

**The Honorable James C. Dever III**  
**Chief Judge**  
**Practice Preferences**

**Filing and Brief Requirements**

**Emergency motions (e.g., TROs and select discovery motions)**

**Pretrial matters**

**CIVIL**

**CRIMINAL**

**Proposed Orders**

**Scheduling hearings**

**Trial**

**Filing and Briefing Requirements:**

- Leave to exceed the prescribed page length must be obtained by motion.
- Counsel shall provide a courtesy copy of motions and memoranda with voluminous attachments for Chief Judge Dever. The courtesy copy shall be mailed or delivered to the Clerk's office.
- Please label exhibits clearly.
- If deposition transcript excerpts will be referenced in memoranda, Chief Judge Dever prefers having the full condensed transcript available.

**Emergency motions (e.g., TROs and select discovery motions):**

Attorneys filing emergency motions should not call chambers unless or until the matter is assigned to Chief Judge Dever. If Chief Judge Dever is assigned, the intake deputy clerk should be advised that the matter requires immediate attention. Except in admiralty matters, Chief Judge Dever generally asks counsel initiating an emergency action to communicate with opposing counsel in an attempt to agree on temporary injunctive action pending a hearing on the motion for preliminary injunction.

**Pretrial matters:**

**CIVIL**

- The Pretrial Conference usually precedes trial by approximately two weeks.
- The Pretrial Conference will not automatically be continued if dispositive motions still are pending.
- Civil litigants are reminded that they may consent to Magistrate Judge jurisdiction, including a trial on a date certain.
- Chief Judge Dever requires that the parties submit all "expert" witness material, including c.v.'s, reports, depositions, and objections to qualifications, to chambers in advance of trial so that the court may conduct its gatekeeping function.

- Chief Judge Dever also prefers to conduct a hearing near the date of trial in order to rule on objections identified in the Pretrial Order to the extent possible. At trial, all exhibits will be deemed admitted except those upon which ruling has been reserved.
- Before submitting a proposed consent protective order, the parties should review Hall v. United Airlines, Inc., 296 F. Supp. 2d 652,678-80 (E.D.N.C. 2003), and Local Civil Rule 79.2(e), EDNC. Acceptable language concerning documents designated as "confidential information" would include:

Before filing any information that has been designated "CONFIDENTIAL INFORMATION" with the Court, or any pleadings, motions or other papers that disclose any such information, counsel shall confer with counsel for the party that produced the information so designated about how it should be filed. If the party that produced the information so designated desires that the materials be filed under seal, then the filing party shall file the materials in accordance with Local Civil Rule 79.2(e), EDNC, with notice served upon the producing party. The filing of the materials under seal shall not be binding on the Court, however. Within 10 days of service of such notice, the party desiring that the materials be maintained under seal shall file with the Court a Motion to Seal and supporting memorandum of law specifying the interests which would be served by restricting public access to the information. The party that initially filed the materials need not file any such Motion to Seal or otherwise defend another party's desire that the materials remain sealed. The Court will grant the Motion to Seal only after providing adequate notice to the public and opportunity for interested parties to object, after carefully weighing the interests advanced by the movant and those interests favoring public access to judicial documents and records, and upon finding that the interests advanced by the movant override any common law or constitutional right of public access which may attach to the information. Documents submitted under seal in accordance with this paragraph will remain under seal pending the Court's ruling. If the party desiring that the information be maintained under seal does not timely file a Motion to Seal, then the materials will be deemed unsealed, without need for order of the Court.

## **CRIMINAL**

- Motions to continue, either by attorneys or the United States Probation Office, are to be submitted to the court at least five (5) business days prior to the beginning of a session, absent exigent circumstances.
- Please submit proposed orders with motions to continue criminal matters; orders continuing arraignment must contain speedy trial language from 18 U.S.C. § 3161(h).
- All attorneys, agents, and defendants are to be present and seated at 9:00 a.m. on the first day of a term of court. All defendants who are to be arraigned during the term of court must be present in the courtroom at 9:00 a.m. on the first day of the term to hear the court's half-hour "litany." Any defendant who arrives late will be taken into custody.
- The court calls the docket at 9:00 a.m.

- Arraignments and Rule 11 hearings for entries of guilty pleas are conducted on the first day of a term of court; sentencings and motions hearings follow that day and continue into the week as necessary.
- All juries to sit during a term are selected on the same day.
- Trial order preferences should be expressed to the court's Courtroom Deputy Clerk, Crystal Jenkins, at least a week in advance of the term of court during which the trial is to occur.
- Attorneys who anticipate scheduling conflicts should direct "conflict letters" to each Judge whose docket will be affected. The court's staff will resolve the conflict and notify counsel. Attorneys with the United States Attorney's Office and Federal Public Defender's Office should endeavor to resolve as many such conflicts internally as possible before seeking the court's intervention; that is, federal lawyers should attempt to arrange to "hand off" a routine matter whenever possible.
- Large exhibits should be reduced to 8 1/2" x 11" for preservation in the record.

**Proposed Orders:**

Please submit proposed orders, proposed jury instructions, or proposed findings and conclusions in PDF format through the CM/ECF system.

**Scheduling hearings:**

- Hearings on civil motions are rare. Chief Judge Dever expects counsel to set forth their arguments and the authority in the memoranda submitted in support of, and in opposition to, the motions.
- Chief Judge Dever is punctual and expects the same of all persons involved in a courtroom proceeding.
- Counsel are cautioned that gamesmanship, sandbagging, name-calling, or any other type of behavior unbecoming a member of the bar of this court will not be tolerated.

**Pretrial matters:**

- Pretrial is set after all dispositive motions have been heard.
- Chief Judge Dever hears some pretrial matters.
- Chief Judge Dever refers some pretrial matters to a Magistrate Judge.

**Trial:**

- Please contact the Clerk's office one week prior to a trial in which you want to use evidence-presentation equipment that is the property of the court. Not all equipment in the courtroom belongs to the court, and equipment that does not belong to the court is not available for use by litigants.
- Please prepare a tabbed notebook containing trial exhibits for Chief Judge Dever and the law clerk.

- Counsel must question witnesses from a seated position at counsel's table unless it is necessary for counsel to discuss an exhibit with the witness at the witness stand.
- Counsel may not make arguments in their opening statements, and Chief Judge Dever will stop an attorney who begins to argue during opening.