Expedited - Cases on the Expedited Track should be completed within nine (9) months or less after filing.

(B) Standard - Cases on the Standard Track should be completed within fifteen (15) months or less after filing.

(C) Complex -- Cases on the Complex Track should have the discovery cut-off established in the CMP and should have a case completion goal of no more than twenty-four (24) months.

(D) Administrative - Cases on the Administrative Track, except actions under 28 U.S.C. § 2254 and government collection cases in which no answer is filed, shall be referred by Court personnel directly to a Magistrate Judge for a report and recommendation. See Local Rule 72.2(b). Administrative Track cases shall be controlled by scheduling orders issued by the Judicial Officer. In actions for review of decisions by the Social Security Administration, such orders shall be pursuant to, and in accord with, the provisions of 16.3.1.

(E) Mass Torts -- Cases on the Mass Torts Track shall be treated in accordance with the special management plan adopted by the Court.

(b) Evaluation and Assignment of Cases. The Court shall consider and apply the following factors in assigning cases to a particular track:

(1) Expedited:
(A) Legal Issues: Few and clear
(B) Required Discovery: Limited
(C) Number of Real Parties in Interest: Few
(D) Number of Fact Witnesses: Up to five (5)
(E) Expert Witnesses: None
(F) Likely Trial Days: Less than five (5)
(G) Suitability for ADR: High
(H) Character and Nature of Damage Claims: Usually a fixed amount

(2) Standard:

(A) Legal Issues: More than a few, some unsettled
(B) Required Discovery: Routine
(C) Number of Real Parties in Interest: Up to five (5)
(D) Number of Fact Witnesses: Up to ten (10)
(E) Expert Witnesses: Two (2) or three (3)
(F) Likely Trial Days: five (5) to ten (10)
(G) Suitability for ADR: Moderate to high
(H) Character and Nature of Damage Claims: Routine

(3) Complex:

(A) Legal Issues: Numerous, complicated and possibly unique
(B) Required Discovery: Extensive
(C) Number of Real Parties in Interest: More than five (5)
(D) Number of Witnesses: More than ten (10)
(E) Expert Witnesses: More than three (3)
(F) Likely Trial Days: More than ten (10)
(G) Suitability for ADR: Moderate
(H) Character and Nature of Damage Claims: Usually requiring expert testimony

(4) Administrative: Cases that, based on the Court's prior experience, are likely to result in default or consent judgments or can be resolved on the pleadings or by motion.

(5) Mass Tort: Factors to be considered for this track shall be identified in accordance with the special management plan adopted by the Court.

Last revised 1/1/2013. *See* Historical Notes for full revision history.

Rule 16.3 Track Assignment and Case Management Conference

(a) Notice of Track Recommendation and Case Management Conference.

(1) The Court may issue a track recommendation to the parties in advance of the Case Management Conference, or may reserve such determination for the Case Management Conference. If the notice of Case Management Conference does not contain a track recommendation, counsel must confer to determine whether they can agree to a track recommendation, which shall be subject to the Judicial Officer's approval at the Case Management Conference. The track recommendation shall be made in accordance with the factors identified in Local Rule 16.2(b).

(2) In any action in which the defendant (or all defendants in any action with multiple defendants) is in default of answer, no track recommendation will be made and no Case Management Conference held so long as such default continues. In such a case the plaintiff shall go forward and seek default judgment within one hundred and twenty (120) days of perfection of service (or of sending of a request for a waiver of service under Fed. R. Civ. P. 4(d)), or show cause why the action should not be dismissed for want of prosecution. If such default occurs and the party/parties in default is/are thereafter granted leave to plead, issuance of a track recommendation and scheduling of the Case Management Conference shall proceed in accordance herewith, based upon the date set for the filing of the responsive pleading.

(b) Case Management Conference.

(1) The Judicial Officer shall conduct the Case Management Conference. Lead counsel of record must participate in the Conference and parties must attend unless, upon motion with good cause shown or upon its own motion, the Judicial Officer allows the parties to be available for telephonic communication. Counsel, upon good cause shown, may seek leave to participate by telephone.

(2) The agenda for the Conference shall include:

(A) Determination of track assignment;
(B) Determination of whether there is any impediment to putting the case in the Court's electronic filing system;
(C) Determination of whether the case is suitable for reference to an ADR program;
(D) Determination of whether the parties consent to the jurisdiction of a Magistrate Judge pursuant to 28 U.S.C. § 636(c);
(E) Disclosure of information that may be subject to discovery, including key documents and witness identification;

(F) Determination of the type and extent of discovery, including the discovery of electronically stored information. If the parties have not agreed on how to conduct electronic discovery, the default standard for discovery of electronically stored information attached as Appendix K shall apply;

(G) Determination of a whether an order is necessary to protect confidential information. A form protective order is attached as Appendix L;

(H) Setting of a discovery cut-off date;

(I) Setting of a deadline for joining other parties and amending the pleadings;

(J) Setting of deadline for filing motions; and

(K) Setting the date of the Status Conference.

(3) Except in categories of proceedings exempted from initial disclosure under Fed. R. Civ. P. 26(a)(1)(E), the parties must confer before the Fed. R. Civ. P. 16(b) conference. In addition to discussing the items identified in Fed. R. Civ. P. 26(f), counsel for all parties are directed to engage in meaningful discussions regarding any track recommendation issued by the Court and each of the other agenda items established by the Court. This discussion shall also be generally guided by the provisions of Fed. R. Civ. P. 26(f). The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for arranging the conference. The parties must submit a report on their discussion at least seven days before the Fed. R. Civ. P. 16(b) conference. The Court shall provide forms to counsel for all parties for indicating the parties' positions regarding all such agenda items when it issues its track recommendation.

(4) At the conclusion of the Case Management Conference, the Judicial Officer shall prepare, file, and issue to the parties an order containing the Case Management Plan governing the litigation.

(c) Notification of Complex Litigation.

(1) Definitions.

(A) As used in this Rule, "Complex Litigation" has one or more of the following characteristics:

(i) it is related to one or more other cases;

(ii) it arises under the antitrust laws of the United States;

(iii) it involves more than five (5) real parties in interest;

(iv) it presents unusual or complex issues of fact;

(v) it involves problems which merit increased judicial supervision or special case management procedures.

(B) As used in this Rule, a "case" includes an action or a proceeding.

(C) As used in this Rule, a case is "related" to one or more other cases if:

(i) they involve the same parties and are based on the same or similar claims;

(ii) they involve the same property, transaction or event or the same series of transactions or events; or

(iii) they involve substantially the same facts.

(2) Notice Identifying Complex Litigation. An attorney who represents a party in Complex Litigation, as defined above, must, with the filing of the complaint, answer, motion, or other pleading, serve and file a statement which briefly describes the nature of the case, identifies by title and case number all other related case(s) filed in this and any other jurisdiction (federal or state) and identifies, where known, counsel for all other parties in the action who have not yet entered an appearance.

(3) Manual For Complex Litigation. Counsel for each of the parties receiving notice of a Case Management Conference must become familiar with the principles and suggestions contained in the most recent edition of the Manual for Complex Litigation.

(4) Case Management Conference. (See subsection (b)). In preparation for the Case Management Conference, at least seven (7) days prior to the date of the conference counsel for each party must file and serve a proposed agenda of the matters to be discussed at the conference. At the Case Management Conference, counsel for each party must be prepared to discuss preliminary views on the nature and dimensions of the litigation, the principal issues presented, the nature and extent of contemplated discovery, and the major procedural and substantive problems likely to be encountered in the management of the case. Coordination or consolidation with related litigation should be considered. Counsel should be prepared to suggest procedures and timetables for the efficient management of the case.

(5) Determination By Order Whether Case to be Treated as Complex Litigation. At the conclusion of the Case Management Conference, the Court shall prepare, file, and issue an order containing the Case Management Plan

which shall set forth whether the case thereafter shall be treated as Complex Litigation pursuant to orders entered by the Court consistent with the principles and suggestions contained in MCL 2d. An order under this subdivision may be conditional and may be altered and amended as the litigation progresses.

(6) Subsequent Proceedings.

(A) Once the Court has determined by order that an action shall be treated as Complex Litigation, thereafter the Court shall take such actions and enter such orders as the Court deems appropriate for the just, expeditious and inexpensive resolution of the litigation. Measures should be taken to facilitate communication and coordination among counsel and with the Court.

(B) Throughout the pendency of a case which has been determined to be treated as Complex Litigation, counsel for the parties are encouraged to submit suggestions and plans designed to clarify, narrow and resolve the issues and to move the case as efficiently and expeditiously as possible to a fair resolution.

(d) Status Conference. The parties, each of whom will have settlement authority, and lead counsel of record must participate in the Status Conference. The parties must participate in person unless, upon motion with good cause shown or upon its own motion, the Judicial Officer allows the parties to be available for telephonic communication. Counsel, upon good cause shown, may seek leave to participate by telephone. When the United States of America or any officer or agency thereof is a party, the federal attorney responsible for the case shall be deemed the authorized representative for the purpose of the Status Conference. At the Status Conference the Judicial Officer will:

(1) review and address:

(A) settlement and ADR possibilities;

(B) any request for revision of track assignment and/or of the discovery cut-off or motion deadlines; and

(C) any special problems which may exist in the case;

(2) assign a Final Pretrial Conference date, if appropriate; and

(3) discuss setting a firm trial date.

If, for any reason, the assigned Judicial Officer is unable to hear the case within one week of its assigned trial date, the case shall be referred to the Chief Judge for

reassignment to any available District Judge or, upon consent of the parties, Magistrate Judge for prompt trial.

(e) Final Pretrial Conference. A Final Pretrial Conference, if any, may be scheduled by the Judicial Officer at the Status Conference. The parties and lead counsel of record must be present at the conference. When the United States of America or any officer or agency thereof is a party, the federal attorney responsible for the case shall be deemed the authorized representative for the purpose of the Final Pretrial Conference. The Final Pretrial Conference shall be scheduled as close to the time of trial as reasonable under the circumstances. The Judicial Officer may, in the Judicial Officer's discretion, order the submission of pretrial memoranda.

(f) Video and Telephone Conferences. The use of telephone conference calls and, where appropriate, video conferencing for pretrial and status conferences is encouraged. The Court, upon motion by counsel or its own instance, may order pretrial and status conferences to be conducted by telephone conference calls. In addition, upon motion by any party and upon such terms as the Court may direct, the Court may enter an order in appropriate cases providing for the conduct of pretrial and status conferences by video conference equipment.

Last revised 2/2/09. *See* Historical Notes for full revision history.

Rule 7.1 Motions

(a) Motions Governed by Case Management Plan. All motions are governed by the Case Management Plan adopted pursuant to the Civil Justice Reform Act of 1990.

(b) Motions to be in Writing. All motions, unless made during a hearing or trial, must be in writing and must be made sufficiently in advance of the trial to avoid any delay in trial.

(c) Memorandum by Moving Party. The moving party must serve and file with its motion a memorandum of the points and authorities on which it relies in support of the motion.

(d) Memorandum in Opposition. Unless otherwise ordered by the Judicial Officer, each party opposing a motion must serve and file a memorandum in opposition within thirty (30) days after service of any dispositive motion and within fourteen (14) days after service of any non-dispositive motion. If a party opposing a motion was served with the motion under Fed. R. Civ. P. 5(b)(2)(C), (D), or (F), three days shall be added to the prescribed period as provided in Fed. R. Civ. P. 6(d).

(e) Reply Memorandum. Unless otherwise ordered by the Judicial Officer, the moving party may serve and file a reply memorandum in support of any dispositive motion within fourteen (14) days after service of the memorandum in opposition and in support of any non-dispositive motion within seven (7) days after service of the memorandum in opposition. If the moving party was served with the memorandum in opposition under Fed. R. Civ. P. 5(b)(2)(C), (D), or (F), three days shall be added to the prescribed period as provided in Fed. R. Civ. P. 6(d).

(f) Length of Memoranda. Without prior approval of the Judicial Officer for good cause shown, memoranda relating to dispositive motions must not exceed ten (10) pages in length for expedited cases, twenty (20) pages for administrative, standard and unassigned cases, thirty (30) pages for complex cases, and forty (40) pages for mass tort cases. Every memorandum related to a dispositive motion must be accompanied by a certification specifying the track, if any, to which the case has been assigned and a statement certifying that the memorandum adheres to the page limitations set forth in this section. In the event that the page limitations have been modified by order of the Judicial Officer, a statement to that effect must be included in the certification along with a statement that the memorandum complies with those modifications. Failure to comply with these provisions may be sanctionable at the discretion of the Judicial Officer. Memoranda relating to all other motions must not exceed fifteen (15) pages in length. All memoranda exceeding fifteen (15) pages in length, excepting those in Social Security reviews, must have a table of contents, a table of authorities cited, a brief statement of the issue(s) to be decided, and a summary of the argument presented. Appendices of evidentiary, statutory or other materials are excluded from these page limitations and may be bound separately from memoranda.

(g) Hearings. The Judicial Officer may rule on unopposed motions without hearing at any time after the time for filing an opposition has expired. The Judicial Officer may also rule on any opposed motion without hearing at any time after the time for filing a reply memorandum has elapsed.

(h) Untimely Motions. Any motion (other than motions made during hearings or at trial) served and filed beyond the motion deadline established by the Court may be denied solely on the basis of the untimely filing.

(i) Sanctions for Filing Frivolous Motions or Oppositions. Filing a frivolous motion or opposing a motion on frivolous grounds may result in the imposition of appropriate sanctions including the assessment of costs and attorneys' fees against counsel and/or the party involved.

(j) Motions Control Program. Pursuant to a motion adopted by the Sixth Circuit Judicial Council at its November 1, 1993 meeting which authorized the chief judge of each district to monitor the motions docket within the district and to implement a motions control program, the Court adopted the Motions Control Program for the Northern District of Ohio set forth in General Order No. 94-01 (see Appendix H).

Last revised 12/1/16. *See* Historical Notes for full revision history.

Rule 7.2 Dispositive Motions

(a) Motions that dispose of any claim or defense shall usually be heard and determined by the District Judge assigned to the case. When such Judge concludes that final adjudication of such motion will be expedited if it is referred to a Magistrate Judge for report and recommendation, such motion may be referred to the Magistrate Judge, whose report and recommendation shall be filed consistent with the provisions of Local Rule 7.3(b).

(b) In those cases in which a summary judgment motion is pending, the Judicial Officer may consider scheduling the case for oral argument.

Last revised 5/29/02. *See* Historical Notes for full revision history.

Rule 7.3 Ruling on Motions

The Judicial Officer shall make every effort to rule on any nondispositive motion within thirty (30) days of the time the motion comes at issue, and to rule on any dispositive motion within sixty (60) days of the time the motion comes at issue or briefing is concluded on exceptions/objections to a recommended decision on such motion submitted by a Magistrate Judge.

Last revised 5/29/02. *See* Historical Notes for full revision history.

Rule 37.1 Discovery Disputes

(a) In the absence of a Judicial Officer establishing an alternative procedure for handling discovery disputes, the following procedure shall apply.

(1) Discovery disputes shall be referred to a Judicial Officer only after counsel for the party seeking the disputed discovery has made, and certified to the Court the making of, sincere, good faith efforts to resolve such disputes.

(2) The Judicial Officer may attempt to resolve the discovery dispute by telephone conference.

(3) In the event the dispute is not resolved by the telephone conference, the parties shall outline their respective positions by letter and the Judicial Officer shall attempt to resolve the dispute without additional legal memoranda.

(4) If the Judicial Officer still is unable to resolve the dispute, the parties may file their respective memoranda in support of and in opposition to the requested discovery by a date set by the Judicial Officer, who may schedule a hearing on the motion to compel.

(b) No discovery dispute shall be brought to the attention of the Court, and no motion to compel may be filed, more than ten (10) days after the discovery cut-off date.

Last revised 9/23/02. *See* Historical Notes for full revision history.

<u>Rule 37.2</u> Form of Discovery Motions

Upon motion for an order pursuant to Fed. R. Civ. P. 37, compelling an answer or production of documents or authorizing an inspection, the moving party shall include in his or her brief in support of said motion, immediately preceding the discussion and authorities relevant thereto, the interrogatory, document request, deposition question or request for admission in full and any response thereto alleged to be evasive or incomplete; the request for inspection; or the deposition notice, as may be appropriate. Multiple items may precede a single argument if they present common or related issues of fact and law. If there has been no response to the request for discovery or request for admission, or a complete failure to comply with such request, the moving party may append a copy of the interrogatories, document request, request for admission or deposition notice as an exhibit to the brief in lieu of copying the same in the body of the brief.

Last revised 1/15/98. *See* Historical Notes for full revision history.

<u>Rule 5.2</u> Filing Documents Under Seal

No document will be accepted for filing under seal unless a statute, court rule, or prior court order authorizes the filing of sealed documents. If no statute, rule, or prior order authorizes filing under seal, the document will not be filed under seal.

Materials to be sealed shall be filed electronically whenever possible pursuant to the Court's Electronic Filing Policies and Procedures Manual. Sealed documents which exceed the size limitations for electronic filing shall be presented in an envelope which shows the citation of the statute or rule or the filing date of the court order authorizing the sealing, and the name, address and telephone number of the person filing the documents.

If the sealing of the document purports to be authorized by court order, the electronically filed sealed document shall be linked to the order authorizing the sealing. For manually filed sealed documents, the person filing the documents shall include a copy of the order in the envelope. If the order does not authorize the filing under seal, or the electronic filing is not linked to the order, or in the case of manual filing no order is provided, the Clerk will unseal the documents. Before unsealing the documents, the Clerk will notify the electronic filer by telephone. If the document was manually filed, the Clerk will notify the person whose name and telephone number appears on the envelope in person (if he or she is present at the time of filing) or by telephone. The filer may withdraw the documents before 4:00 p.m. the day the Clerk notifies him or her of the defect. If not withdrawn, the documents will be unsealed.

After the entry of a final judgment or an appellate mandate, if appealed, the sealed record will be shipped to the Federal Records Center in accordance with the disposition schedule set forth in the guide to Judiciary Policies and Procedures.

(See LCrR 49.4) Last revised 2/2/09. *See* Historical Notes for full revision history.

<u>Rule 8.1</u> General Rules of Pleading

(a) In compliance with the policy of the Judicial Conference of the United States, and the E-Government Act of 2002, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents filed with the Court, including exhibits thereto, whether filed electronically or on paper, unless otherwise ordered by the Court.

(1) **Social Security numbers**. If an individual's Social Security number must be included in a document, only the last four digits of that number should be used.

(2) **Names of minor children**. If the involvement of a minor child must be mentioned, only the initials of that child should be used.

(3) **Dates of birth**. If an individual's date of birth must be included in a document, only the year should be used.

(4) **Financial account numbers**. If financial account numbers are relevant, only the last four digits of these numbers should be in the document used.

(b) In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may

(1) file a redacted document in the public record and file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its(their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal, and may be amended as of right, or

(2) file an unredacted version of the document under seal.

(c) The unredacted version of the document or the reference list shall be retained by the Court as part of the record. The Court may, however, still require the party to file a redacted copy for the public file.

The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review each document for compliance with this rule.

(d) Exceptions: Transcripts of the administrative record in social security proceedings and state court records relating to habeas corpus petitions will be exempt

from these redaction provisions because those documents will not be made available online.

<u>Rule 67.1</u> Deposits

Whenever a party seeks a court order for money to be deposited by the Clerk into an interest-bearing account, the party shall attach to the motion a proposed "Order of Deposit and Investment," in the form provided in Appendix D, which directs the Clerk to invest the funds in Government Account Series securities through the Court Registry Investment System by the Bureau of Public Debt. Prior to filing the proposed order in Cleveland, the party should contact a Financial Deputy and in Toledo, Akron or Youngstown, contact the Deputy-in-Charge, who will review the proposed order for compliance with this rule and prepare for the efficient transfer of funds.

Any order obtained by a party or parties in an action to deposit funds into the registry of the Court, as set forth in Appendix D, Order of Deposit and Investment, pursuant to 28 U.S.C. § 2041 shall include the following:

(a) the amount to be invested;

(b) the name of the depository approved by the Treasurer of the United States as a depository in which funds may be deposited;

(c) a designation of the type of account or instrument in which the funds shall be invested; and,

(d) wording which directs the Clerk to deduct a registry fee as a percentage of the income earned on the investment, not to exceed 10%, and prior to any distribution of funds invested.

Last revised 7/12/12. *See* Historical Notes for full revision history.

Rule 67.2 Disbursements

Whenever a party seeks a court order for the distribution of funds which have been invested by the Court, the party will again deliver a proposed order in Cleveland, to the Clerk of Court or Financial Deputy, or in Toledo, Akron or Youngstown, to the Deputy-in-Charge, who will inspect the order for proper form and compliance with this Rule prior to signature by the Judge for whom the order is prepared.

The order for distribution shall include wording which directs the Clerk to disburse funds remaining after the deduction of the registry fee, not to exceed 10%, from the interest earned through CRIS. The order for distribution shall specify the amount of principal and interest to be disbursed to each party (see Appendix E). Attached to the order of distribution will be a signed IRS Form W9 that shall include the name, address and tax identification for all individuals receiving any portion of the distribution. The IRS Form W9 is to be provided to the Clerk of Court or Financial Deputy and shall not be filed electronically or scanned into the Court's electronic filing system.

Upon signature by the Judicial Officer, the Courtroom Deputy shall electronically notify the Financial Deputy.

Last revised 7/12/12. *See* Historical Notes for full revision history.

Rule 83.5 Admission of Attorneys to Practice in the Northern District of Ohio

(a) Roll of Attorneys. The Bar of this United States District Court for the Northern District of Ohio consists of those admitted to practice before this Court who have taken the oath prescribed by the Rules in force when they were admitted.

No person shall be permitted to practice in this Court or before any officer thereof as an attorney or to commence, conduct, prosecute, or defend any action, proceeding, or claim in which such person is not a party concerned, either by using or subscribing his or her own name or the name of any other person, unless he or she has been previously admitted to the Bar of this Court.

(b) Bar Admission. It shall be requisite to the admission of attorneys to practice in this Court that they shall have been admitted to practice in the highest court of any state, territory, the District of Columbia, an insular possession, or in any district court of the United States, that they are currently in good standing with such court and that their private and professional characters appear to be good. All attorneys admitted to practice in this Court shall be bound by the ethical standards of the Ohio Rules of Professional Conduct adopted by the Supreme Court of Ohio, so far as they are not inconsistent with federal law.

(c) Local Office Requirement. Unless otherwise ordered by the Court, it shall not be necessary for any attorney entitled to practice before the District Court or permitted to appear and participate in a case or proceeding to associate with or to designate an attorney with an office in this district upon whom notices, rulings, and communications may be served.

(d) Admission by Clerk. Each applicant shall file with the Clerk (1) a certificate from the presiding Judge or Clerk of the proper court evidencing the applicant's admission to practice there and that he or she is presently in good standing, (2) the applicant's personal statement, on the form approved by the Court and furnished by the Clerk, which shall be endorsed by two members of the Bar of this Court who are not related to the applicant, (3) Oath or Affirmation of Admission, and (4) evidence of attendance at a Northern District of Ohio federal district court practice seminar.

If the documents submitted by the applicant demonstrate that he or she possesses the necessary qualifications, the Clerk shall so notify or advise the applicant, and he or she may be admitted without appearing in Court.

(e) Admission Upon Motion to the Court. If the applicant so elects, rather than filing with the Clerk the certificate and statement required by subsection (d), he or she may be admitted by the Court on oral motion by a member of the Bar, provided that it appears from the motion or the statement of the applicant to the Court that he or she has satisfied the requirements of admission.

(f) Oath or Affirmation. Each applicant shall subscribe or take the following oath or affirmation, viz.:

I, __[Name]_____ , do solemnly swear (or affirm) that as an attorney of this Court I will conduct myself uprightly, according to the law and the ethical standards of the Ohio Rules of Professional Conduct adopted by the Supreme Court of Ohio, so far as they are not inconsistent with Federal Law, and that I will support the Constitution and laws of the United States.

(g) Admission and Fees. All attorneys admitted to practice in this Court under this Rule shall pay to the Clerk the admission fee prescribed by the Judicial Conference of the United States and such other fees as may from time to time be required by General Order of this Court (such as a library fee).

(h) Permission to Participate in Particular Case. The Court's strong preference is that attorneys seek permanent admission to the Bar of this Court, however, any member in good standing of the Bar of any court of the United States or of the highest court of any state may, upon written or oral motion and payment of the pro hac vice admission fee (which is $120.00), be permitted to appear and participate in a particular case, or in a group of related cases. An attorney must pay the pro hac vice admission fee each time he or she seeks pro hac vice status. A certificate of good standing not older than 30 days from the aforementioned court(s) or an affidavit swearing to applicant's current good standing must accompany the motion for admission pro hac vice along with a check for the pro hac vice admission fee payable to: Clerk, U.S. District Court. In addition to showing proof of current good standing, any attorney moving for admission pro hac vice must contemporaneously provide his or her typewritten name, address, telephone number, facsimile number, e-mail address, highest state court admitted, highest state court admission date, highest state court bar registration number, a statement, including specific details, indicating whether the attorney has ever been disbarred or suspended from practice before any court, department, bureau or commission of any State or the United States, or has ever received any reprimand from any such court, department, bureau or commission pertaining to conduct or fitness as a member of the bar.

(i) Change of Address. All attorneys admitted to practice in this Court are required to submit a written notice of a change of business address and/or email address to the Clerk upon the change in address.

(j) Continuing Maintenance of Good Standing. It shall be requisite to the continuing eligibility of attorneys to practice in this Court that they are currently in good standing with the highest court of any state, territory, the District of Columbia, an insular possession, or in any district court of the United States, and that their private and professional characters appear to be good. All attorneys admitted to practice in this Court are deemed by their signature on any pleading, written motion, and other paper to certify that they are currently in good standing of the Bar of a Court of the United States or of the highest court of any state. Should the status of an attorney change so that they are no

longer in good standing in such court, they shall notify the Clerk of Court of this Court in writing no later than 10 days from the change in status.

(k) Attorneys Funded from Judiciary Appropriations and Attorneys for the United States of America. Attorneys funded from judiciary appropriations and attorneys for the United States are permitted to appear upon filing the applicant's personal statement, on the form approved by the Court and furnished by the Clerk, and the Oath or Affirmation of Admission. The admission fee required by subsection (g) is waived.

(l) Southern District of Ohio Reciprocity Agreement. The Northern District of Ohio has agreed, pursuant to General Order 2003-44, to waive the requirements that an attorney provide evidence of attendance at a federal district court seminar and that the applicant's personal statement be endorsed by two members of the bar of the Court, so long as the applicant submits a certificate of good standing from the Southern District of Ohio showing that the attorney has been admitted to practice for at least the past two years, or that this Court can readily verify the same, and the applicant complies with all other Northern Ohio admission requirements, including the payment of fees.

(m) Waiver of Attendance at a Northern District of Ohio Federal District Court Practice Seminar. Applicant may be granted reciprocity if applicant resides outside the State of Ohio and is admitted to the Bar of a U.S. District Court located outside the State of Ohio, and has taken a federal court practice seminar other than the Northern District of Ohio federal district court practice seminar. Applicant must also certify that he/she is familiar with the principles of the Civil Justice Reform Act of 1990, case management planning, the Federal Rules of Civil Procedures, the local rules of the Northern District of Ohio, in their entirety, with specific attention to Section 16.4, et seq. Alternative Dispute Resolution (ADR) and Section 16.1, et seq. Differentiated Case Management (DCM), the latter which includes the concepts of track assignment and case management conferences. Applicant must file with applicant's personal statement the *Certificate of Applicant & Waiver of Attendance at a Northern District of Ohio Federal District Court Seminar* along with a certificate of attendance at a federal district court practice seminar. Applicant shall comply with all other Northern Ohio admission requirements, including the payment of fees.

<u>Rule 83.9</u> Withdrawal of Counsel

The attorney of record may not withdraw, nor may any other attorney file an appearance as a substitute for the attorney of record, without first providing written notice to the client and all other parties and obtaining leave of Court. Attorneys from the same firm may file and serve a notice of appearance or substitution for the attorney of record without obtaining leave of Court.

Last revised 2/5/00. *See* Historical Notes for full revision history.

CODE OF PRETRIAL AND TRIAL CONDUCT

Please accept this copy of the Code of Pretrial and Trial Conduct published by the American College of Trial Lawyers. The development of this Code by the Fellows of the College and its distribution to persons and institutions engaged in all aspects of the administration of justice represents an important part of the execution of the College's mandate to improve and elevate standards of trial practice, the administration of justice and the ethics of the profession.

The American College of Trial Lawyers, founded in 1950, is composed of the best of the trial bar from the United States and Canada. Fellowship in the College is extended by invitation only, after careful investigation, to those experienced trial lawyers who have mastered the art of advocacy and whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility and collegiality. Lawyers must have a minimum of 15 years' experience before they can be considered for Fellowship. Membership in the College cannot exceed 1% of the total lawyer population of any state or province. Fellows are carefully selected from among those who represent plaintiffs and those who represent defendants in civil cases; those who prosecute and those who defend persons accused of crime. The College is thus able to speak with a balanced voice on important issues affecting the administration of justice.

The College is confident that utilization of this Code in the course of legal proceedings in the courts and as a teaching aid at the Bar and in the nation's law schools will represent a positive contribution to improving and elevating standards of trial practice, the administration of justice and the ethics of the profession.

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Message from the Chief Justice of the United States

For more than fifty years, the American College of Trial Lawyers has promoted professionalism in the conduct of trial litigation. Its authoritative Code of Trial Conduct, first published in 1956, has served as an enduring landmark in the development of professional standards for advocates.

The College continues those efforts through the publication of its revised and enlarged Code of Pretrial and Trial Conduct. This comprehensive resource sets out aspirational principles to guide litigators in all aspects of their work as advocates of client interests. The Code looks beyond the minimum ethical requirements that every lawyer must follow and instead identifies those practices that elevate the profession and contribute to fairness in the administration of justice.

As Justice Frankfurter noted, "An attorney actively engaged in the conduct of a trial is not merely another citizen. He is an intimate and trusted and essential part of the machinery of justice, an 'officer of the court' in the most compelling sense." I encourage lawyers who engage in trial work to observe and advance the principles that the College has set forth in this volume.

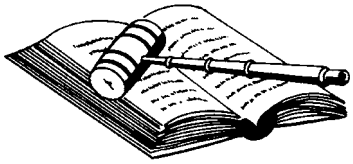
I commend the American College of Trial Lawyers for its leadership in defining and refining the standards of professionalism that are vital to our system of justice.

John G. Roberts, Jr.
Chief Justice of the United States

"I hold every man a debtor to his profession; from the which, as men of course do seek to receive countenance and profit, so ought they of duty to endeavor themselves, by way of amends, to be a help and ornament thereto."

Sir Francis Bacon

American College of Trial Lawyers



CODE OF PRETRIAL AND TRIAL CONDUCT

Approved by the Board of Regents, June 2009

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Forward

The Legal Ethics and Professionalism Committee of the American College of Trial Lawyers (the "College") is charged with the following mandate:

> To advance, improve, and promote ethical standards and professionalism in the trial bar in all its aspects in both the United States and Canada as well as to engage in such other activities as may be directed by the Board of Regents.

All jurisdictions have codes of conduct that prescribe minimum standards for disciplinary purposes. There is no need here to duplicate such standards. This ACTL Code represents an attempt by the College to set down aspirational, rather than minimal, guidelines for trial lawyers and judges. The problem in trial practice today is not that lawyers violate the ethical rules, although some lawyers do. Most lawyers know the rules and try to comply. The real problem is the gradual corrosion of the profession's traditional aspirations, which are:

- Honor for values such as honesty, respect and courtesy toward litigants, opposing advocates and the court;
- A distaste for meanness, sharp practice, and unnecessarily aggressive behavior;
- Engagement in public service;
- A focus on the efficient, fair preparation and trial of cases; and
- A role as agent for counseling and for the resolution of disputes.

Despite what the profession says, the profession often acts as if these values are inconsistent with effective advocacy in an adversary system of justice. The College is uniquely positioned to lead the way in changing these attitudes because it strives to offer Fellowship only to those lawyers who embody the skill and values to which they and the profession should aspire. The College cannot lead by focusing on the lowest floor of acceptable behavior.

The College sees the new code as one that can be endorsed by courts, that can be profitably used in training programs by law schools and bar organizations, and that describes the values that the Fellows of the American College of Trial Lawyers endorse and practice daily.

The new Code of Pretrial and Trial Conduct is a product that the College believes can be endorsed by courts and the profession as articulating the level of conduct to which all members of our profession should aspire. If trial lawyers practice these principles the profession will begin a process of change that benefits lawyers, litigants, and our system of justice.

Preamble

Admission to the Bar is a high honor, and those lawyers who devote their lives to presenting cases in the courts are truly privileged. Trial lawyers are officers of the court. They are entrusted with a central role in the administration of justice in our society necessary to democracy. Lawyers who engage in trial work have a special responsibility to strive for prompt, efficient, ethical, fair and just disposition of litigation. The American College of Trial Lawyers believes that, as officers of the court, trial lawyers must conduct themselves in a manner that reflects the dignity, fairness, and seriousness of purpose of the system of justice they serve. They must be role models of skill, honesty, respect, courtesy, and fairness consistent with their obligations to the client and the court.

Trial lawyers have a duty to conduct themselves so as to preserve the right to a fair trial, one of the most basic of all constitutional guarantees, while courageously, vigorously and diligently representing their clients and applying the relevant legal principles to the facts as found. Without courtesy, fairness, candor, and order in the pretrial process and in the courtroom, reason cannot prevail and constitutional rights to justice, liberty, freedom and equality under law will be jeopardized. The dignity, decorum and courtesy that have traditionally characterized the courts are not empty formalities. They are essential to an atmosphere in which justice can be done.

No client, corporate or individual, however powerful, nor any cause, civil, criminal or political, however important, is entitled to receive, nor should any lawyer render, any service or advice encouraging or inviting disrespect of the law or of the judicial office. No lawyer may sanction or invite corruption of any person exercising a public office or private trust. No lawyer may condone in any way deception or betrayal of the court, fellow members of the Bar, or the public. A lawyer advances the honor of the profession and the best interests of the client when a lawyer embodies and encourages an honest and proper respect for the law, its institutions and officers. Above all, a lawyer finds the highest honor in a deserved reputation as an officer for justice, faithful to private trust and to public duty, and as an honest person.

This Code of Pretrial and Trial Conduct ("the Code") is not intended to supplant any local rules, procedural rules, or rules of professional conduct. This Code aims to provide aspirational guidance for trial lawyers. It sets forth a standard above the ethical minimum – a standard of conduct worthy of the privileges and responsibilities conferred on those who have sworn to serve our system of justice.

This Code is intended to provide guidance for a lawyer's professional conduct except insofar as the applicable law, code or rules of professional conduct in a particular jurisdiction require otherwise. It is an aspirational guide for trial lawyers and should not give rise to a cause of action or sanction, create a presumption that a legal duty has been breached or form the basis for disciplinary proceedings not created under the applicable law, court rules or rules of professional conduct.

CODE OF PRETRIAL AND TRIAL CONDUCT

Qualities of a Trial Lawyer

Trial lawyers are officers of the court. They are entrusted with a central role in the administration of justice in our society. Lawyers who engage in trial work have a special responsibility to strive for prompt, efficient, ethical, fair and just disposition of litigation.

Honesty, Competence and Diligence

(a) A lawyer must in all professional conduct be honest, candid and fair.

(b) A lawyer must possess and apply the legal knowledge, skill, thoroughness and preparation necessary for excellent representation.

(c) A lawyer must diligently, punctually and efficiently discharge the duties required by the representation in a manner consistent with the legitimate interests of the client.

Obligations to Clients

A lawyer must provide a client undivided allegiance, good counsel and candor; the utmost application of the lawyer's learning, skill and industry; and the employment of all appropriate means within the law to protect and enforce legitimate interests of a client. A lawyer may never be influenced directly or indirectly by any consideration of self-interest. A lawyer has an obligation to undertake unpopular causes if necessary to ensure justice. A lawyer must maintain an appropriate professional distance in advising his or her client, in order to provide the greatest wisdom.

Employment and Withdrawal

(a) It is the right of a lawyer to accept employment in any civil case unless such employment is or would likely result in a violation of the rules of professional responsibility, a rule of court or applicable law. It is the lawyer's right and duty to take all proper actions and steps to preserve and protect the legal merits of the client's position and claims, and the lawyer should not decline employment in a case on the basis of the unpopularity of the client's cause or position.

(b) The right of a person accused of a crime to be represented by competent counsel is essential to our system of justice. A lawyer should not decline such representation because of the lawyer's personal or the community's opinion of the guilt of the accused or heinousness of the crime. A lawyer must raise all defenses and arguments that should be asserted on the client's behalf.

Fidelity to the Client's Interests

A lawyer must not permit considerations of personal or organizational advancement, financial gain, favor with other persons, or other improper considerations to influence the representation of the client.

Obligations to Colleagues

A lawyer should be straightforward and courteous with colleagues. A lawyer should be cooperative with other counsel while zealously representing the client. A lawyer must be scrupulous in observing agreements with other lawyers.

Relations with Other Counsel

(a) A lawyer must be courteous and honest when dealing with opposing counsel.

(b) A lawyer should not make disparaging personal remarks or display acrimony toward opposing counsel, and must avoid demeaning or humiliating words in written and oral communication with adversaries.

(c) When practicable and consistent with the client's legitimate interests and local custom, lawyers should agree to reasonable requests to waive procedural formalities.

(d) The lawyer, and not the client, has the discretion to determine the customary accommodations to be granted opposing counsel in all matters not directly affecting the merits of the cause or prejudicing the client's rights.

(e) A lawyer must adhere strictly to all written or oral promises to and agreements with opposing counsel, and should adhere in good faith to all agreements implied by the circumstances or by appropriate local custom.

(f) Written communications with opposing counsel may record and confirm agreements and understandings, but must not be written to ascribe to any person a position that he or she has not taken or to create a record of events that have not occurred.

Obligations to the Court

Judges and lawyers each have obligations to the court they serve. A lawyer must be respectful, diligent, candid and punctual in all dealings with the judiciary. A lawyer has a duty to promote the dignity and independence of the judiciary, and protect it against unjust and improper criticism and attack. A judge has a corresponding obligation to respect the dignity and independence of the lawyer, who is also an officer of the court.

Communication with the Court

(a) A lawyer must always show courtesy to and respect for a presiding judge. While a lawyer may be cordial in communicating with a presiding judge in court or in chambers, the lawyer should never exhibit inappropriate familiarity. In social relations with members of the judiciary, a lawyer should take care to avoid any impropriety or appearance of impropriety. In making any communication about a judge, a lawyer should not express or imply that the lawyer has a special relationship or influence with the judge.

(b) A lawyer should never make any attempt to obtain an advantage through improper ex parte communication with a judge or the staff in the judge's chambers. A lawyer must make every effort to avoid such communication on any substantive matter and any matter that could reasonably

be perceived as substantive, except as addressed in subpart (c) below. When a lawyer informally communicates with a court, the highest degree of professionalism is required.

(c) If ex parte communication with the court is permitted by applicable rules of ethics and procedure, a lawyer must diligently attempt to notify opposing parties, through their counsel if known, unless genuine circumstances exist that would likely prejudice the client's rights if notice were given. When giving such notice, the lawyer should advise the opponent of the basis for seeking immediate relief and should make reasonable efforts to accommodate the opponent's schedule so that the party affected may be represented.

(d) When possible, a lawyer's communications with the court related to a pending case should be in writing, and copies should be provided promptly to opposing counsel. When circumstances require oral communication with the court, a lawyer must notify opposing counsel of all such communications promptly.

Independence and Impartiality of Judicial Officers and Neutrals

(a) Judges, arbitrators, mediators and other neutrals must maintain their independence and impartiality. They must not allow professional or personal relationships, employment prospects or other improper considerations to influence or appear to influence the discharge of their duties.

(b) A judge must promote the dignity and proper discharge of the duties of the lawyer, who is also an officer of the court entitled to respect and courtesy.

Obligations to the System Of Justice

A lawyer has an obligation to promote the resolution of cases with fairness, efficiency, courtesy, and justice. As an officer of the court and as an advocate in the court, a lawyer should strive to improve the system of justice and to maintain and to develop in others the highest standards of professional behavior.

Devotion to the System of Public Justice

A lawyer must strive at all times to uphold the honor and dignity of the profession. Every lawyer should contribute to the improvement of the system of justice and support those measures that enhance the efficiency, fairness and quality of justice dispensed by the courts. A lawyer should never manifest, or act upon, bias or prejudice toward any person based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status.

Pro Bono Publico

A lawyer should personally render public interest legal service and support organizations that provide legal services to persons of limited means by contributing time and resources.

Settlement and Alternative Dispute Resolution

A lawyer must never be reluctant to take a meritorious case to trial if the dispute cannot otherwise be satisfactorily resolved. However, a lawyer must provide the client with alternatives to trial when to do so would be consistent with the client's best interests. A lawyer should educate clients early in the legal

process about various methods of resolving disputes without trial, including mediation, arbitration, and neutral case evaluation.

Motions and Pretrial Procedure

A lawyer has an obligation to cooperate with opposing counsel as a colleague in the preparation of the case for trial. Zealous representation of the client is not inconsistent with a collegial relationship with opposing counsel in service to the court. Motions and pretrial practice are often sources of friction among lawyers, which contributes to unnecessary cost and lack of collegiality in litigation. The absence of respect, cooperation, and collegiality displayed by one lawyer toward another too often breeds more of the same in a downward spiral. Lawyers have an obligation to avoid such conduct and to promote a respectful, collegial relationship with opposing counsel.

Scheduling and Granting Extensions for Pretrial Events

(a) A lawyer should schedule pretrial events cooperatively with other counsel as soon as the event can reasonably be anticipated. Lawyers scheduling an event should respect the legitimate obligations of colleagues and avoid disputes about the timing, location and manner of conducting the event.

(b) A lawyer should seek to reschedule an event only if there is a legitimate reason for doing so and not for improper tactical reasons. A lawyer receiving a reasonable request to reschedule an event should make a sincere effort to accommodate the request unless the client's legitimate interests would be adversely affected.

(c) Scheduling pretrial events and granting requests for extensions of time are properly within the discretion of the lawyer unless the client's interests would be adversely affected. A lawyer should counsel the client that cooperation among lawyers on scheduling is an important part of the pretrial process and expected by the court. A lawyer should not use the client's decision on scheduling as justification for the lawyer's position unless the client's legitimate interests are affected.

Service of Process, Pleadings and Proposed Orders

(a) The timing, manner, and place of filing, electronic filing or serving papers should never be calculated to delay, embarrass or improperly disadvantage the party being served.

(b) Unless exigent circumstances require otherwise, papers filed in a court must be promptly served upon or made available to opposing parties or counsel.

(c) Papers should not be served in a manner deliberately designed to unfairly shorten an opponent's time for response or to take other unfair advantage of an opponent.

(d) Service must be made in a manner that affords an opposing party a fair and timely opportunity to respond, unless exigent circumstances legitimately require or applicable rules permit an ex parte application to the court or an abbreviated time for response.

Motion Practice and Other Written Submissions to the Court

(a) Before filing pretrial motions, lawyers should work together to resolve issues and to

identify matters not in dispute. When motions are necessary, lawyers should cooperate to facilitate the filing, service, and hearing of the motion. Orders submitted to the court must fairly and accurately reflect the requested or actual ruling of the court.

(b) In written submissions and oral presentations, a lawyer should neither engage in ridicule nor sarcasm. Neither should a lawyer ever disparage the integrity, intelligence, morals, ethics, or personal behavior of an opposing party or counsel unless such matters are directly relevant under controlling law.

(c) When documents or data are presented to the court, they must be furnished to opposing counsel in exactly the same format, including identical highlighting or other emphasis.

Pretrial Conferences

(a) A lawyer should seek to reach agreement with opposing counsel to limit the issues to be addressed before and during trial.

(b) A lawyer should determine in advance of a pretrial conference the trial judge's custom and practices in conducting such conferences.

(c) A lawyer should satisfy all directives of the court set forth in the order setting a pretrial conference and should consult and comply with all local rules and with any specific requirements of the trial judge unless properly challenged when based upon a belief of unfair prejudice to the client.

(d) Before a pretrial conference, a lawyer should ascertain the willingness of the client (and the carrier if an insurer is involved) to participate in alternative dispute resolution.

(e) Unless unavoidable circumstances prevent it, a lawyer representing a party at a pretrial conference must be thoroughly familiar with each aspect of the case, including the pleadings, the evidence, and all potential procedural and evidentiary issues.

(f) A lawyer should alert the court as soon as practicable to scheduling conflicts of clients, experts, and witnesses.

(g) If stipulations are possible for uncontested matters, a lawyer should propose specific stipulations and work with opposing counsel to obtain an agreement in advance of the pretrial conference.

(h) In advance of a final pretrial conference, discovery should be completed, discovery responses should be supplemented, evidentiary depositions should be concluded, and settlement should be explored.

(i) Unless unavoidable circumstances prevent it, the final pretrial conference should be attended by a lawyer who will actually try the case, and, in any event, by a lawyer who is familiar with the case.

(j) At or before a final pretrial conference, a lawyer should alert the court to the need for any pretrial rulings, hearings on motions or other matters requiring action by the court in advance of trial.

(k) At the final pretrial conference, a lawyer should be prepared to advise the court of the status of settlement negotiations and the likelihood of settlement before trial.

Discovery

A lawyer must conduct discovery as a focused, efficient, and principled procedure to gather and preserve evidence in the pursuit of justice. Discourtesy, obfuscation, and gamesmanship have no proper place in this process.

Discovery Practice

(a) In discovery, as in all other professional matters, a lawyer's conduct must be honest, courteous, and fair.

(1) A lawyer should conduct discovery efficiently to elicit relevant facts and evidence and not for an improper purpose, such as to harass, intimidate, unduly burden another party or a witness or to introduce unnecessary delay. Overly broad document requests should be avoided by focusing on clear materiality and a sense of cost/benefit.

(2) A lawyer should respond to written discovery in a reasonable manner and should not interpret requests in a strained or unduly restrictive way in an effort to avoid responding or to conceal relevant, nonprivileged information.

(3) Objections to interrogatories, requests for production, and requests for admissions must be made in good faith and must be adequately explained and limited in a manner that fairly apprises the adversary of the material in dispute and the bona fide grounds on which it is being withheld.

(4) When a discovery dispute arises, opposing lawyers must attempt to resolve the dispute by working cooperatively together. Lawyers should refrain from filing motions to compel or for court intervention unless they have genuinely tried, but failed, to resolve the dispute through all reasonable avenues of compromise and resolution.

(5) Lawyers should claim a privilege only in appropriate circumstances. They must not assert a privilege in an effort to withhold or to suppress unprivileged information or to limit or delay a response.

(6) Requests for additional time to respond to discovery should be made as far in advance of the due date as reasonably possible and should not be used for tactical or strategic reasons.

(7) Unless there are compelling reasons to deny a request for additional time to respond to discovery, an opposing lawyer should grant the request without necessitating court intervention. Compelling reasons to deny such a request exist only if the client's legitimate interests would be materially prejudiced by the proposed delay.

(b) Depositions should be dignified, respectful proceedings for the discovery and preservation of evidence.

(1) A lawyer should limit depositions to those that are necessary to develop the claims or defenses in the pending case or to perpetuate relevant testimony.

(2) A lawyer should conduct a deposition with courtesy and decorum and must

never verbally abuse or harass the witness, engage in extended or discourteous colloquies with opposing counsel or unnecessarily prolong the deposition.

(3) During a deposition, a lawyer must assert an objection only for a legitimate purpose. Objections must never be used to obstruct questioning, to communicate improperly with the witness, to intimidate, to harass the questioner or to disrupt the search for facts or evidence germane to the case.

Relationships with Witnesses and Litigants

A lawyer must treat all persons involved in a case with candor, courtesy and respect for their role and rights in the legal process.

Communicating with Nonparty Fact Witnesses

(a) A lawyer must carefully comply with all laws and rules of professional responsibility governing communications with persons and organizations with whom the lawyer does not have an attorney-client relationship. A lawyer must be especially circumspect in communications with nonparty fact witnesses who have a relationship to another party.

(b) In dealing with a nonparty who is a fact witness or a potential fact witness, a lawyer must:

(1) disclose the lawyer's interest or role in the pending matter and avoid misleading the witness about the lawyer's purpose or interest in the communication;

(2) be truthful about the material facts and the applicable law;

(3) if the nonparty has no counsel, correct any misunderstanding expressed by the nonparty;

(4) treat the nonparty courteously; and

(5) avoid unnecessarily embarrassing, inconveniencing or burdening the nonparty.

(c) If a lawyer is informed that a nonparty fact witness is represented by counsel in the pending matter, the lawyer must not communicate with the witness concerning the pending litigation without permission from that counsel.

(d) If communicating with a nonparty fact witness, the lawyer should be careful to avoid fostering any impression that the lawyer also represents that witness unless the lawyer does, in fact, represent the witness in compliance with the applicable rules of professional responsibility.

(e) A lawyer should not obstruct another party's access to a nonparty fact witness or induce a nonparty fact witness to evade or ignore process.

(f) A lawyer should not issue a subpoena to a nonparty fact witness except to compel, for a proper purpose, the witness's appearance at a deposition, hearing, or trial or to obtain necessary documents in the witness's possession.

Access to Fact Witnesses and Evidence

(a) Subject to the applicable law and ethical principles, and to constitutional requirements in criminal matters, a lawyer may properly interview any person who is not a retained expert, because a fact witness does not "belong" to any party. A lawyer should avoid any suggestion calculated to induce any witness to suppress evidence or to deviate from the truth. However, without counseling the witness to refrain from cooperating with opposing counsel, a lawyer may advise any witness that he or she does not have a legal duty to submit to an interview or to answer questions propounded by opposing counsel, unless required to do so by judicial or legal process.

(b) A lawyer may never suppress any evidence that the lawyer or the client has a legal obligation to reveal or to produce. In the absence of such an obligation, however, it is not a lawyer's duty to disclose any work product, evidence or the identity of any witness.

(c) A lawyer must not advise or cause a person to secrete himself or herself or to leave the jurisdiction of a tribunal for the purpose of becoming unavailable as a witness.

(d) Except as provided in subparagraphs (1) and (2) below, a lawyer should not pay, offer to pay or acquiesce in the payment of compensation to a fact witness and may never offer or give any witness anything of value contingent upon the content of the witnesses' testimony or the outcome of the case. To the extent permitted by the applicable rules of professional responsibility, a lawyer may advance, guarantee or acquiesce in the payment of:

(1) expenses reasonably incurred by a witness in attending or testifying; and

(2) reasonable compensation to a witness for the witness's loss of time in attending or testifying;

(e) A lawyer may solicit witnesses to a particular event or transaction but not to testify to a particular version of the facts.

Relations with Consultants and Expert Witnesses

(a) In retaining an expert witness, a lawyer should respect the integrity, professional practices and procedures in the expert's field and must never ask or encourage the expert to compromise the integrity of those practices and procedures for purposes of the particular matter for which the expert has been retained.

(b) A retained expert should be fairly and promptly compensated for all work on behalf of the client. A lawyer must never make compensation contingent in any way upon the substance of the expert's opinions or written report or upon the outcome of the matter for which the expert has been retained.

c) Other than as expressly permitted by governing law, a lawyer should not communicate with, or seek to communicate with, an expert witness concerning the pending litigation whom the lawyer knows to have been retained by another party, unless express permission is granted by counsel for the retaining party.

Trial

A lawyer must conduct himself or herself in trial so as to promote respect for the court and preserve the right to a fair trial. A lawyer should avoid any conduct that would undermine the fairness and impartiality of the administration of justice, and seek to preserve the dignity, decorum, justness and courtesy of the trial process.

Relations with Jurors

Lawyers and judges should be respectful of the privacy of jurors during voir dire and after a verdict. A lawyer should abstain from all acts, comments and attitudes calculated to inappropriately curry favor with any juror, such as fawning, flattery, solicitude for the juror's comfort or convenience or the like.

Courtroom Decorum

(a) Proper decorum in the courtroom is not an empty formality. It is indispensable to the pursuit of justice at trial.

(b) In court, a lawyer should always display a courteous, dignified and respectful attitude toward the judge presiding and should promote respect for and confidence in the judicial office. The judge should be courteous and respectful to the lawyer, who is also an officer of the court.

(c) A lawyer should never engage in discourteous or acrimonious comments or exchanges with opposing counsel. Objections, requests and observations must be addressed to the court.

(d) A lawyer should advise the client and witnesses appearing in the courtroom of the kind of behavior expected and counsel them against engaging in any disrespectful, discourteous or disruptive behavior in the courtroom.

Trial Conduct

(a) A lawyer has the professional obligation to represent every client courageously, vigorously, diligently and with all the skill and knowledge the lawyer possesses. The conduct of a lawyer before the court and with other lawyers should at all times be characterized by civility. A lawyer should present all proper arguments against rulings the lawyer deems erroneous or prejudicial and ensure that a complete and accurate case record is made. In doing so, the lawyer should not be deterred by any fear of judicial displeasure.

(b) In appearing in a professional capacity before a tribunal, a lawyer must not:

(1) improperly obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value; nor should a lawyer counsel, permit or assist another person to do any such act;

(2) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law; or

(3) allude to any matter that the lawyer does not reasonably believe is relevant or will not be supported by admissible evidence, assert personal knowledge of facts in issue except when

testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused.

(c) A lawyer should not interrupt or interfere with an examination or argument by opposing counsel, except to present a proper objection to the court.

(d) When a court has made an evidentiary ruling, a lawyer should not improperly circumvent that ruling, although a lawyer may seek to make a record of the excluded evidence or a review of the ruling.

(e) A lawyer must not attempt to introduce evidence or to make any argument that the lawyer knows is improper. If a lawyer has doubt about the propriety or prejudicial effect of any disclosure to the jury, the lawyer should request a ruling out of the jury's hearing.

(f) A lawyer should never engage in acrimonious conversations or exchanges with opposing counsel in the presence of the judge or jury.

(g) Examination of jurors and of witnesses should be conducted from a suitable distance, except when handling evidence or circumstances otherwise require.

(h) Unless local custom dictates otherwise, a lawyer should rise when addressing or being addressed by the judge, except when making brief objections or incidental comments. A lawyer should be attired in a proper and dignified manner in the courtroom.

(i) A lawyer should not in argument assert as a fact any matter that is not supported by evidence.

(j) A lawyer must never knowingly misquote or mischaracterize the contents of documentary evidence, the testimony of a witness, the statements or argument of opposing counsel, or the language of a judicial decision.

(k) A lawyer should not propose a stipulation in the jury's presence unless the lawyer knows or has reason to believe the opposing lawyer will accept it.

(l) A lawyer who receives information clearly establishing that the client has, during the representation, perpetrated a fraud on the court should immediately take the actions required by the appropriate procedural and ethical rules.

Public Statements about Pending Litigation

A case should be tried in the courtroom and not in the media. A lawyer should follow all rules and orders of the court concerning publicity. In the absence of a specific rule or order, a lawyer should not make any extrajudicial statement that may prejudice an adjudicative proceeding.

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Hon. Sara Lioi
Hon. Benita Y. Pearson
Hon. Jeffrey J. Helmick
Hon. Lesley Wells
Hon. James G. Carr
Hon. David A. Katz
Magistrate Judge Nancy A. Vecchiarelli
Magistrate Judge George L. Limbert
Magistrate Judge William H. Baughman Jr.
Magistrate Judge Kenneth S. McHargh
Magistrate Judge Greg White
Magistrate Judge James R. Knepp
Magistrate Judge Kathleen B. Burke
Magistrate Judge Vernelis K. Armstrong
Geri M. Smith, Clerk of Court

ELECTRONIC COURTROOM TECHNOLOGY

IN THE NORTHERN DISTRICT OF OHIO

Courtroom 19A, Cleveland

The U.S. District Court, Northern District of Ohio is proud to provide fourteen electronic courtrooms throughout the district with more being planned.

Our first electronic courtroom was installed in September, 1998 in the Howard M. Metzenbaum Court House. When it opened, it was touted as the most technologically advanced courtroom in existence. The equipment in that courtroom has been moved to our new Court House. In addition, the Administrative Office funded three additional courtrooms in the new Carl B. Stokes United States Court House in Cleveland.

We also have electronic courtrooms in each of our divisional locations in Akron, Toledo and Youngstown.

The streamlining of the litigation process through the implementation of advanced communication technologies has enhanced the court's ability to meet the needs of the bar and the public, while preserving the dignity and fairness of the proceedings.

Since we are five times as likely to remember something we both see and hear, the audio/visual means of presentation implemented in the courtrooms increases both efficiency and juror comprehension. With minimal training, attorneys can present photos, documents, objects, videotapes and electronic presentations to focus juror attention on critical details.

The Video Presenter cart serves as the heart of the well-concealed electronics in the courtroom. The system allows counsel to switch from displaying exhibits, realtime transcripts, video recordings or multi-media presentations with the push of a button.

ELECTRONIC COURTROOM TECHNOLOGY

Courtroom 575, Akron

Some of the advanced technology integrated into the courtrooms:

- A document camera which can be used to display exhibits such as documents or medium-sized three-dimensional objects
- Connections to display multi-media presentations or images from a portable computer allowing documents, images, etc. to be displayed on any monitor in the courtroom
- A visual image printer to produce a 3" x 5" print of any image displayed through the system
- On-screen drawing and highlighting to emphasize specific details for display throughout the courtroom
- Realtime transcription from the court reporter can be directed to monitors at the Judge's bench and counsel tables, with prior arrangements with the court reporter
- A DVD/VHS player at the podium

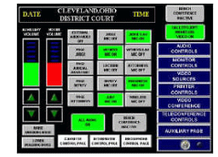
Courtroom 16A, Cleveland

- Technology-ready counsel tables provide quick-connect capability for data, voice, realtime transcription and video. Counsel can bring portable computer equipment to plug into discreetly concealed ports to access the electronics in the courtroom
- 17" flat panel video displays located on each counsel table, on the Judge's bench, the courtroom deputy and court reporter desk, and between each pair of jurors to make visual display efficient
- Large flat plasma screens for gallery viewing
- Infrared listening assistance and translation is available to all participants

The courtrooms are augmented by video and audio conferencing systems. Two video-conferencing cameras are focused on the Judge and witness, as well as the presenter at the lectern.

Courtroom 204, Toledo

A camera with pan, tilt and zoom capabilities and a mounted camera at the witness box can also be accessed. This equipment can be used for remote witness testimony, pretrial conferences or other court proceedings.



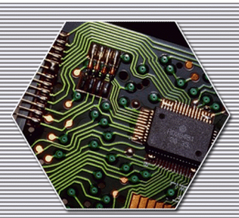
The use of this technology is easily controlled from multiple touch panel controllers at the Judge's bench and the lectern.

Please visit our web page at http://**www.ohnd.uscourts.gov** for training schedules, user guides, and contact telephone numbers for our electronic courtrooms in Akron, Cleveland, Toledo and Youngstown.

The court welcomes the bar to take advantage of these new facilities. Counsel are encouraged to contact the courtroom deputies to arrange for the use of this equipment.

The ***Northern District of Ohio*** continues to strive to provide litigants with the best resources available to assist in the efficient administration of justice.

Courtroom 313, Youngstown



A guide for litigants using

ELECTRONIC COURTROOM TECHNOLOGY IN THE NORTHERN DISTRICT OF OHIO

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Office of the Clerk of Court

INTRODUCTION

Welcome to Electronic Presentation in the courtrooms of the United States District Court for the Northern District of Ohio. This guide is intended to assist you with utilizing the technology integrated into the courtrooms to its greatest advantage, but there is no substitute for hands-on experience with the actual electronics and control systems particular to that courtroom.
It is strongly suggested that you contact chambers to arrange a convenient time to bring your equipment to the courthouse to practice on the system. In some courtrooms, you will have complete control over the system inputs and settings on the touch panel control screens. In others you will have access only to the inputs available in the podium itself. While the equipment and control panels vary from courtroom to courtroom, each audio/video equipped room provides the same basic functionality. Once you are familiar with operating the controls in one courtroom, transition to a different courtroom is very easy.

Twice each year, Electronic Courtroom Training classes are offered free to interested parties by the Clerk's Office. All facets of courtroom operation are covered with emphasis on hands on training with your laptop and media to ensure you are prepared to operate the system to its greatest advantage. The court web page has the dates listed under the Courtroom Technology section.

Your ability to utilize the technology in an Electronic Courtroom is of the utmost importance in mounting a convincing argument. The display of electronic exhibits on screen allows jurors to spend more time absorbing the content of your presentation. Experience in using the system and understanding how to incorporate it into your workflow results in enhancing the comprehension and retention of your information

Since we are five times as likely to remember something we both see and hear, the audio/visual means of presentation implemented in the courtrooms increases both efficiency and juror comprehension. With minimal training, attorneys can present photos, documents, objects, videotapes and electronic presentations to focus juror attention on critical details.

The streamlining of the litigation process through the implementation of advanced communication technologies has enhanced the court's ability to meet the needs of the bar and the public, while preserving the dignity and fairness of the proceedings.

The touch panels serve as your control center over the well-concealed electronics in the courtroom. The systems allow counsel to switch from displaying exhibits, video recordings or multi-media presentations with the push of a button.

Some of the advanced technology integrated into the courtrooms:

- A document camera which can be used to display exhibits such as documents or medium-sized three-dimensional objects

- Connections to display multi-media presentations or images from a portable computer allowing documents, images, etc. to be displayed on any monitor in the courtroom

- A visual image printer to produce a 3" x 5" print of any image displayed through the system

- On-screen telestration to highlight and emphasize specific details for display throughout the courtroom

- Realtime transcription from the court reporter can be directed to monitors at the Judge's bench and counsel tables, with prior arrangements with the court reporter

- A DVD player and VHS video cassette recorder at the podium and lower bench

- Technology-ready counsel tables provide quick-connect capability for data, voice, realtime transcription and video. Counsel can bring portable computer equipment to plug into discreetly concealed ports to access the electronics in the courtroom

- LCD video displays are located on each counsel table, on the Judge's bench, the courtroom deputy and court reporter desk, and for jurors to make visual display efficient

- Large plasma screens for gallery viewing

- Infrared listening assistance and translation is available to all participants

- The courtrooms are augmented by video and audio conferencing systems. Video-conferencing cameras are mounted strategically around the courtroom: on the Judge and witness, as well as the presenter at the lectern. This equipment can be used for remote witness testimony, pretrial conferences or other court proceedings.

Please visit our web page at http://**www.ohnd.uscourts.gov** frequently for training schedules, user guides, and contact telephone numbers for our electronic courtrooms in Akron, Cleveland, Toledo and Youngstown. The court welcomes the bar to take advantage of these facilities and the available training. Counsel are encouraged to contact the courtroom deputies to arrange for the use of this equipment. The ***Northern District of Ohio*** continues to strive to provide litigants with the best resources available to assist in the efficient administration of justice.

CONTROL PANEL MENUS

As discussed previously, your familiarity in using the arsenal of presentation tools available to you in the courtroom is of paramount importance to the delivery of a seamless, professional and convincing argument. Due to differences in equipment and the design philosophy at the time of installation, some systems afford you complete control over the courtroom presentation electronics and very little in others. It is incumbent upon the user to understand what level of control the panel at the lectern affords them and how best to integrate it into the delivery of their information.

The presentation systems in all the courtrooms are controlled by touch screen panels located at the judges bench, courtroom deputy and lectern. The menu structure is typically such that one button may lead to a “child” page, which will then have a “back” or “previous page” button to return you to your origin.

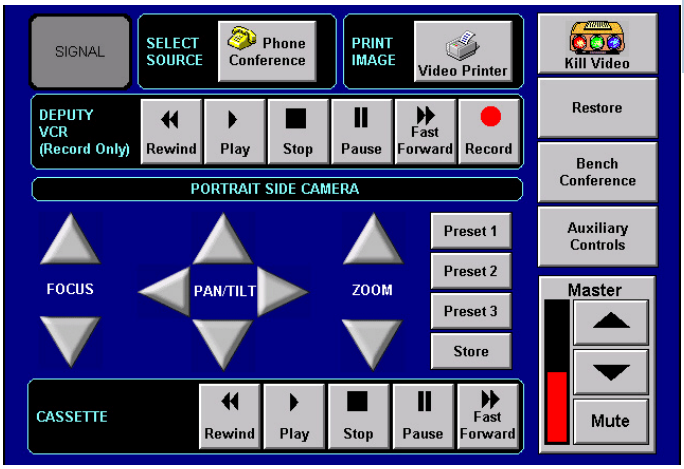


Figure 1

Figure 1 is a screen shot of a typical control panel at the lectern as found in Akron courtroom 575, Toledo courtroom 204 and in Youngstown courtroom 313. An important consideration with these panels is that if the kill video button is used during a proceeding, the “No Delay” button must be pressed to restore video in the courtroom as shown in figure 2.

This particular style of panel affords you the most control over the system and subsequently, the ability to hit the wrong button! However, with only a little experience using it in the courtroom you will find it an intuitive system to operate without the intervention of the courtroom deputy.

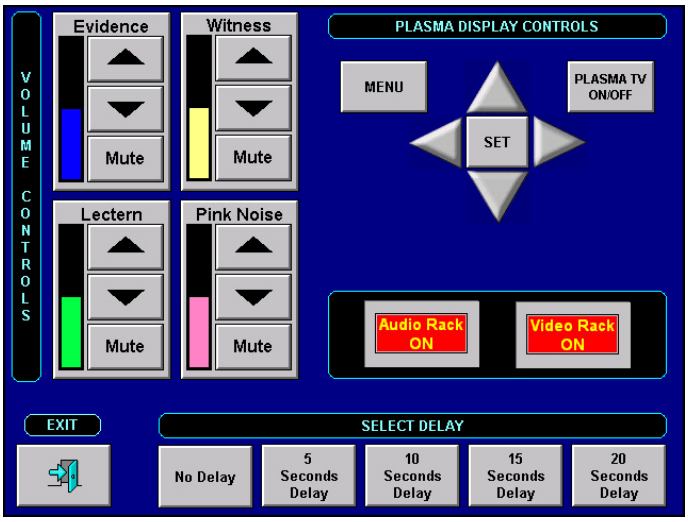


Figure 2

Also, you may notice that the touch panels occasionally turn themselves off after a period of inactivity. This is done to save on lamp life. Simply touch the panel screen anywhere to wake it back up, you will be returned to the previously displayed menu page.

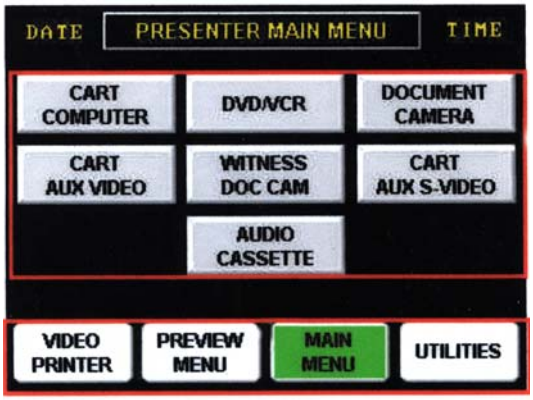


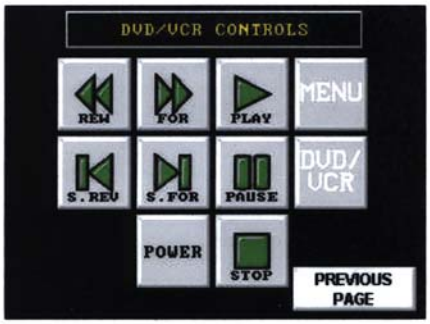
Figure 3

With other control panel configurations, you will only have the ability to influence the source inputs available to you within the lectern itself as shown in figure 3. Panels providing this level of control are far more commonplace throughout the district and require the minimum degree of initial orientation.

Figure 4 shows several of the subsequent menu pages selectable from the Presenter Main Menu.

DVD/VCR:

If the **DVD/VCR** button is selected, this screen displays.

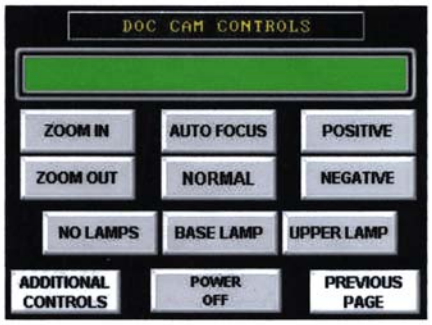


- **DVD/VCR:** Toggles the control between the DVD and VCR portions of the unit.
- **Rewind:** Begins backward scanning of the inserted media during playback. If not in playback mode, this rewinds the cassette to its starting position.
- **Forward:** Temporarily increases the rate of playback to allow for high speed forward scanning of the inserted media. If not in playback mode, this forwards the program to its ending position.
- **Play:** Begins playback of the inserted media.
- **Pause:** Pauses playback of the inserted media.
- **Scan Reverse/Scan Forward:** Enables high-speed visual scanning back or forward on the inserted media.
- **Power:** Toggles power on and off to the VCR unit.
- **Stop:** Stops playback of the inserted cassette.
- **Menu:** Displays the DVD on-screen menu (right) for configuration of function settings and allows for navigation of the DVD's menu screen using the cursor keys. When the desired selection is highlighted, press the **Select** button to confirm settings.

- **Previous Page:** Returns to the previous page.

Document Camera:

If the **Document Camera** button is selected, this screen displays.



- **Zoom In:** Enlarges the subject size within the image.
- **Zoom Out:** Reduces the subject size within the image.
- **Auto Focus:** Automatically focuses on the objects within the camera's viewing field.
- **Normal:** Restores the default view.
- **Positive/Negative:** Controls lighting for display of text or 3D objects (**Positive**) or x-rays or other negative images (**Negative**).
- **Lamps:** Controls the document camera lighting (**No Lamp**, **Base Lamp** on/off, or **Upper Lamp** on/off).
- **Additional Controls:** Displays the **Document Camera Preset Controls** screen (see following section).
- **Previous Page:** Returns to the previous page.

Figure 4

REMEMBER: Contact the courtroom deputy to schedule an opportunity to familiarize yourself with the touch panels. Also, operation guides are available online at:
http://www.ohnd.uscourts.gov/Clerk_s_Office/Courtroom_Technology/courtroom_technology.html

LAPTOPS IN THE COURTROOM

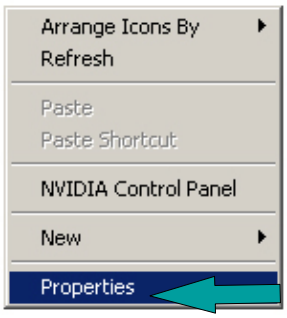
The most versatile presentation tool available to you is your laptop. Proper configuration for courtroom use is essential to efficiently display video presentations such as PowerPoint, Windows media player, and documents such as Adobe Acrobat PDF's. The following instructions assume your laptop runs Windows XP and your user account has administrative rights.

We will explore two scenarios to display your laptop information in the courtroom. The first allows all the screens in the courtroom to mimic what you see on your laptop's internal display and the second, building on the procedure taken in example one, allows your laptop and the courtroom displays to act independently of each other.

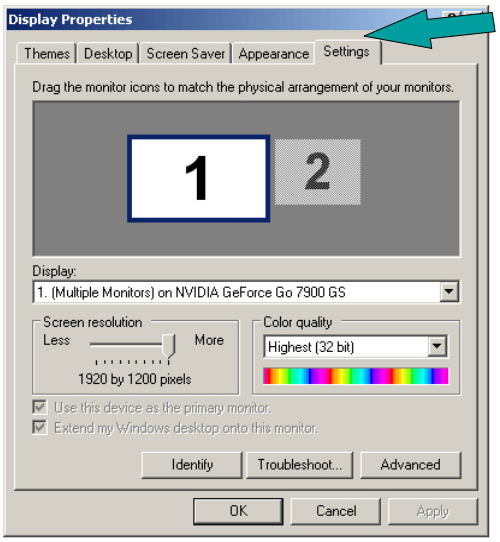
The second example is most desirable as it allows you to queue documents for display in the courtroom without distracting others with non-essential clutter such as navigating to your data via windows explorer or opening a PowerPoint presentation to the correct slide. It is important to observe that when selected as an input to the presentation system everyone will watch what you are doing and this can serve to dilute the relevance of your information. Similarly, you may wish to select black as your desktop background rather than a family photo to better utilize the laptop as a professional presentation tool.

Example One:

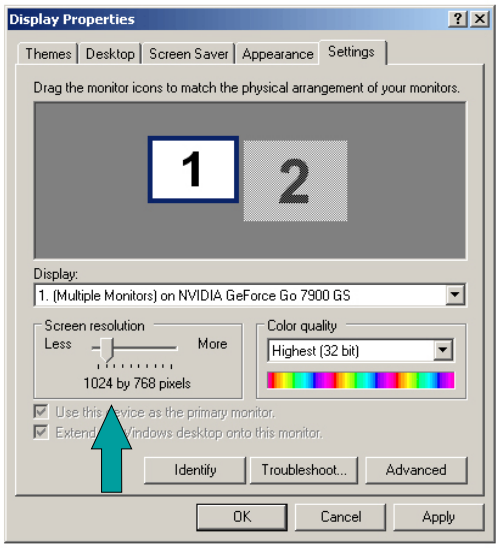
1.Anywhere on a blank portion of your desktop, right click and in the dialog box shown below select Properties



2. Click Settings



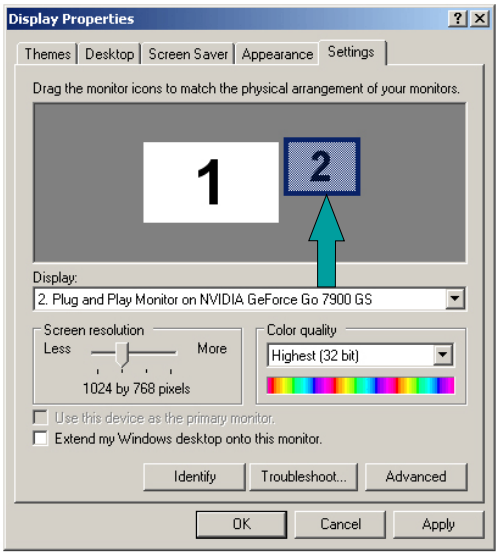
3. If it is not currently there, move the slider under screen resolution until it indicates **1024 x 768**. Then click Apply.



LAPTOP CONFIGURATION

Your laptop is now configured correctly to interface with the courtroom electronics. You may now connect the VGA cord supplied in the table or at the podium to the monitor output on the back of the computer. To enable the output port, you must do so from the keyboard. On most current laptops you will have a function key (labeled as Fn), typically F5 or F8. Some manufacturers use the words CRT/LCD while others use a monitor symbol. While holding the Fn function key down and pressing the appropriate "F" key the displays will cycle through three modes: laptop LCD display only, both displays on, and then external display only on. Each press of the function key combination advances you one step through the cycle, which then repeats.
Some laptops will have a utility that will show you which combination is being selected.

Example 2:
This configuration for laptop presentation is the most desirable. It permits you to navigate to and open the document(s) you intend to display without other participants in the courtroom being distracted. When you are ready, you can simply "move" the document to the right for courtroom display. After completing the steps to configure your laptop, we will review the using this configuration.

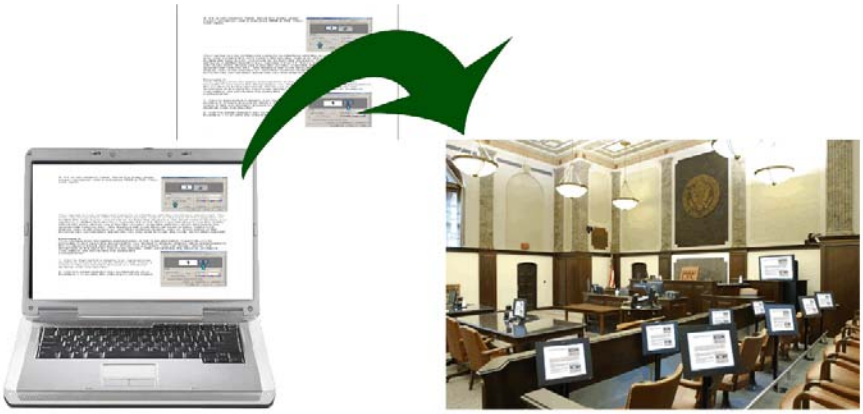


1. Click to highlight the display box representing monitor 2. Ensure it is set to 1024 x 768. Place a check in the box labeled "Extend my Windows desktop onto this monitor".

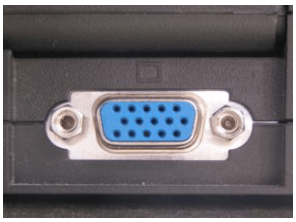
2. Use the same function key combination as in Example 1 to enable the output port of the laptop.

3. Next, navigate to and open a document you wish to use. To display your document in the courtroom, click the “restore down” button in the upper right corner of the application. It is found between the minimize and close buttons and is represented by two overlapping squares.

Now click and hold the navbar with your left mouse button and drag it to the right of the laptop screen - it will move from the laptop to the courtroom screens. Click the same button in the middle again, this time it is labeled as “maximize”. Your document is now displayed in the courtroom.



Dragging the document to external display port to the courtroom



Laptop VGA Port

At this point, you are free to move back to the laptop display and prepare your next document to present. An important consideration to make in using your laptop is that an effective presentation takes a little practice, but you don’t need to be in a courtroom to do so. Any CRT or LCD can be plugged into your output port to allow you to simulate what will happen when you are actually using the electronic presentation system in the courtroom.

You can configure the display using either of the examples shown above and may find that having double the desktop space is advantageous, even for normal use. Navigating the web while working on a word processing document, or having two documents open simultaneously and copying/pasting between them can result in greater productivity!

DVI Port

Note,
If your laptop only has a DVI port for video output, you cannot connect it to the courtroom electronics without an adaptor.

LAPTOP AUDIO IN THE COURTROOM

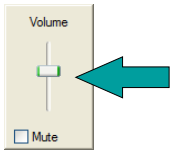
Audio can also be played in the courtroom from your laptop. Any file that contains audio that is playable on your computer can be heard in the courtroom by plugging the supplied cable at the table or podium into the earphone out jack on the laptop. This port is typically labeled with a headphone symbol. Verify you are using the correct port by connecting a pair of headphones or external speakers.

Earphone Connection

There are two variables that will affect the volume level in the courtroom: your laptop's volume setting and the auxiliary volume setting in the courtroom electronics control panel. If the audio from your laptop sounds distorted, it is most likely being caused by having your volume output level set too high. If the volume is too low, it is likely being caused by either too low a setting on the laptop or too low a setting in the system or both.

1. Plug the audio cable at the counsel table or podium into the headphone jack:

2. Set a comfortable audio level on the laptop for your material. Do this by clicking the speaker icon as shown to the right in the lower right hand corner of your system tray and setting the level about midway to start.



3. Begin playback of your media and decide if the volume is suitable. Adjust accordingly. It may at this point be necessary to adjust the "Auxiliary Volume" level on the touch screen control panel to fine tune the audio quality in the courtroom.

If you do not have a speaker icon in your system tray, you can configure Windows XP to display it for you by going to:

Programs,
Control Panel,
Sounds and Audio Devices,
and checking the box "Place volume icon in the taskbar".

Some considerations about courtroom audio & video;

- The audio in the courtroom is a monaural signal which means 2 channel audio is heard as the same thing in both sides of the headset.

- You should disable system sounds such as key clicks as they will be reproduced along with your program material and can be distracting. Prior to the proceeding, plug a set of external speakers or headphones into the headphone output to test.

- Some laptops have applications which monitor what devices are plugged into output ports (such as headphones or microphones) and configuring this software in advance will reduce mis-configurations.

- As we'll explore in the section on DVD usage, there are specific situations to use the internal DVD drive of your laptop and others for the built in DVD/VHS combination player. DO NOT use your internal DVD drive for pre-recorded DVD presentations such as a movie. Your laptop graphics card and DVD player software will attempt to maximize output resolution to produce the best possible image for your *laptop*. As explained previously, the courtroom electronics accept a video resolution of 1024 x 768 @ 60 hz. only. The end result is that there will be audio but no video displayed in the courtroom. Use the DVD/VHS player integrated into the courtroom electronics for such presentations. Conversely, though it is now common for vast amounts of data, i.e. Acrobat, .wmv or audio files to be burned to a recordable DVD, use your laptop DVD drive to navigate to and open disks containing these types of files via Windows Explorer or the application associated with that file type.

- Most wireless interface devices like mice and screen pointers use radio signals to transmit their signal to the receiver in or at the laptop. The pre-amplification circuits used in the courtroom microphones are sensitive to these signals and will pick up these radio emissions and reproduce them in the courtroom speakers. Always use a corded device to minimize courtroom distraction.

- Your laptop contains evidence crucial to your proceeding. A backup laptop or disk loaded with your documents is a wise precaution in the event of a failure.

- Make sure your laptop is always configured with the latest updates and patches prior to it's use in the courtroom. This will not only allow it to operate at maximum efficiency, it will also prevent unexpected messages about the latest update needing to be downloaded or installed during a presentation.

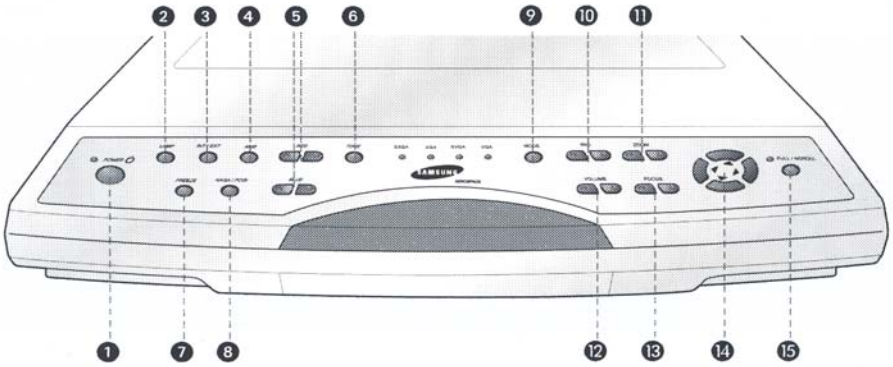
- Also, although your laptop may be capable of recording audio and or video, please remember that such recordings of any type are **prohibited by law** in the courthouse.

REMEMBER:

To ensure that your exhibits are displayed correctly in the courtroom, contact chambers to schedule an opportunity to test your laptop and familiarize yourself with the control panels available to you.

USE OF THE DOCUMENT CAMERA

Each courtroom is equipped with a document camera for courtroom display of documents x-rays or other small three dimensional objects. These objects can be illuminated from upper lamps or from below (such as with x-rays) to enhance detail.
While there may be different models from courtroom to courtroom, their basic functionality and operation is identical. We will now explore some of the most common controls to familiarize you with using these devices.



❶ Power

Use this to turn the power on or off.

❷ Lamp

Use this to turn the upper or lower lamp on or off.

❸ INT/EXT

Use this to select internal or external image
INT: to view the image on this product.
EXT: to view the VGA output from another device on a PC monitor or a projector by connecting it to this product.

❹ AWC

Use this to control the color automatically

❺ Red/Blue control

Use this to control the color manually

❻ Tone

Use this to control the tone of the image.

❼ Freeze

Use this to freeze the image

❽ Nega/Posi

Positive: for regular pictures or positive films
Negative: for negative films

❾ Mode

Use this to select the desired resolution for the video output device(PC monitor, projector) connected to this product.
SXGA (1280 x 1024), XGA (1024 x 768)
SVGA (800 x 600), VGA (640 x 480)
(when the power is on, the initial setting is in SXGA mode)

❿ Iris

Use this to control the brightness of the image by using the iris.

⓫ Zoom

Use this to control the size of an object projected on the screen.

⓬ Volume

Use this to control the volume of the microphone.

⓭ Focus

Use this to adjust the focus

⓮ Control key

Use this to move the image on the screen to up and down, right and left in the SCROLL mode.

⓯ FULL/SCROLL

FULL: use this to display the whole image
SCROLL: use this to display only a part of the image
(applicable to XGA, SVGA, and VGA modes only)

Most commonly used functions of the document camera may also be controlled from the touch panel control system.

The illustration to the right details these functions on a typical courtroom touch screen control panel.

The most commonly used functions are Zoom in and out (which allows you to focus attention to specific areas of a document), close up, and Auto Focus.

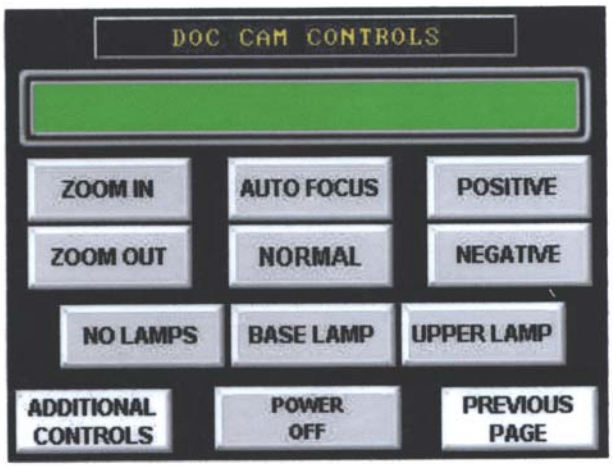
If a glare is present in your exhibit with the upper lamps on, the arms of the lights may be adjusted to help reduce it.

Though not listed on this panel, the Iris control is also helpful to make the image resulting in the courtroom either brighter or darker.

Familiarize yourself with the document cameras in the courtroom you are using to ensure that the presentation is focused correctly and bright enough to be legible.

Document Camera:

If the **Document Camera** button is selected, this screen displays.



- **Zoom In:** Enlarges the subject size within the image.
- **Zoom Out:** Reduces the subject size within the image.
- **Auto Focus:** Automatically focuses on the objects within the camera's viewing field.
- **Normal:** Restores the default view.
- **Positive/Negative:** Controls lighting for display of text or 3D objects (**Positive**) or x-rays or other negative images (**Negative**).
- **Lamps:** Controls the document camera lighting (**No Lamp**, **Base Lamp** on/off, or **Upper Lamp** on/off).
- **Additional Controls:** Displays the **Document Camera Preset Controls** screen (see following section).
- **Previous Page:** Returns to the previous page.

VIDEOCONFERENCING

ABOUT:
Videoconferencing is a convenient means of allowing a remote witness, defendant or expert witness to participate in a proceeding from a remote location. There are two technical methods of establishing a videoconference. One is called I.P. or Internet Protocol, and the other is ISDN or Integrated Services Digital Network. The Court utilizes the latter.

I.P. and ISDN systems can be easily differentiated from each other by the type of number used to establish a video call. I.P. systems use a number such as: 162.127.49.12., which looks much like a computer address.
ISDN systems use a number which looks like a regular telephone number such as 216-555-1212.

When attempting to decide if a video call can be established between the Court and a remote location, the Court MUST be provided the recipient's ISDN number. There are services available through third parties that will "bridge" a call between an I.P. and ISDN based locations, but the Court prefers a direct call to an ISDN system to ensure optimum call quality. Another parameter for the call is the maximum speed at which the call can be conducted. The Court's speed is 384k, which results in video and audio relatively free of video artifacts or jerkiness of motion.

PROCEDURE:
When the Judge in a particular case deems that a remote video appearance is acceptable, you must first coordinate with the courtroom deputy to tentatively arrange a time for the call, provide the ISDN number for the facility that the Court will contact as well as the name and voice telephone number of a technical contact. The courtroom deputy will then provide this information to the court's Automation Department to ensure that the desired time slot is available (bandwidth is limited and simultaneous calls can lead to degraded performance). At that point, a court I.T. representative will contact the technical counterpart at the remote facility and arrange for a test call well in advance of the scheduled date between the two locations to ensure compatibility.

Videoconferencing in the courtroom

ON SCREEN ANNOTATION (TELESTRATION)

All of the video courtrooms in the Northern District of Ohio are outfitted for telestration, or the ability to draw on the screen to draw attention to or highlight a particular section of an exhibit. This functionality is achieved by the use of one of two types of equipment, or in some courtrooms, both. These devices are generally located at the podium, witness stand, and at the bench for the judge.

The first and most common is **direct on screen annotation**. This involves drawing with one's finger directly on the screen of an LCD panel. As shown above, you can draw anything on the screen for display throughout the courtroom. This annotation is an overlay to evidence being presented and can be done using any source video input to the system. The corners of the LCD are labeled COLOR, UNDO LAST, UNDO ALL. By simply touching the appropriate corner, you can change the color of the overlay drawn, delete markings made in reverse order, or remove them all from the screen at once.

The second type of device utilized for telestration is the **digitizing tablet**. It uses a stylus, like a pen, to draw. This affords one similar control with the ability to change color, pointers, line thickness, undo, and clear. The actual drawing area is in the red box under the menu options.

It also allows the use of a "chalkboard" function which disables all inputs and displays a blank white screen on which to draw.

A Digitizing Tablet

It should be noted that inadvertently hitting the CHALKBOARD button effectively kills all video in the courtroom. You can still telestrate, but no other source input can be viewed. Don't panic, simply press the button again to restore video in the courtroom. Also, always **remember to clear the screen** when moving to another exhibit or input when using either type of input device as the markings will remain overlayed on the next exhibit.

USE OF THE DVD/VCR PLAYER

Shown to the right is a common touch screen interface depicting the operational controls of the DVD/VHS combination deck installed in the podium cabinet. The controls are exactly the same as any DVD or VHS deck you might have in your home. The touch panel system allows you to operate the combination player without having to open the cabinet to physically press the buttons.

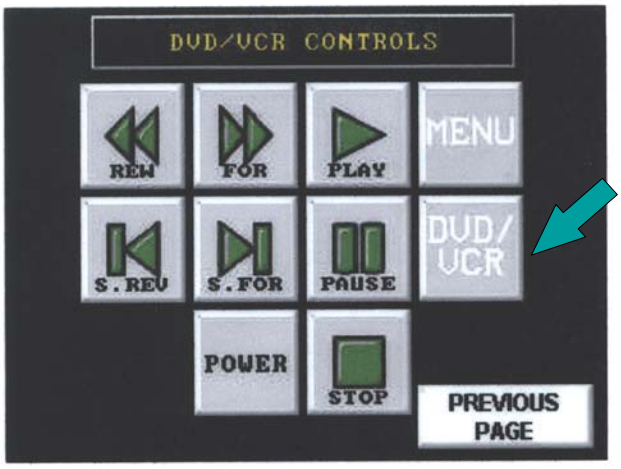
Most of the menus you will encounter that operate the player have a DVD/VCR toggle button, noted on the sample menu to the right with a green arrow. It is important to observe which portion of the combination player the panel thinks it is controlling as you might press PLAY with a DVD inserted and nothing will happen.

Also, although it is now common for vast amounts of data, i.e. Acrobat, .wmv or audio files to be burned to a recordable DVD, these players are not capable of interpreting these file types. Instead, use your laptop DVD drive and navigate to them via Windows Explorer.

The DVD portion of the combination unit is for playback of prerecorded DVD video disks only.

DVD/VCR:

If the **DVD/VCR** button is selected, this screen displays.



- **DVD/VCR:** Toggles the control between the DVD and VCR portions of the unit.
- **Rewind:** Begins backward scanning of the inserted media during playback. If not in playback mode, this rewinds the cassette to its starting position.
- **Forward:** Temporarily increases the rate of playback to allow for high speed forward scanning of the inserted media. If not in playback mode, this forwards the program to its ending position.
- **Play:** Begins playback of the inserted media.
- **Pause:** Pauses playback of the inserted media.
- **Scan Reverse/Scan Forward:** Enables high-speed visual scanning back or forward on the inserted media.
- **Power:** Toggles power on and off to the VCR unit.
- **Stop:** Stops playback of the inserted cassette.
- **Menu:** Displays the DVD on-screen menu (right) for configuration of function settings and allows for navigation of the DVD's menu screen using the cursor keys. When the desired selection is highlighted, press the **Select** button to confirm settings.

- **Previous Page:** Returns to the previous page.

INFRARED HEADPHONES

The courtrooms are outfitted with a number of infrared headphones that receive audio signals in the courtroom to assist the hearing impaired or for use with language translation.

Shown below is the proper method of using the headphones to ensure that sound is heard correctly.

Turn headphone on and check the setting of the channel switch.

There are two potential audio programs and three settings for the channel switch.

- With the switch set to position "∞", a stereo signal is received. Channel 1 is heard in the right ear and channel 2 is heard in the left ear.
- With the switch set to position "I", the signal from channel 1 is heard in both ears. This is the normal position for language interpretation.
- With the switch set to position "II", the signal from channel 2 is heard in both ears. This is the normal position for hearing assistance.

When used for language translation, set the switch so only the translated language can be heard.

Place in ears and allow device to rest about the neck.
Adjust volume to a comfortable level. Note that these devices are "line of sight" receivers and the opaque red plastic portion of the headphone is the receiver window which must be oriented toward the emitter which is generally located at the front of the courtroom.
A typical emitter is shown by the green arrow below.

Proper use of headphone

NOTE:
If worn backwards or the user faces the rear of the courtroom, the signal will be degraded and static will be heard.

REALTIME COURT REPORTING

In September of 1994, the Judicial Conference endorsed the use of realtime reporting technologies by official court reporters and in June of 1996, the Judicial Conference established a new category of, realtime unedited transcript. The *Guide to Judiciary Policies and Procedures* defines realtime as the instantaneous translation and display of live proceedings utilizing computer-aided transcription. The realtime rough draft or any portion thereof is not the official transcript and may not be filed for any reason. The *Guide* clearly indicates that the unedited draft is not intended to be used in subsequent proceedings for impeachment or for any other purpose, including further distribution. A certified transcript may be subsequently purchased from the court reporter at a fee established by the Judicial Conference. Please see the Non-Appeal Transcript Order Form for ordering and fee information. The Judges of this Court receive realtime transcript from court reporters. This service may also be provided to the attorneys/parties upon negotiation with the reporter. In order to be provided with this service, the following steps are necessary:

1. Attorneys must provide their own notebook computer equipped with a serial port or USB serial adaptor and viewer annotation (receive) software, such as Case View. Connections are made at counsel tables via RJ-11 connectors.

2. Parties should coordinate and pretest their equipment with the reporter in advance of trial date.

3. When realtime services are requested by a party to the case, a certified realtime reporter may charge and collect a per page fee from any party wishing to order realtime unedited transcript. A certified transcript must also be purchased from the court reporter at a fee established by the Judicial Conference.

4. Any attorney ordering the realtime rough draft transcript must sign the Realtime Unedited Disclaimer form, which is available from the reporter.

5. An attorney wishing to receive the realtime rough draft should provide to the reporter, in advance, a list of names and terms unique to the case, so that the realtime rough draft can be as readable as possible.

To arrange for realtime transcript or for inquiries regarding Case View software and connections, you may e-mail or call 216-357-7035, or visit the court reporter directory

TELEPHONE INTERPRETING PROGRAM (T I P)

The **TIP** program is a remote interpreting system developed by the Administrative Office of the United States Courts, now available to all 94 judicial districts in the United States.
The hearing that you are about to participate in will be serviced by a remote interpreter. Once the defendant has been brought to the courtroom, the courtroom deputy clerk will call the provider court, and the interpreter will call the courtroom to establish contact both with the courtroom and with the defendant.

Speaking with the defendant through the interpreter: The courtroom deputy clerk will provide an extension hand- or headset to the defendant's line. You can use the extension to communicate with the defendant; the interpreter will interpret for you and your client in the consecutive mode on the same telephone line. You will hear both the interpreter and the client at all times. The interpreter will translate for you and your client, and you will hear both at all times.

Courtroom sound: The TIP interpreter is off-site, and does not have any visual input from the courtroom. It is extremely important that you speak into the microphone at all times while court is in session. The interpreter cannot interpret what he/she cannot hear, and may have to interrupt the proceedings unless court and counsel speak into the microphones.

Out-of court interpreting: TIP interpreters are available for interviews with U.S. Probation officers for preparation of the pre-sentence report. You may be able to participate by setting up a 3-way call. TIP interpreters are also available to interpret the pre-sentence report to your client.

Ask the courtroom deputy for provider court contact numbers to schedule an interpreter.

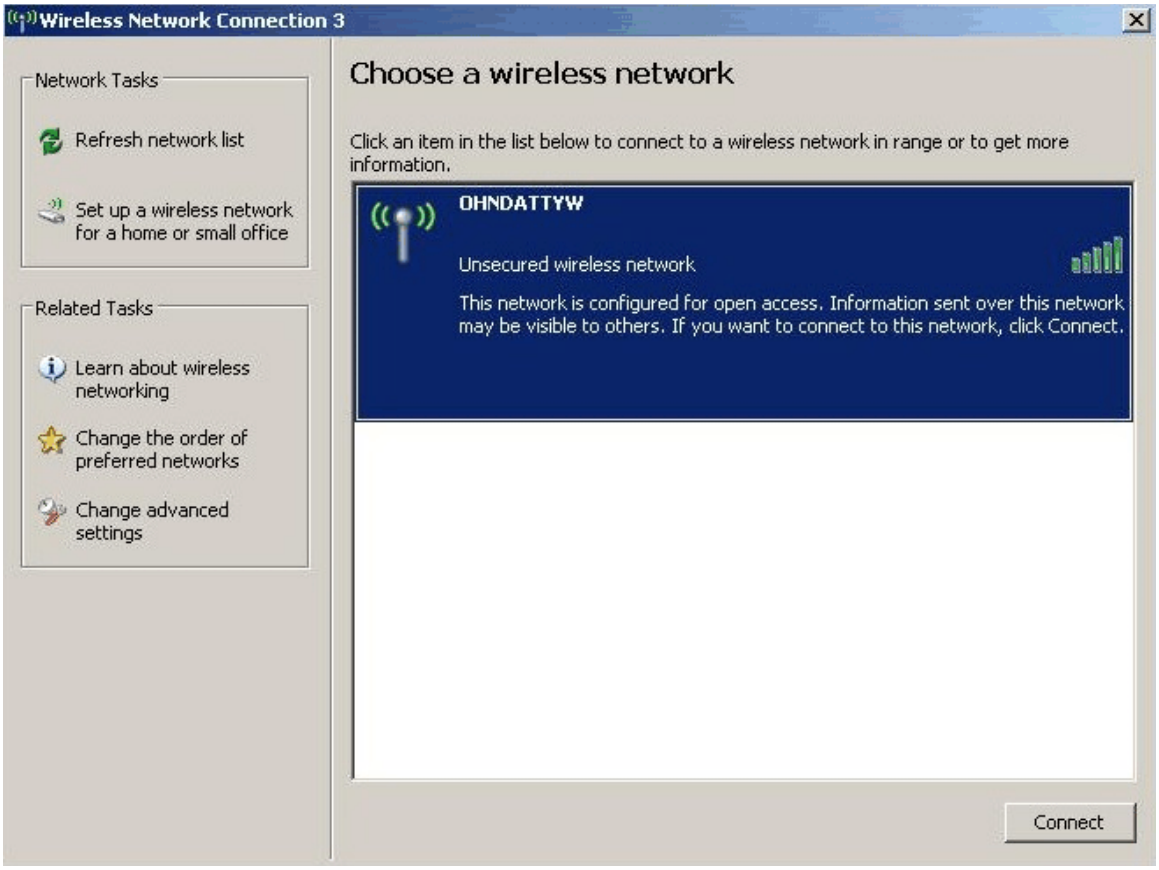
Connecting to OHND Attorney Wireless Network

Wireless Internet access from the courtroom is a convenient means of staying connected or perhaps displaying the contents of a web page to the courtroom during a proceeding. You must be admitted to practice before the court in the Northern District of Ohio to be granted a username and password. A sample application form can be found at the end of this document to familiarize you with the information required. Complete the application form in person at the intake window of the Clerk's office to obtain a username and password. The following instructions assume you are using Windows XP and are familiar with Internet Explorer and have a working Wi-Fi adaptor card in your laptop.

Please use the following steps to connect:

1. Right-click the network connection icon in the notification area on the taskbar, and then click View Available Wireless Networks.

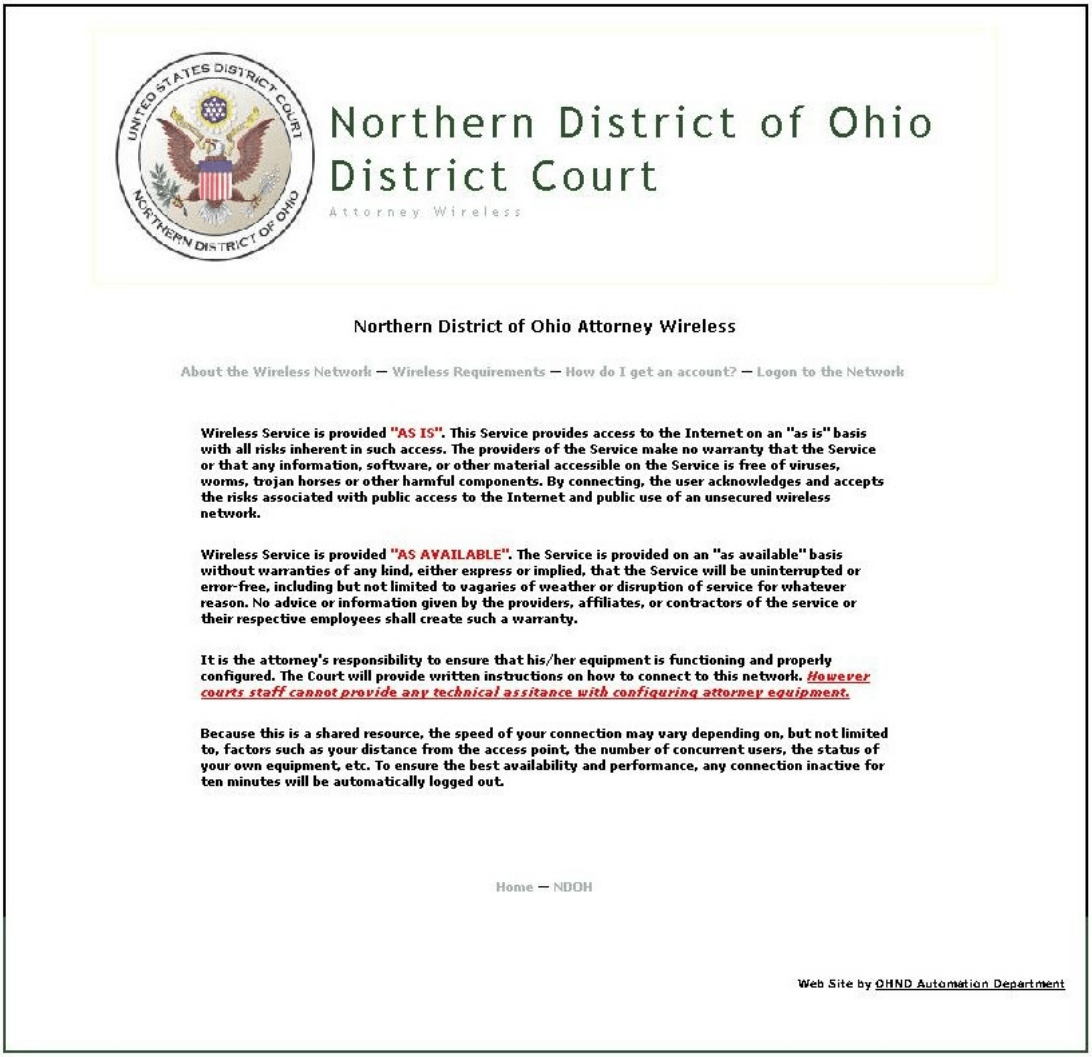
2. Under “Choose a wireless network”, click OHNDATTYW and then connect.



3. After you have successfully connected to the wireless network, a notification window will pop up notifying you of your new wireless connection.

4. Next Click on the Internet Explorer Icon to launch Internet Explorer

5. Once Internet Explorer is opened the OHND Attorney wireless page will be displayed.



Northern District of Ohio
District Court
Attorney Wireless

Northern District of Ohio Attorney Wireless

About the Wireless Network — Wireless Requirements — How do I get an account? — Logon to the Network

Wireless Service is provided "AS IS". This Service provides access to the Internet on an "as is" basis with all risks inherent in such access. The providers of the Service make no warranty that the Service or that any information, software, or other material accessible on the Service is free of viruses, worms, trojan horses or other harmful components. By connecting, the user acknowledges and accepts the risks associated with public access to the Internet and public use of an unsecured wireless network.

Wireless Service is provided "AS AVAILABLE". The Service is provided on an "as available" basis without warranties of any kind, either express or implied, that the Service will be uninterrupted or error-free, including but not limited to vagaries of weather or disruption of service for whatever reason. No advice or information given by the providers, affiliates, or contractors of the service or their respective employees shall create such a warranty.

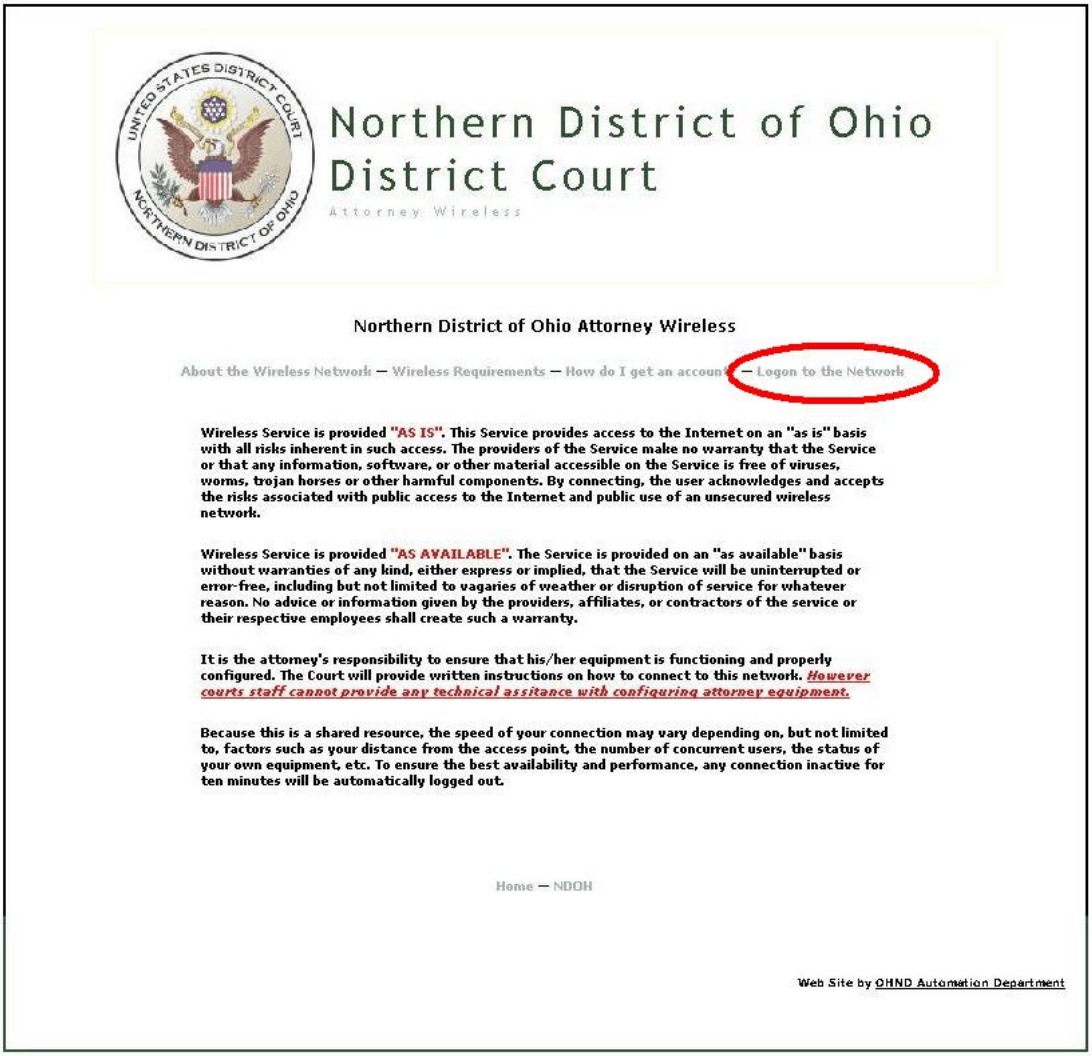
It is the attorney's responsibility to ensure that his/her equipment is functioning and properly configured. The Court will provide written instructions on how to connect to this network. *However courts staff cannot provide any technical assitance with configuring attorney equipment.*

Because this is a shared resource, the speed of your connection may vary depending on, but not limited to, factors such as your distance from the access point, the number of concurrent users, the status of your own equipment, etc. To ensure the best availability and performance, any connection inactive for ten minutes will be automatically logged out.

Home — NDOH

Web Site by OHND Automation Department

6. Next click the link to Logon to the Network.



Northern District of Ohio District Court

Attorney Wireless

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About the Wireless Network — Wireless Requirements — How do I get an account — Logon to the Network

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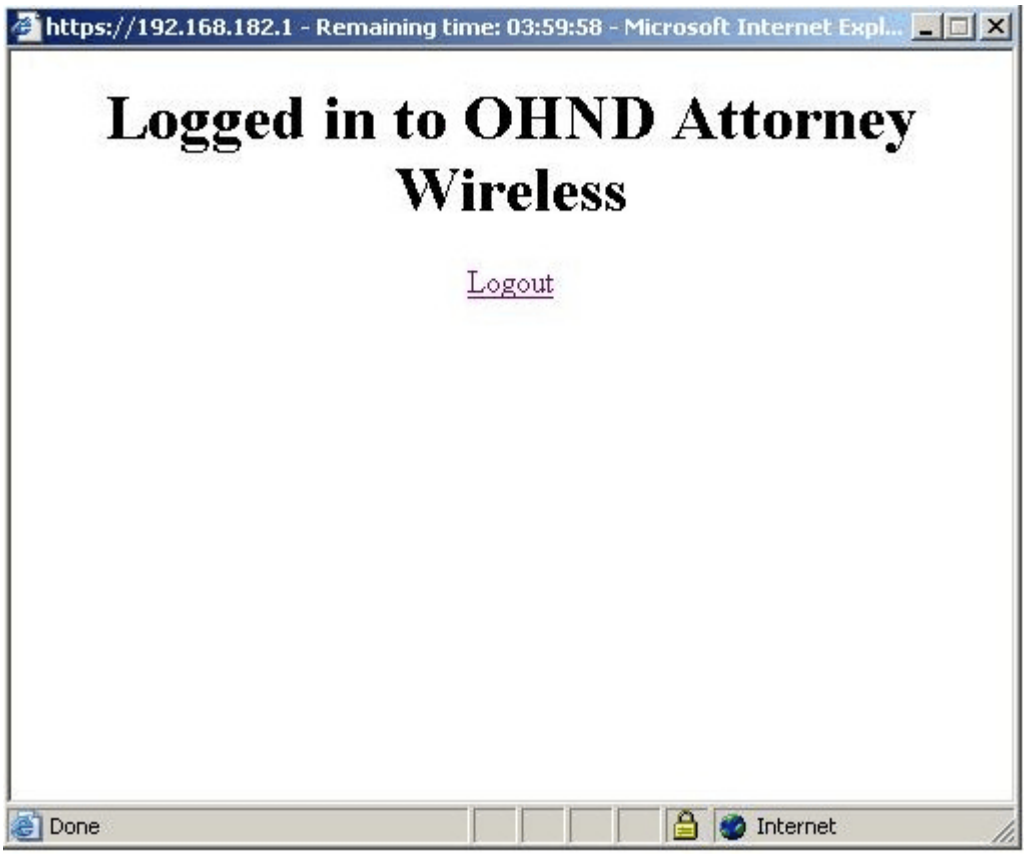
Home — NDOH

Web Site by OHND Automation Department

7. You will then be prompted for your username and password. Enter the username and password given to you by the U.S District Court.

ATTORNEY WIRLESS

8. Once you have logged on a window will pop up displaying that you are connected to the OHND Attorney wireless network. Please **DO NOT** close this window.



9. You can now surf the web or connect to your office VPN.

OHND Attorney Wireless Troubleshooting Tips

If you are having problems connecting to the wireless network, please check the following items:

1. Is your wireless card properly inserted? Ensure that your Network Interface Card (NIC) is properly inserted into the PCMCIA slot. When the operating system is running, the LEDs on the NIC should be on or blinking.

2. Is your wireless card turned on? Most cards can be turned off to conserve battery power. Use the software that came with your network card to verify the card is turned on.

3. Do you have the right type of wireless adapter? The OHND Attorney wireless network uses 802.11b/g standards. While 802.11b is slower than 802.11g (11 Mbps versus 54 Mbps), both work with the OHND system. Other wireless standards (e.g. 802.11a) will not work.

4. Are you using the latest drivers for the wireless card? Please check your wireless card manufacturer's website to see if there is updated software for your wireless card.

5. Are you using a firewall? Verify that it is not blocking wireless access. Disable all firewalls (Symantec Client Security, Windows Firewall, Zone alarm, etc.).

6. Do you have Pop-Up blocking enabled? Disable pop-up blockers within Internet Explorer.

7. Is your battery charged? Weak batteries can make the wireless connection unreliable. If you suspect low power, configure and connect while your laptop is plugged into a power outlet.

United States District Court
Northern District of Ohio

Attorney Wi-Fi Registration

The U.S District Court for the Northern District of Ohio is pleased to provide wireless internet access to attorneys admitted to practice in the district at all court locations. This form must be completed by all attorneys registering for use of Attorney Wi-Fi access. By signing below, you acknowledge that the Attorney Wi-Fi network is a shared network for use by attorneys of this District and that communications that take place on this network are not secured by the Court. You further agree to abide by all usage requirements as stated on the Attorney Wi-Fi Network login screen.

First Name:	Middle Initial	Bar ID No.:
Last Name:		E-mail Address:
Street Address:		City, State, ZIP Code
Telephone Number:		Assigned User Name: **«Username»**
Signature:	Date	Assigned Password: **«Password»**

Clerks Office Copy

Attorney Copy - Please retain for your records

United States District Court
Northern District of Ohio

Attorney Wi-Fi Registration

Assigned User Name: **«Username»**	Assigned Password: **«Password»**

Use of the network requires a laptop computer with 802.11b, g, or n wireless access capability. The network will appear on a wireless-equipped laptop as "**ohndattyw**". Users can connect to this network and then open their Internet browser. The browser will be redirected to a login site where they can enter their account information and then connect to the Internet for access to CM/ECF, legal research, law firm VPNs (virtual private networks) or other litigation-related Internet resources. Access is available in courtrooms, the library and the attorney lounge. This Service provides access to the Internet on an '**as is**' basis with all risks inherent in such access. The Service is provided on an '**as available**' basis without warranties of any kind. **DO NOT** share your username and password.