

GENERAL ORDER NO. 94-01

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

Motions Control Program            )  
for the Northern District         )     ORDER NO. 94-01  
of Ohio                                )

The Northern District of Ohio, pursuant to a vote of the majority of the judges of this Court and in response to the mandate of the Sixth Circuit Judicial Council adopted at its November 1, 1993 meeting in which it stated:

As the minutes of the November 1, 1993 meeting of the Sixth Circuit Judicial Council indicate, the Council considered the summary report on motions and bench trials pending over six months for the semi-annual period ending September 30, 1993. In response to the figures contained in the summary report on motions, the following motion was adopted by majority vote of the Council:

(1) that the Council establish a goal that no district judge should have more than 20 motions under advisement for more than six months by the end of the next semi-annual reporting period on March 31, 1994;

(2) that in order to achieve the goal, the council should authorize the chief judge of each district to monitor the motions docket of each district judge within the district and to implement a motions control program to effectively manage the motions docket; and

(3) that each chief district judge should report to the council by June 30, 1994 on steps taken to implement the motions control program and to achieve the goal.

The Court hereby adopts the following plan to achieve the goal.

1. The clerk of this Court is directed to supply each judge with respect to his or her docket by the 10th day of the month, a list of all cases on that judge's docket in which dispositive and non-dispositive motions have been "pending"<sup>1</sup> 30 days after the date of filing as of the last day of the preceding month. The list shall state the number of days the motion has been pending. In the event the judge disagrees with the accuracy of the report, the courtroom deputy clerk shall provide the docket clerk supervisor with written notice of the discrepancy. The lists provided to each judge and magistrate judge shall also be provided to the chief judge.

2. The list shall identify those cases with dispositive and non-dispositive motions pending for more than 30 days that have been referred to a magistrate judge and shall identify the magistrate judge.

3. In those cases where a dispositive motion has been pending in excess of 120 days, the judge or magistrate judge to whom the case is assigned shall provide the chief judge of this Court a written report by the 15th day of the month indicating the status of the case with an estimate of when the judge or magistrate judge expects to resolve the motion by

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For Civil Justice Reform Act reporting purposes, "pending" is defined as "30 days after the date of filing."

either a dispositive ruling or, in the case of a magistrate judge to whom the case has been referred for a Report and Recommendation, when the R & R will be filed.

4. The judge shall also advise the chief judge whether he or she needs assistance due to other demands of the Court's docket or for any other just reason.

5. In those cases where a judge or magistrate judge certifies that he or she needs assistance, the chief judge shall first determine if another judge or magistrate judge of this district has the time and energy to assist the certifying judge or magistrate judge. In the event the chief judge is unable to find another judge or magistrate judge to assist the certifying judicial officer, the chief judge shall notify the chief judge of the Circuit and request the assignment of a judge or judges to assist the certifying judge.

6. In the event the above procedures for providing District or Circuit assistance fails to achieve compliance with the Circuit Council resolution, the chief judge, upon concurrence of a majority of the judges of the Court, shall reassign such number of motions and/or cases from the docket of the judge as may be necessary to achieve compliance with the Circuit Council resolution.

7. In order to expedite the resolution of dispositive motions, the following procedures shall apply:

A. Dispositive Motion Practice Involving Oral Argument

In those cases in which a summary judgment motion has

been pending for more than 90 days, the judge or magistrate judge shall consider scheduling the case for oral argument within the next 30 days. When oral argument is scheduled, and unless otherwise ordered, the following procedure shall apply:

- (i) The clerk will notify counsel of record as to the date for the oral argument.
- (ii) The moving party shall file a certificate at least five working days before the hearing declaring that there is no genuine issue as to any material fact. Failure to file the certificate will constitute just cause for denying the motion.
- (iii) The party opposing the motion for summary judgment shall file a certificate within three working days of the oral hearing identifying the genuine issues as to any material fact and identify the documents in the record in the context of Fed. R. Civ. P. 56(e) that support the claim of a material fact in dispute.
- (iv) In those cases where the parties agree that there is no genuine issue as to any material fact, but rather that the issue is one of law on the undisputed facts, the parties shall file a certificate summarizing the undisputed facts and identify the questions of law. That certificate shall be filed at least three working days before the scheduled hearing. Failure to comply with the

provisions of paragraph seven of this order will be deemed sanctionable at the discretion of the Court.

B. Dispositive Motion Memoranda Page Limits As Established by Local Rule 8:8.1(f).

- (i) In recognition of the increasing tendency of the parties to file briefs in support of and in opposition to dispositive motions that exceed the page limits established by Local Rule 8:8.1(f), every memoranda related to a dispositive motion shall be accompanied by an affidavit specifying the track, if any, to which the case has been assigned and a statement certifying that the memoranda adheres to the page limitations set forth in Local Rule 8:8.1(f). In the event that the page limitations have been modified by order of the judicial officer, a statement to that effect shall be included in the affidavit along with a statement that the memoranda complies with those modifications. Failure to comply with these provisions may be sanctionable at the discretion of the Court.

C. The Duty of the Court Reporter to File a Transcript of the Court's Oral Ruling Resolving a Dispositive Motion.

- (i) The Court recognizes that an impediment to a prompt resolution of dispositive motions is the preference of the judges of the Sixth Circuit for a written opinion that sets forth the Court's

reasoning when it grants the dispositive motion so as to assist in appellate review. The Court also recognizes that a written opinion where the motion is denied is of assistance to the parties. However, the Northern District of Ohio is faced with a judicial emergency that has lasted for approximately 18 months in that there are only seven active judges in the Northern District of Ohio despite the Congressional mandate for 12 active judges.

- (ii) In order to expedite the resolution of dispositive motions, the Court has previously adopted Local Rule 8:8.1 and Local Rule 8:8.3(a) which provides a streamlined approach to oral hearings by permitting the judicial officer to announce a preliminary ruling and rationale or grounds for such a decision and limiting the oral argument to the reasons why the preliminary ruling is correct or incorrect. Whenever the Court announces a decision on such a motion from the bench, a brief order or marginal entry shall issue. The court reporter is directed to prepare and file a transcript of the Court's announcement of its oral decision within 30 days of the decision.
- (iii) The clerk is directed to monitor the production of transcripts and report to the chief judge those cases where the assigned court reporter has failed

to prepare and file the transcript within 30 days.  
IT IS SO ORDERED.

FOR THE COURT

Thomas D. Lambros  
Chief Judge  
United States District Court

AMENDED GENERAL ORDER NO. 94-01

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

Amended-Motions Control Program        )  
for the Northern District                )       ORDER NO. 94-01  
of Ohio                                    )

At the regular monthly meeting of judges on December 6, 1994, it was agreed that Administrative Order 94-01 is amended to the extent that the clerk is now required to compile the list of cases in which motions have been pending 30 days or longer on a quarterly, rather than a monthly, basis. This action was taken in recognition of the reduction in the number of long pending motions achieved in this district during the past year and in order to reduce the demands on computer resources and to avoid duplication of effort in monitoring the status of pending motions.

IT IS SO ORDERED.

FOR THE COURT

Thomas D. Lambros  
Chief Judge  
United States District Court

SECOND AMENDED GENERAL ORDER NO. 94-01

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

MOTIONS CONTROL PROGRAM ) SECOND AMENDED  
FOR THE NORTHERN DISTRICT ) GENERAL ORDER NO. 94-01  
OF OHIO )

The Motions Control Program for the Northern District of Ohio was adopted in response to the mandate of the Sixth Circuit Judicial Council to manage the pending motions docket.

Amended General Order No. 94-01, requires the Clerk to compile a list of cases in which motions have been pending 30 days or longer on a quarterly basis, reducing the frequency from a monthly basis as required in General Order No. 94-01. This reduction was taken in recognition of the reduction in the number of long pending motions as well as to reduce the demands on computer resources and to avoid duplication of effort in monitoring the status of pending motions. In light of the continuing reduction in the number of long pending motions, effective immediately, the Clerk's Office is no longer required to produce the quarterly pending motions report.

IT IS SO ORDERED.

For the Court

George W. White  
Chief Judge  
United States District Court