

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

**IN RE: STANDING ORDER
CONCERNING COURTROOM
PARTICIPATION BY NEWER
ATTORNEYS IN CIVIL CASES**

MAGISTRATE JUDGE DARRELL A. CLAY

The Court is cognizant of the increasing trend of fewer civil cases proceeding to trial, and more generally for fewer opportunities for in-court speaking (so-called “stand-up”) engagements. This is especially true for newer attorneys, that is, attorneys who have been in practice seven years or less (“newer attorneys”), including but not limited to those attorneys who identify with groups that have been historically under-represented in the legal profession. The Court believes it is crucial to provide substantive speaking opportunities for newer attorneys and that doing so will benefit these attorneys, their clients, and the profession generally.

Recognizing the importance of developing the next generation of practitioners through meaningful courtroom opportunities, the undersigned desires to encourage the active participation of newer attorneys in civil proceedings in my courtroom—particularly as to oral argument on motions where the newer attorney drafted, or contributed significantly to the drafting of, the memorandum in support or memorandum in opposition.

To that end, the undersigned hereby adopts the following procedures regarding oral argument on pending motions in civil cases:

- (1) Within seven days after a motion is fully briefed, a newer attorney may file a written Request for Oral Argument, alerting the Court that, if argument is granted, the newer attorney will be responsible for presenting argument in favor of or in opposition to the motion.
- (2) Upon the filing of such notice, the Court will:
 - (A) Grant the request for oral argument on the motion, if it is practicable to do so while remaining cognizant of the provisions of Local Rule 7.3.
 - (B) If the Court grants oral argument on the motion, it will issue an appropriate scheduling order, and may, in its discretion, allocate additional time for argument beyond what might otherwise have been allocated were a newer attorney not arguing the motion.
 - (C) Permit more experienced counsel of record the ability to provide limited assistance to the newer attorney who is arguing the motion, where

appropriate during oral argument. Any newer attorney requesting oral argument is strongly encouraged, in counsel's independent professional judgment, to have an experienced lawyer accompany the newer attorney.

- (3) If a request for oral argument is granted, opposing counsel is not required to have a newer lawyer to argue; it remains acceptable for a seasoned practitioner to argue the opposite side of the motion.

The foregoing provisions shall not apply to cases that are subject to Local Rule 16.3.1, unless otherwise specifically ordered by this Court.

Furthermore, the participation of newer attorneys in all court proceedings—including, but not limited to, preliminary pretrial Rule 16 conferences, pre-motion conferences, hearings on discovery disputes and motions, dispositive motions, final pretrial conferences, and examination of witnesses at trial or during evidentiary hearings—is strongly encouraged.

All attorneys, including newer attorneys, will be held to the highest professional standards concerning oral argument or other in-court participation. Relatedly, all attorneys appearing before the Court are expected to be adequately prepared and thoroughly familiar with the factual record and the applicable law, and to have a degree of decision-making authority commensurate with the proceeding.

The Court also recognizes that there may be many different circumstances in which it is not appropriate for a newer attorney to argue a motion or participate during in-court proceedings. Thus, the Court emphasizes it shall draw no inference from a party's decision not to have a newer attorney argue a motion or participate during in-court proceedings. Additionally, the Court shall draw no inference about the importance of a particular motion, or the merits of a party's argument regarding the motion, from the party's decision to have (or not to have) a newer attorney argue the motion.

The purpose of this Standing Order is to facilitate one generation teaching the next how to argue and try cases and to maintain and strengthen our district's reputation for excellence in trial practice.

Dated: June 14, 2021



DARRELL A. CLAY
UNITED STATES MAGISTRATE JUDGE

N.B.: This order adapted from *Standing Order Regarding Courtroom Opportunities for New Attorneys*, promulgated by United States Magistrate Judge Christopher J. Burke of the District of Delaware on October 23, 2017, available at <http://www.ded.uscourts.gov/sites/ded/files/StandingOrder2017.pdf>.