

United States Magistrate Judge

David D. Noce

Courtroom 17N

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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 [Federal Rules of Civil](#) and [Criminal Procedure](#), and the [Federal Rules of Evidence](#). All counsel is expected to know these rules and to follow them. Frequent review of the rules is recommended because they are often amended.

2. INFORMAL MATTERS

I do not have a set time for informal matters. If you have an informal matter, please call chambers and my law clerk will advise you of my availability. You will then be required to notify opposing counsel, agree on a convenient time, and call chambers to confirm my availability. If the matter is unopposed, you can file the motion electronically and notify chambers, and I will then rule it as soon as possible.

3. SCHEDULING CONFERENCES AND CASE MANAGEMENT ORDERS

Civil cases are set for Rule 16 conferences once all parties have answered or filed a responsive pleading. Usually, Rule 16 conferences are conducted on the record, in the courtroom, with counsel attending in person or by telephone call initiated by my courtroom clerk. If appropriate, I may require that counsel appear in person at the Rule 16 conference in the courtroom on the record. The order setting the Rule 16 conference and the Case Management Order are self-explanatory. During the Rule 16 conference, please be prepared to discuss the facts of your

case, the merits of any then pending motion, and all other matters set out in the Rule 16 order.

4. AVOIDING PERSONAL INFORMATION IN TRANSCRIPTS

In an effort to reduce the amount of information that would need to be redacted from final transcripts, attorneys are not to use or request witnesses' social security numbers, minors' names, bank account numbers, or residential addresses.

5. PRETRIAL CONFERENCE

I generally conduct a final pretrial conference on the record reasonably close to the trial setting, usually during the preceding week. The date is set in the Case Management Order. At the conference, we will discuss any evidentiary issues, motions in limine, scheduling issues, *etc.*

Because the purpose of the final pretrial conference is to resolve issues in advance of trial, my Case Management Order schedules the filing of the pretrial compliance papers, including the trial brief, proposed instructions, evidence lists, and motions in limine, not later than ten days before the final pretrial conference whenever it is set. Any responses or objections to those documents are to be filed five days before the final pretrial conference.

6. JURORS AND VOIR DIRE

For voir dire questioning, the venirepanel is seated left to right in the jury box, Nos. 1 through 8 in the back row, and 9 through 15 in the front row. The rest of the venirepanel members are seated numerically left to right in individual chairs in front of the bar on the jury box side or in the spectators' gallery on the jury box side of the courtroom, also numerically left to right. You will be provided a list of the jury panel members as they enter the courtroom. The list is not available in advance. The list contains the names, municipalities where the jurors live, current employers, former employers, and other information.

At voir dire, I will read to the venire panel members a short instruction describing the case and introducing counsel. Usually, attorneys conduct their own voir dire, although I may ask additional questions. After the voir dire examination, the panel will be removed from the courtroom, and I will immediately ask for challenges for cause. No challenges for cause or statements that the panel is acceptable may be made in front of

the jury panel. After any persons are stricken for cause, the parties will make their peremptory challenges.

After the jury is selected, all copies of jury lists must be returned to the clerk.

7. TREATING PHYSICIANS AS EXPERTS

As to any opinion not expressly disclosed in a medical record or report (*e.g.*, causation, prognosis), I consider a treating physician who would be called at trial to testify to be an expert witness subject to Federal Rule of Civil Procedure 26(b)(2) as to the undisclosed opinions.

8. COURTROOM

A. Use of the Lectern: Voir dire, opening statements, examination of witnesses, and closing arguments must be made from the lectern. However, without first asking permission, you may approach a witness to hand the witness an exhibit. Counsel must then return to the lectern for questioning, unless counsel must direct the witness's attention to a part of the exhibit.

B. Audio Recording: Non-trial proceedings in my courtroom are usually electronically sound recorded; there may be exceptions when court reporters are used. Therefore, anything you say must be directed into the microphone at the lectern. If you speak from one of the counsel tables or while you are returning to the lectern after handing an exhibit to a witness, your question or objection might not be part of the record. The court may ask you to approach the microphone and repeat yourself.

Court reporters are available for jury and non-jury trials.

C. Exhibits: You must pre-mark all exhibits, as set out in the Case Management Order. Do not ask the court to copy exhibits for you. Before trial, you must physically review all exhibits of each opposing party that are listed in the pretrial compliance papers.

D. Jury Instructions: Counsel are to use the Eighth Circuit Model Jury Instructions as a pattern for proposed instructions, even if the preferred substance of any instruction is taken from another source, such as the Missouri Approved Instructions. If practicable, the instructions will be provided to the jury in writing.

E. Witness Examination: You do not need to ask the Court's permission to begin questioning a witness who has been sworn.

F. Judge Noce may allow jurors to ask questions of witnesses. That is a topic to be discussed at the Final Pretrial Conference. If jurors are allowed to ask witnesses questions, the following procedure will be followed: Each of the jurors will have a pad and pen or pencil for notetaking. When counsel for all parties have concluded the examination of a witness, the Court will ask the jurors whether any of them has a question for the witness. Any juror question must be handwritten by the juror. The Court Security Officer or the Deputy Clerk will obtain the written question from the juror. The Court and counsel for all parties will examine the written question at the sidebar with a court reporter present. On the record, the Court will ask for any comment or objection about the proposed question from counsel. If there is an objection to the question, opposing counsel will have an opportunity to comment, and the Court will rule the objection. If the Court sustains the objection, the Court will advise the jury on the record that the question is not allowed. If the Court overrules an objection or otherwise allows a juror question, the Court will read the question to the witness and allow counsel for all parties an opportunity for follow-up questions.

G. Objections to Deposition Designations: Before the Court will consider and rule objections to deposition designations during trial, counsel must meet and discuss the objections in a good faith endeavor to settle the objections.

H. Courtroom Projection Equipment: Counsel may use their own data projection equipment. However, the Court has available for counsel to use at no extra cost high-tech, automated electronic evidence display equipment. An explanation on the use of this equipment is available on the Eastern District of Missouri's website at www.moed.uscourts.gov under [Courtroom Technology](#). Please contact the Clerk's office for information about the equipment and how you might use it.

9. COURTROOM DECORUM

Please stand when the judge or the jury enters the courtroom; stand at all times when speaking.

No eating, no drinking other than water, no gum chewing, no use of cellular phones, and no audible beepers or watches are allowed in the courtroom. Please advise your clients and witnesses of these rules.

10. EXPECTED ATTIRE OF ATTORNEYS APPEARING FOR COURT PROCEEDINGS

All attorneys who appear in court, whether in person in the courtroom or by Zoom conferencing, serve the public as well as their clients and must dress in a professional manner. This means that all counsel, who appear in person in the courtroom or by Zoom conferencing, must be appropriately attired in business suits or jackets and ties.

11. CONTACTS WITH CHAMBERS

Regarding any matter (administrative or legal) in any contested case or proceeding, without prior approval by the Judge regarding a matter that is properly dealt with *ex parte*, no Party and no Attorney representing any Party may contact Judge Noce or any member of his staff, directly or indirectly, by telephone, physical mail or delivery service, or any electronic medium, unless the each opposing Attorney participates in the contact or has consented in advance (at least informally) to the contact.

Counsel in any case or proceeding before Judge Noce may contact the Clerk's Office for information about the administration of a case or proceeding, such as (without limitation) settings or information about the operation of the Court's Case Management/Electronic Case Filing system.

Judge Noce, however, may direct his staff or the Clerk's Office to contact Counsel about administrative matters, such as (without limitation) the scheduling of proceedings and the appointment of counsel to represent a party.

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