

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

UNITED STATES OF AMERICA,        )    Case No. \_\_\_\_\_-  
    )  
Plaintiff,                        )    Judge J. Philip Calabrese  
    )  
v.                                    )  
    )  
DEFENDANT,                        )  
    )  
Defendant.                        )  
    )

**CRIMINAL PRETRIAL AND TRIAL ORDER**

On [DATE], the Court conducted a pretrial conference attended by Assistant United States Attorney [NAME] and [NAME], counsel for Defendant. Based on the discussions at that conference, the Court continued the conference sets the following schedule and enters this order. Additional pretrial hearings may be scheduled as needed.

**SUMMARY OF DEADLINES**

This order sets the following deadlines:

Enhancement Deadline: [DATE].

Discovery Deadline: [DATE].

Pretrial Motion Deadline: [DATE].

Response to Pretrial Motions Due: [DATE].

Expert Disclosures: [DATE].

Witness and Exhibit Lists, Any Jury Questionnaire Due: [DATE].

Final Pretrial Conference: [DATE].

Deadline for Trial Documents, Trial Briefs, and Stipulations: [DATE].

Objections to Witnesses and Exhibits: [DATE].

Exhibits: [DATE] by 12:00 pm.

Trial: [DATE] at 8:30 am.

### **APPEARANCES, DEADLINES, AND CONTINUANCES**

Lead counsel must be present at all proceedings unless excused by the Court on written motion. Defendant must be present for the final pretrial conference and trial.

Consistent with Rule 45(b), the Court will not extend any deadline set forth in this order or in the Federal Rules of Criminal Procedure absent a showing of good cause made on motion sufficiently in advance of the deadline or a showing of excusable neglect on a motion made after the deadline.

The Court will not continue a trial or hearing without a written motion stating the reason for the request. A motion for continuance due to a conflict of trial assignment dates will not be considered unless the conflicting assignment is adequately described in the motion, including the name of the case, its number, and the trial judge. The motion shall be filed and served within fifteen (15) days after counsel becomes aware of the conflict, and not less than thirty (30) days before trial in this case.

The Court will *not* entertain a motion to continue a hearing or to change its format on the day of the hearing absent extraordinary circumstances. Even then, the

Court may require the party belatedly requesting a continuance to bear any unavoidable costs.

### **TRIAL DATE**

This case is scheduled for trial on [DATE] at 8:30 a.m. in Courtroom 16-B, Carl B. Stokes United States Courthouse, 801 West Superior Avenue, Cleveland, Ohio. Counsel must appear at 8:15 a.m. on the morning of trial. The Court will not continue the trial date absent a showing of good cause made in compliance with the procedures set forth in this order. In addition, any motion for a change of the trial date shall be in writing, shall be made at least two (2) days before the final pretrial conference, and shall set forth those factors listed in 18 U.S.C. § 3161(h)(7)(B) which the movant contends support the motion.

### **FINAL PRETRIAL CONFERENCE**

The final pretrial conference/change of plea hearing is scheduled for [DATE] at 9:30 am in Courtroom 16-B, Carl B. Stokes United States Courthouse, 801 West Superior Avenue, Cleveland, Ohio. All trial counsel must be present at the final pretrial conference. Additionally, the Defendant must be present as well unless the Court orders otherwise.

### **DOCUMENTS FOR THE FINAL PRETRIAL CONFERENCE**

Unless otherwise ordered, the following documents are to be submitted to the Court and served not later than 4:00 pm seven (7) days before the final pretrial conference:

1. *Witness Lists.*

Counsel shall exchange (not file) witness lists. The witness lists shall provide a brief description and the purpose of each witness to be offered. Each attorney shall have a continuing obligation to supplement the party's witness list immediately upon learning of any additional witness.

1.A. *Guidelines for Witness Testimony.*

Before any witness, including an expert, testifies at trial, counsel for the party calling the witness must supply the Court with a signed copy of the Court's Guidelines for Witness Testimony (attached) or otherwise certify that counsel has reviewed the Guidelines with the witness.

1.B. *Witnesses Appearing by Videoconference.*

Witness testimony may be offered during trial via video conference technology. Docketed notice must be given of intent to call a witness via video conference at least one (1) week prior to the start of trial. It is counsel's responsibility to find a location for the witness to receive a video conference call from the Court during trial. Counsel is required to work with the Court's IT Department and courtroom deputy in advance of trial to test the technology and ensure the video conference communication works in the courtroom. It is also counsel's responsibility to ensure that the witness, the Court, and opposing counsel have all necessary exhibits. Counsel must be prepared to assure the Court that the witness is who the witness claims to be.

2. *Exhibit Lists.*

Counsel shall exchange lists of the particular exhibits the party intends to proffer in its case-in-chief. A generalized identification or description of exhibits does not suffice. Copies of the exhibits do not need to be provided to the Court at this time. The timing and format for providing exhibits to the Court are set forth below.

**DISCOVERY AND INSPECTION**

Counsel for Defendant is directed to contact promptly the Assistant United States Attorney in charge of the prosecution of this case, if prior contact has not already been made, and arrange a meeting for the purpose of resolving all requests for discovery provided for under the Federal Rules of Criminal Procedure, including Rule 16, and by law. *See, e.g., Brady v. Maryland*, 373 U.S. 83 (1963). This discovery meeting shall be held as promptly as possible. Upon request for discovery by counsel for Defendant, the United States shall disclose discoverable information under the terms and conditions of Rule 16(a). The United States shall provide a response within one (1) week of receiving Defendant's request and no later than the deadline ordered by the Court.

Discovery shall be completed on or before [DATE]. To the greatest extent practicable, pursuant to Rule 16(d), the Court directs counsel to identify documents or information provided in discovery the party intends to use in its case-in-chief. If at any time during the course of these proceedings any party fails to comply with Rule 16, such failure shall be brought to the Court's attention by a motion to compel

discovery. Motions to compel discovery shall be filed no later than one (1) week from the date of a party's denial of or failure to respond to the request.

Requests for discovery shall be docketed as notices. Only when the Court's intervention is required shall a request for discovery be docketed as a motion.

### ***BRADY INFORMATION AND IN CAMERA REVIEW***

Pursuant to the Due Process Protections Act and *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny, the United States has a continuing obligation to produce all evidence favorable to Defendant and material to Defendant's guilt or punishment. *See id.* at 87 (holding that due process requires disclosure of "evidence [that] is material either to guilt or to punishment" upon request); *Kyles v. Whitley*, 514 U.S. 419, 437–38 (1995) (holding that the obligation to disclose includes producing evidence "known only to police investigators and not to the prosecutor" and that "the individual prosecutor has a duty to learn of any favorable evidence known to others acting on the government's behalf . . . , including the police"); *United States v. Agurs*, 427 U.S. 97, 107 (1976) (holding that the duty to disclose exculpatory evidence applies even when there has been no request by the accused); *Giglio v. United States*, 405 U.S. 150, 153–55 (1972) (holding that *Brady* encompasses impeachment evidence); *see also* Fed. R. Crim. P. 16(a) (outlining information subject to government disclosure). Where doubt exists as to the usefulness of the evidence to Defendant, the United States must resolve any such doubts in favor of full disclosure. *See, e.g.*, *United States v. Safavian*, 233 F.R.D. 12, 17 (D.D.C. 2005); *United States v. Carter*, 313 F. Supp. 2d 921, 925 (E.D. Wis. 2004) (citations omitted).

Accordingly, the Court, *sua sponte*, directs the United States to produce to Defendant in a timely manner any evidence and information in its possession that is favorable to Defendant and material either to Defendant's guilt or punishment. This responsibility includes producing, during plea negotiations, any exculpatory evidence or information in the possession of the United States. The Court directs the United States, on Defendant's request, to identify *Brady* material within the discovery provided.

The United States is further directed to produce all discoverable evidence and information in a readily usable form. For example, the United States must produce documents as they are kept in the usual course of business or must organize and label them clearly. The United States must also produce electronically stored information in a form in which it is ordinarily maintained unless the form is not readily usable, in which case the United States is directed to produce it in a readily usable form. If the information already exists or was memorialized in a tangible format, such as a document or recording, the information shall be produced in that format. If the information does not exist in such a format and, as a result, the United States is providing the information in a summary format, the summary must include sufficient detail and specificity to enable the defense to assess its relevance and potential usefulness.

Finally, if the United States has identified any information which is favorable to Defendant but which the United States believes not to be material, the United States shall submit such information to the Court for *in camera* review. Additionally,

to the extent the United States has any question about whether any information or evidence is subject to disclosure, it shall submit such information to the Court for *in camera* review.

Failure to comply with these obligations in a timely manner may result in consequences including dismissal of the charges, exclusion of witnesses or evidence, evidentiary sanctions, a continuance of the trial date, adverse jury instructions, the reversal of any conviction, sanctions against those responsible for the failure, contempt proceedings, or any other remedy that is just under the circumstances.

### **EXPERT DISCLOSURES**

The deadline for the United States to make the expert disclosures under Rule 16(a)(1)(G), including the information identified in Rule 16(a)(1)(G)(iii), shall be [DATE].

The deadline for Defendant to make any expert disclosures under Rule 16(b)(1)(C), including the information identified in Rule 16(b)(1)(C)(iii), shall be [DATE].

### **PRETRIAL MOTIONS**

Pretrial motions shall be filed on or before [DATE—2 weeks before FPT]. All pretrial motions shall state the basis for the motion, identify the authorities on which the movant relies, and otherwise comply with Local Rule 12.1. The Court's practice is to schedule a hearing on substantive motions (those brought under Rule 12(b)(2) or (3)) absent extraordinary reasons not to do so. Responses to pretrial motions shall be filed by [DATE—1 week before FPT].

## **RESPONDING TO MOTIONS**

Unless the Court sets another deadline, the deadline to respond to any motion is seven (7) days after the motion is filed. To the greatest extent possible, before filing any motion, counsel shall confer and represent whether the motion is opposed.

## **ENHANCEMENTS**

Before seeking an enhanced sentence or other increased punishment due to a prior conviction, in accordance with 21 U.S.C. § 851, or any other relevant enhancement provision, the Assistant United States Attorney must file a notice no later than [DATE].

## **MOTIONS TO TRAVEL**

Motions to travel that are filed within 48 hours of the requested travel will be denied absent proof of an emergency. Motions must indicate whether the Assistant United States Attorney objects or explain why the Assistant United States Attorney has not been consulted.

## **CHANGE OF PLEA**

Plea discussions between the Assistant United States Attorney and the attorney for Defendant shall be commenced as soon as practicable. The parties shall notify the Court promptly if a plea agreement is reached by filing a notice of intent, and the Court will schedule a change of plea hearing. A copy of the plea agreement, if any, should be provided to the Court sufficiently in advance of the change of plea hearing (generally seven (7) days, absent good cause), via email to [Calabrese](mailto:Calabrese_Chambers@ohnd.uscourts.gov) [Chambers@ohnd.uscourts.gov](mailto:Chambers@ohnd.uscourts.gov).

General Order No. 93-02 of the United States District Court for the Northern District of Ohio, adopted May 25, 1993, at 4 (Jury Utilization Management Plan), provides that “plea negotiations must be completed by a date certain in advance of the scheduled trial.” Accordingly, the Court will rarely accept a plea agreement submitted later than one week before the trial date. If the Court does accept such a plea on the day of trial, for good cause shown, the costs for summoning jurors for one (1) day of service shall be assessed equally against the United States and Defendant(s), if a jury has been summoned, unless the parties agree to a different arrangement or there is good cause to waive or modify this provision.

### **ELECTRONIC FILING**

Counsel are advised that all documents, notices, and orders in this matter shall be filed electronically rather than on paper, except as provided for in the Electronic Filing Policies and Procedures Manual, which governs electronic filing in the Northern District of Ohio and also provides helpful information on system requirements and usage. The manual can be accessed [here](#) and other important information on electronic filing may be found [here](#) on the Northern District of Ohio’s website. Electronically filed documents should be in a text-searchable format. If you have questions about electronic filing, please call any Northern District of Ohio Clerk’s Office or the CM/ECF Help Desk at (800) 355-8498.

Notice of filings is sent electronically. It is the responsibility of each counsel of record to set up a user e-mail account to receive e-mail notifications and to check that e-mail account on a regular and timely basis.

## TRIAL DOCUMENTS

Unless otherwise ordered, the following trial documents are to be submitted to the Court electronically not later than 4:00 p.m. ten (10) days before the trial date:

1. *Preliminary Statement.*

Counsel for the parties shall confer in person and agree on a concise written statement describing the case in an impartial, easily understood manner and submit it to the Court to be read to the jury panel before voir dire. This statement will be used to set the context of the trial for the jury.

2. *Voir Dire, Jury Instructions, Jury Interrogatories, and Verdict Forms.*

Counsel for the parties shall jointly submit written voir dire questions (beyond the general voir dire the Court will conduct), jury instructions (for the specific charges and facts in the case), any jury interrogatories, and verdict forms for the Court's consideration. Counsel should confer in person and, to the extent possible, agree on a complete set of these materials. Counsel may separately submit disputed proposed questions for voir dire, jury instructions, jury interrogatories, and verdict forms to the Court and opposing counsel, supported by legal authority. The Court will reject any proposed questions, instructions, interrogatories, and verdict forms that are not supported with citation to sound legal authority.

Ultimately, a single joint submission of jury instructions, jury interrogatories, and verdict forms shall be filed, providing: (a) agreed upon instructions; (b) instructions proposed by the United States, but opposed by Defendant; and

(c) instructions proposed by Defendant, but opposed by the United States. All proposed instructions shall be supported by citations to legal authority.

Supplemental requests for instructions during the course of the trial or at the conclusion of the evidence will be granted solely as to those matters that cannot be reasonably anticipated when presenting the initial set of instructions. Copies also should be served upon opposing counsel.

3. *Stipulations.*

Counsel for the parties shall confer in person and agree on stipulations and reduce them to writing. Stipulations of fact are strongly encouraged to eliminate the need for testimony of witnesses to facts which are not in dispute. The Court expects that the parties will stipulate to authenticity, absent a genuine dispute on the issue. Stipulations shall be signed by counsel and Defendant(s) and submitted to the Court.

4. *Trial Briefs.*

Counsel for the parties shall submit to the Court, *ex parte* if necessary, trial briefs providing appropriate memoranda, supported by legal authority, regarding evidentiary questions and any other legal issues which may reasonably be anticipated to arise at trial. A complete trial brief includes: (a) a statement of the facts; (b) a complete discussion of the controlling law with specific citations of statutes and case law; and (c) a discussion of any evidentiary issues likely to arise at trial, with discussion of the rules and case law applicable to the evidentiary issues.

## TRIAL EXHIBITS

All exhibits must be marked before trial in accordance with Local Rule 23.2, except that all parties shall label their exhibits with numbers. The Court does not require binders containing hard copies of exhibits, absent a specific request. The Court will not allow exhibits to be shown to the jury during trial except as set forth in this order. Exhibits not identified and exchanged before trial shall not be introduced at trial, absent a showing of good cause. This rule applies to lay and expert witnesses.

The Court uses technological means to facilitate the viewing of exhibits by jurors. Each party must submit all exhibits on a single storage device such as a CD, DVD, or USB drive. A separate CD, DVD, or USB drive should be provided for the United States' Exhibits, Defendant's Exhibits, and any Joint Exhibits. Each party must send the exhibits to chambers in a manner that guarantees their receipt no later than 12:00 p.m. on Friday before trial commences.

The electronic copies of exhibits must be named using a naming convention similar to: <exhibit number>-<exhibit part>\_<exhibit description>.<file extension>. The exhibit number must be a number. Exhibits with subparts can be so designated using a letter for the exhibit part. The use of the underscore character is required when an optional description of the exhibit is included and cannot be used elsewhere in the exhibit name.

Examples of valid exhibit file names include:

1-a\_photograph.jpg

12\_2009 Tax Statement.pdf

35d.pdf

12(a)\_camera footage.wmv

Any questions regarding the naming conventions for the electronically stored exhibits should be directed to James Jones at (216) 357-7052.

To maintain consistency between the electronic and the paper exhibits, both parties shall label their exhibits with numbers. Counsel shall mark all exhibits before trial with official or similar stickers. Exhibits shall be labeled with the party followed by the exhibit number (e.g., "USA 1" or "Def 2"). The case number shall also appear on the stickers. Whenever a multi-page exhibit is used, each page of the exhibit must be separately numbered. For example, if the United States' Exhibit 1 is a three-page document, the first page should be marked as USA 1-1, the second page marked USA 1-2, etc. If there are multiple defendants, the party's last name should precede the numbers or letters (e.g., "Def. Jones-1001"). Exhibit stickers are available from the Clerk on request.

## **DEMONSTRATIVE EVIDENCE AND EXHIBITS**

If demonstrative evidence and exhibits such as models, sketches, or PowerPoint slides will be used at trial, counsel shall exchange them no later than two (2) business days before the trial date.

Counsel shall also exchange any PowerPoint slides or the like intended for use in opening statements no later than three (3) business days before the trial date. If counsel are unable to resolve any dispute about the use of PowerPoint slides or

demonstrative exhibits, they must advise the Court no later than the close of business one (1) business day before trial. Failure to do so will result in the Court allowing the parties to use any properly exchanged demonstratives in opening statement without objection. Similarly, with respect to closing arguments, counsel must exchange any PowerPoint slides or the like as soon as practicable and before beginning closing arguments. Failure to advise the Court of any dispute about the use of PowerPoint slides or demonstrative exhibits before a closing argument begins will result in the Court allowing their use without objection.

### **VOIR DIRE**

Voir dire of the entire panel, including those seated in the gallery, will be conducted at one time. The Court will conduct a preliminary voir dire addressed to general matters and the specific issues in the case. Counsel may briefly question the panel to supplement the Court's examination. However, counsel may not repeat the Court's questions.

If counsel prefer the Court ask specific questions for any reason, they may supply them to the Court no later than three (3) business days before trial.

#### *Challenges.*

Challenges for cause and peremptory challenges will be heard outside the panel's presence. First, the Court will consider challenges for cause. Then, the Court will consider peremptory challenges. The entire panel (*i.e.*, prospective jurors seated in the jury box and in the gallery in the back of the courtroom) shall be challenged for cause and peremptorily challenged in a continuous sequence without reseating

prospective jurors. It is counsel's responsibility to determine the current makeup of the jury by reference to the seating plan.

Each party will exercise a peremptory challenge in alternating sequence beginning with the United States. If either party passes or declines to exercise a peremptory challenge, that challenge is considered used. Following selection of the twelve members of the jury, the parties will then proceed to exercise any peremptory challenges on the alternates in the same manner.

## **OTHER TRIAL MATTERS**

The Court permits jurors to take notes and to ask questions of witnesses after the conclusion of the parties' examination. The Court will discuss any questions with counsel at side bar before asking any question of the witness. Counsel may conduct follow-up examination limited to a witness' answers to the jury's questions. At the next break, the Court will make a record regarding the questions and any objections.

1. *Objections to Witnesses and Exhibits.*

Any objections to a proposed witness or exhibit shall be filed and served no later than 12:00 pm one (1) business day before the trial. Such objections shall include a brief statement why the proposed witness or exhibit should not be permitted or admitted, as well as specific citations to pertinent case law or other legal authority.

2. *Jencks and Reciprocal Jencks Material.*

Unless there is a well-founded concern for the safety of the witness, the Court strongly encourages the parties to provide *Jencks* and reciprocal *Jencks* material as

early as possible and, if not before the final pretrial conference, no later than the close of proceedings the day before the witness is expected to testify.

3. *Motions in Limine, Daubert Motions, and Other Evidentiary Matters.*

Counsel shall include in their trial brief citations in support of any request to exclude evidence. Any motion *in limine* must contain a certification that, after the parties conferred in good faith, they have a dispute over the subject of the motion that requires a pretrial ruling from the Court.

If the qualifications of an expert witness are being challenged, the Court will conduct a *Daubert* hearing before trial. The Court expects counsel to submit thorough briefs and/or a voir dire of the expert's testimony so that the Court has sufficient evidence to perform its gatekeeping function of ensuring that the expert's testimony is reliable, relevant, and fits the facts of the case.

The Court will not hold conferences at side bar or in chambers during trial to consider legal issues, including evidentiary rulings, that could have been raised before trial without a showing that counsel could not, by the exercise of due diligence, have anticipated them in advance of trial.

In cases involving multiple Defendants, the Court will treat an objection by one Defendant as an objection by all Defendants.

## **TRIAL CONDUCT AND PROCEDURE**

Trial will begin promptly each day by 8:30 a.m. and adjourn around 5:00 p.m., with one break in the morning, a lunch break, and one break in the afternoon. At the

final pretrial conference, the Court will discuss any variance to this schedule based on the anticipated length of the trial.

Counsel should arrive 30 minutes prior to the start of a day in trial. When counsel and the jurors are assembled, trial may start early.

When appearing in this Court, all counsel (including, where the context applies, all persons at counsel table) shall abide by the following:

1. Stand as court is opened, recessed, or adjourned.
2. Stand when the jury enters or retires from the courtroom.
3. For the benefit of the court reporter, remain seated at counsel table when addressing the Court and speak directly into the microphones.
4. Use the lectern facing the jury for voir dire, opening statement, and closing argument.
5. When making an objection, state the legal basis for the objection only in a word or two. For example, a proper objection is “Objection, 403” or “Objection, leading.” If the Court requests a response, be brief without making a speech. Objections may not be used to make speeches, repeat testimony, or attempt to guide a witness or to influence the jury. If it is critical to the case that counsel be heard in more detail immediately, counsel may request a sidebar to explain the basis for an objection. Otherwise, counsel may make a record regarding the objection at the next break.
6. Request permission before approaching a witness. When permission is granted for the purpose of working with an exhibit, counsel should return to the

lectern when finished with the exhibit. Counsel should use the lectern to examine a witness but may move within the well of the courtroom within reason.

7. Counsel may not interrupt a witness. Counsel will wait until the witness has finished answering before asking the next question.

8. Address all remarks to the Court, not to opposing counsel.

9. Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly detached from any ill feeling between the litigants or witnesses.

10. Refer to all persons, including witnesses, other counsel, the parties, and the Court's clerks by their surnames and not by their first or given names. Counsel should not exhibit familiarity with witnesses, jurors, or opposing counsel.

11. Only one attorney for each party may examine or cross-examine each witness or argue an issue or point. The attorney stating objections, if any, during direct examination, shall be the attorney recognized for cross-examination. At the final pretrial conference, the parties may agree to alter this rule based on the provisions below regarding Less Experienced Lawyers.

12. Any witness testifying at the time of recess or adjournment must be back on the witness stand when the Court reconvenes. If a new witness is to be called, he or she must be standing in front of the witness box ready to be sworn.

13. In examining a witness, counsel shall not unnecessarily repeat or echo the answer given by the witness.

14. During examination of a witness, counsel must first ask the Court for permission to confer with co-counsel.

15. Gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses, or at any other time, are absolutely prohibited.

16. Do not ask the court reporter to mark testimony. All requests for re-reading of questions or answers shall be addressed to the Court.

17. If the Court takes a break while a witness is on the stand, counsel may not have any substantive conversations with the witness about his or her testimony, the case, any evidence, or any other matter relating to the case being tried.

### **JURY DELIBERATIONS**

Counsel are required to remain within ten (10) minutes of the courtroom during jury deliberations. Before leaving the immediate vicinity, counsel are required to report to the courtroom deputy.

### **TRIAL ATTIRE FOR INCARCERATED DEFENDANTS**

Counsel must provide proper attire for defendants in custody. The attire must be given to the United States Marshals Service before voir dire.

### **ELECTRONIC COURTROOM**

All parties wishing to familiarize themselves with the presentation equipment and other technology available for use in the courtroom before trial should contact the courtroom deputy at (216) 357-7265 no later than one (1) week before trial to schedule a time to visit the courtroom. If technological assistance with any of the

equipment will be required, parties should also contact the Court's technology advisors to ensure that someone will be available during the scheduled time to assist with the set-up and use of any equipment or any other technological issues that may arise.

### **CONDUCT OF COUNSEL**

In addition to the provisions of this order, pursuant to the Statement on Professionalism issued by the Supreme Court of Ohio on February 3, 1997, counsel are directed to be courteous and civil in all oral and written communications with each other and the Court. Pleadings or any other communications which do not conform to this standard will be rejected.

### **LESS EXPERIENCED LAWYERS**

The Court strongly encourages parties to allow less experienced lawyers the opportunity to participate actively in cases by presenting arguments at motion hearings or examining witnesses at trial or other evidentiary hearings. Therefore, the Court may alter its practices in this order to afford opportunities to less experienced lawyers. For example, the Court may allow a bifurcated oral argument in which a senior attorney presents one portion of the argument and a younger lawyer who has worked on the case presents the other portion. Similarly, at trial, the Court may relax the usual one-lawyer-per-witness rule to allow less experienced lawyers an opportunity to examine witnesses. Counsel seeking permission to bifurcate arguments or witness examinations should raise the issue at the final pretrial conference or by contacting the courtroom deputy.

**SO ORDERED.**

Dated: January 2, 2026



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J. Philip Calabrese  
United States District Judge  
Northern District of Ohio

## **GUIDELINES FOR WITNESS TESTIMONY**

Judge Calabrese requires every witness who testifies to follow these rules:

1. Because the court reporter is writing down every word that anyone says, it is important to keep your voice up and answer every question orally—not with nods of the head or “uh-huh” or “yeah” or “mm-hmm.”

2. Wait until counsel finishes asking you a question before answering.

Do not speak over counsel or the Judge.

3. Answer the question asked and only the question asked. Do not make a speech. Your lawyer will have the chance to ask you questions.

4. Speak directly into the microphone.

5. Answer questions with courtesy.

6. Evasive answers, answering a question with a question, or disrespect to counsel will not be tolerated.

7. If a lawyer objects, do NOT speak until the Court tells you whether to answer the question or not.

I acknowledge that I have read these Guidelines and will abide by them.

Dated:

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Name of Witness (Printed)

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Signature