

# United States District Senior Judge John A. Ross

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## Requirements

### 1. Local and Federal Rules

Many answers to frequently asked questions are contained in the [Local Rules](#) of the [Eastern District of Missouri](#), the [ECF Procedures Manual](#), the [Federal Rules of Civil Procedure](#), the [Federal Rules of Criminal Procedure](#) and the [Federal Rules of Evidence](#) and pro se parties are expected to know these rules and follow them.

### 2. General Matters

Oaths of admission for new attorneys are administered by appointment. I am generally available for telephone conferences to address minor issues such as deadline changes or other minor disputes. You must notify opposing counsel before seeking a telephone conference. Most minor agreed deadline changes can be done in writing by filing a motion to extend the deadline and stating that opposing counsel consents. If you have an emergency motion that needs a formal hearing on the record, you should call my chambers to schedule a hearing. In criminal cases, counsel may contact my chambers regarding scheduling and logistics, but not about substantive issues.

### 3. Rule 16 Conferences and Case Management Orders

After all defendants have filed an answer, the court will order the parties to submit a joint proposed scheduling plan. The court will enter a case management order based on that plan unless a party requests (or the court orders) a Rule 16 scheduling conference. Rule 16 conferences are conducted in person in chambers. Out of town counsel may participate by zoom or phone with prior notice. When a party appears pro se, the Rule 16 conference is held in the courtroom on the record. At the Rule 16 conference, counsel should be prepared to discuss the facts of the case and all other matters set out in the Rule 16 Order, including settlement. Do not send an unprepared substitute attorney or an attorney who cannot make a commitment regarding the calendar of trial counsel.

#### **4. Scheduling and Status Conferences**

Counsel may request a scheduling or status conference when the need arises by calling my chambers and setting up an appointment. If, after entry of the Case Management Order, counsel find they have a problem that is keeping the case from moving forward, or counsel are in agreement regarding an idea to move the case forward more efficiently, counsel may contact chambers and arrange a conference call to discuss the matter.

#### **5. Alternative Dispute Resolution (ADR)**

Most civil cases are referred to mediation. When proposing a date for mediation in the joint proposed scheduling plan, counsel should consider what discovery they need, and how much time they need to exchange such discovery, in order to conduct a meaningful mediation. Please also be prepared to discuss the appropriate timing for referral to mediation at any Rule 16 conference. A list of the [Courts' neutrals](#) and the [Courts' ADR rules](#) can be found at <http://www.moed.uscourts.gov>. Please note that, once the case has been referred to ADR, those deadlines are binding and may only be extended with the court's approval.

#### **6. Discovery Disputes**

Before filing any discovery-related motion, you must meet and confer with opposing counsel in an attempt to resolve the dispute, and your motion must contain a certification that you have done so. See Local Rule 3.04. If your opponent will not return your calls when you attempt to resolve the matter, you should state so in your certification. When you cannot resolve legitimate disputes and must file a motion, I will typically rule on the papers unless I find it necessary to hold a hearing. If you have an emergency, contact chambers to schedule a telephone conference.

#### **7. Briefing Practices and Courtesy Copies**

It is the Court's preference that parties include a Westlaw citation for all references to unreported decisions. When e-filing exhibits, you must label them as referenced in your brief (e.g., Smith deposition, Jones opinion, Acme policy) for ease of identification on the docket, as required by Section II.F. of the Court's CM/ [ECF Procedures Manual](#).

Parties may be asked to provide courtesy copies of motion filings containing voluminous exhibits. Such courtesy copies should be generated after e-filing so as to display ECF page headers. Parties shall also submit courtesy copies of all pre-trial materials. Courtesy copies may be mailed or hand-delivered to chambers at 111 South Tenth Street, Suite 12.148 (12-N), St. Louis, Missouri 63102.

## 8. Final Pretrial Conferences

I normally hold final pretrial conferences the Thursday before the Monday of trial. Counsel should be prepared at the final pretrial conference to argue any motions *in limine*, so that I can attempt to rule on such motions in advance of the trial date. We will put any necessary argument and all rulings on the record at the end of the pretrial conference or 30 minutes prior to the start of trial.

## 9. Available Courtroom Technology

The Court has evidence presentation equipment available, including an evidence camera (e.g., ELMO), VCR, DVD, monitors, and hook-ups for computer stored evidence or computer presentation. An explanation on the use of this equipment is available on the Courts' website at <http://www.moed.uscourts.gov/> under [Courtroom Technology](#). Please call the Case Management Team in the Clerk's office to schedule training before trial. No training will be provided on the day of trial. Training usually takes no more than 30 minutes and gives you the opportunity to get comfortable with the equipment before trial. If you intend to use your computer with the Courts' evidence presentation system, you must confer with the Clerk's office before trial to be sure your settings and connections are appropriate for our system.

## 10. Trial Settings

Most cases are set for trial on a two-week docket. This is a firm setting, meaning the Court almost always reaches all the cases set within that time. For St. Louis trials, juries are picked at 9:00 a.m. or 1:15 p.m. on Mondays and Wednesdays. If you have not heard otherwise, you should assume your case is #1 on the trial docket.

## 11. Jurors and Voir Dire

- a. Agreed Statement of the Case: Before the case is called, counsel must supply the Court with a joint brief statement of the nature of the case to be read to panel members during voir dire. Counsel is expected to agree on this statement, which should be phrased in neutral terms.
- b. Number of Jurors and Seating: The number of jurors in a civil trial will depend on the length of the trial. For voir dire questioning, the venire panel is seated left to right in the jury box, Nos. 1 through 5 in the front row, 6 through 10 in the middle row, and 11 through 16 in the last row. The rest of the venire panel members are seated in the middle and right rows of the spectator's gallery, also seated numerically, left to right.
- c. Juror List: You will be provided a list of the jury panel members as they enter the courtroom. The jury list is not available in advance. The list contains the name, municipality where the juror lives, current employer, former employer, occupation, and spouse's employer and occupation. After the jury is selected, all

copies of jury lists must be returned to the clerk.

d. Voir Dire Examination: In most cases, I allow attorneys to conduct part of the voir dire. I will ask introductory questions covering such things as the nature of the case, burden of proof, prior jury service, length of the trial, etc. If you want me to ask any specific questions that, for some reason, you prefer not to ask, please submit them to me in writing, with notice to opposing counsel. Otherwise, you may inquire about anything relevant to jury selection. You may not ask unnecessary questions such as asking the jurors to make promises to you, make speeches, argue your case, tell the jury about yourself or your family, or do anything else that is not directly designed to elicit relevant information about the potential jurors.

e. Jury Selection: After all questioning has been completed, the panel will be removed from the courtroom and I will immediately ask for challenges for cause. No challenges for cause or statements that either the panel or any juror is acceptable may be made in front of the jury panel. After any panel members are stricken for cause, the parties will make their peremptory challenges from the number of jurors equal to the number to be seated plus the total number of peremptory strikes. Plaintiff will make its peremptory challenges and then the defense will make its challenges. In a civil case, all jurors remaining after the strikes will be seated and will deliberate; no formal alternates will be designated.

## **12. General Courtroom Rules**

a. Time of Trial: I typically begin trial at 9:00 a.m. and conclude at 5:00 p.m. I expect the parties to be prepared to begin promptly, so the jury is not kept waiting. Counsel will not be permitted to raise preliminary matters at the start of the trial day, when the jury is ready to proceed. The Court will be available to resolve preliminary matters 30 minutes prior to the scheduled start time of the trial day, during the lunch break, or at the conclusion of the trial day.

b. Use of Lectern: Voir dire, opening statements, examination of witnesses, and closing arguments must be made from the lectern. You do not need to ask my permission to approach the witness to hand the witness an exhibit. Counsel must then return to the lectern for questioning, unless counsel must direct the witness' attention to a part of the exhibit.

c. Objections: You should stand and state the legal basis for your objection without argument or elaboration. I will either rule or ask you to approach for a sidebar conference.

d. Juror Note-Taking: I generally permit jurors to take notes during the trial.

e. Use of Exhibits and Opening Statements: You may use exhibits in your opening statement so long as you have consent from opposing counsel and advise me in advance.

f. Exhibits: You must pre-mark all exhibits, as set out in the Case Management Order. Do not ask the courtroom clerk to mark exhibits for you. The Case Management Order requires plaintiffs to use numbers and defendants to use letters for exhibits. The parties should attempt to stipulate to the admission of as many exhibits as possible prior to trial. I ask that you bring a list of all exhibits which may be received without objection at the beginning of trial. Unless otherwise stipulated, examining counsel must show each exhibit to opposing counsel prior to showing it to a witness. Demonstrative and summary exhibits must be shown to opposing counsel in advance of trial, even if not offered into evidence.

g. Depositions and Video Depositions: Counsel often over designate portions of the deposition they intend to use at trial in their pretrial submissions. Prior to the start of trial, you must notify opposing counsel of what portions you actually intend to offer, so that opposing counsel can determine whether they still wish to object or to counter-designate. Counsel must attempt to resolve any objections and bring to my attention any objections that cannot be resolved well in advance of the proposed use of the deposition, so that I can rule on any objections without wasting jury time. If you wish to play a video deposition, please let me know in advance, so that I can rule on objections in time for you to make the necessary edits or otherwise address the logistics.

h. Jury Instructions in Civil and Criminal Cases: The 8th Circuit Model Instructions should be used when possible. The basic introductory and boilerplate instructions must be based on the 8th Circuit Model Instructions. If instructions from any other source are preferred, they must be accompanied by case authority. Parties are required to meet and confer regarding jury instructions and whenever possible submit one package of jury instructions to the court on behalf of all the parties. Parties shall submit a clean copy and a dirty copy of each instruction preferred. The dirty copy should identify any competing proposals in redline format. A clean copy for the jury will reflect only Instruction No. \_\_\_ at the top with no further explanatory comments. The parties shall also submit their preferred jury instructions to the Court in Word by e-mail to chambers.

### **13. Courtroom Decorum**

a. Please stand when the jury enters the courtroom and stand at all times when speaking.

b. No eating, cell phone usage, drinking other than water, gum chewing, or audible beepers or watches are allowed. Please tell your clients and witnesses these rules.

c. All witnesses and opposing counsel must be addressed by their last names, with appropriate titles. Do not call any witnesses by their first names, even your clients, and please advise witnesses not to address counsel by their first names. This rule is intended to govern how we address one another in the courtroom - it is

not a rule requiring witnesses to refer to one another in any certain way during their testimony.

d. Persons seated at counsel table shall not make any verbal comments, facial expressions, laughter, or other expressions, verbal or non-verbal, to the jury which would be interpreted as conveying a comment one way of the other with respect to any testimony, argument, or event that may occur during trial.

e. All statements by counsel should be directed to the Court and not to each other. Counsel is expected to treat each other, all Court personnel, and all witnesses, including adverse witnesses, professionally and courteously.