

Hon. Louise W. Flanagan
District Judge
Practice Preferences and Procedures

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I. General Preferences and Practices

- A. Policy Concerning Contact with Judge and Chambers Staff.** The parties should not contact chambers regarding a case or calendaring conflict. Such matters shall be directed to the clerk of court, through the clerk’s New Bern office at (252) 638-8534.
- B. Business Hours.** With the advent of the Case Management / Electronic Case Files (“CM/ECF”) system, the court is open for filing 24 hours a day, 7 days a week. The parties are reminded, however, that anything filed outside of normal business hours will not be reviewed by court personnel until the next business day, at the earliest. As such, the parties are encouraged to file during normal business hours.
- C. Filing and Briefing Requirements.** The parties shall adhere to the [Local Rules](#) as well as the [Electronic Case Filing Administrative Policies and Procedure Manual](#). Judge Flanagan encourages use of tools such as hyperlinking and/or “electronic briefs” to assist in review of lengthy documents. Where practicable, motions and memoranda citing exhibits filed previously or contemporaneously with the motion or memorandum shall include hyperlinks to the exhibits, preferably to the specific page of the exhibit cited.
- D. Proposed Orders.** Any motion requesting relief (except dispositive motions) shall be accompanied at time of filing with a proposed form of order, stating its requested relief. Proposed orders are to be submitted in PDF format through CM/ECF as an attachment to the motion. For ease of use, PDF documents created through methods other than scanning are encouraged. (See [Electronic Case Filing User’s Manual](#) for further information on creating PDF documents.)
- E. Scheduling Conflicts.** The parties shall resolve any scheduling conflict by using the procedures set forth in the court’s standing order governing such conflicts. See [Guidelines for Resolving Scheduling Conflicts](#), 85-PLR-3 (E.D.N.C. July 26, 1985).

II. Trial Procedures Generally

- A. **Trial Schedule.** Unless separately noticed, the parties shall be present and available for conference with the judge at least 30 minutes prior to jury selection on the first day of trial. On trial, days the court recesses around noon for one hour for lunch and usually recesses for the day around 5:30 p.m. The court generally takes one brief break in the morning and one in the afternoon of approximately ten (10) to fifteen (15) minutes duration. The parties shall be prepared to address with the court issues arising as may be necessary during these breaks.
- B. **Expert Testimony.** The judge requires that the parties submit all “expert” witness materials, including c.v.’s, reports, depositions, and objections to qualifications, to chambers in advance of final pretrial conference which usually is held before the judge at New Bern two weeks prior to trial, so that the court may conduct its gatekeeping function.
- C. **Voir Dire.** The judge conducts *voir dire*. In addition to the court’s standard questions, the parties are invited to suggest other questions which may be pertinent in light of the circumstances of the case. The parties are directed to pay close attention to the deadline set in their case for submission of additional voir dire.
- D. **Jury Procedures.** The court utilizes the Arizona struck jury process to empanel the jury. Jurors may take notes at trial. After closing arguments, the judge orally instructs the jury. The jury will receive a written copy of the judge’s instructions.
- E. **Decorum.** 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 shall ask the judge’s permission to approach a witness for the first time.
- F. **Opening Statements.** Exhibits may be used during opening statements only by agreement of the parties.
- G. **Objections.** In voicing objections during trial, lawyers should stand and briefly state the reason for the objection. Ordinarily, they should not make an argument at that time.
- H. **Courtroom Technology.** Most courtrooms in the district are equipped with a [complete video technology suite](#). Counsel are directed to contact the courtroom deputy at (252) 638-8534 well in advance of trial to receive instruction on the equipment and appropriate file formats for electronic evidence presentation.

- I. **Admission of Evidence and Publication to the Jury.** Absent another party's objection, when the court allows introduction or admission of a piece of evidence, permission to publish to the jury may be assumed.
- J. **Closing Arguments.** A charge conference will be held in advance of closing arguments.
- K. **Wireless Communication Devices.** Counsel are directed to the standing order on Wireless Communication devices. [See In re: Prohibition of Wireless Communication Devices in Courtroom Facilities, 05-PLR-7 \(E.D.N.C. Aug. 14, 2005\).](#)

III. Civil Procedures

- A. **Initial Status Conference.** Judge Flanagan conducts a brief (normally twenty (20) minutes) initial telephonic conference in most civil matters upon framing of the pleadings. In advance, counsel will be required to submit for the court's consideration a joint report and plan as directed in an initial order on scheduling usually entered at or around the close of the pleadings.
- B. **Case Management Order.** Following the initial status conference (or submission of the joint report and plan in a civil case where no initial telephonic conference is held), the court will issue a comprehensive case management order. Although the deadlines in the case management order may be extended for good cause shown, excessive extensions undermine the carefully crafted case plan reached after consultation between the parties and the court.
- C. **Requests for Expedited Relief (e.g., emergency injunctive relief and select discovery matters).** Litigants seeking expedited relief shall not call the judge's case manager until the matter is assigned to Judge Flanagan. Upon assignment, and prior to filing any motion requiring expedited action, counsel shall contact the case manager at (252) 638-8534 to advise the case manager of the need for expedited action. Except in admiralty matters, counsel initiating expedited relief may be requested by the judge to communicate with opposing counsel in an attempt to agree upon temporary action pending hearing.

IV. Criminal Procedures

- A. **Sentencing Procedures.** The court ordinarily does not permit oral testimony at time of sentencing concerning the character of the defendant but invites statements, letters, affidavits, or other written communication to be electronically transmitted to chambers in unified format to the extent practicable, under cover of counsel's letterhead and sent to the email address ncedml_documents@nced.uscourts.gov not later than seven days before hearing. The documents and letters relied upon, if greater in number than ten, should be separately indexed with brief description, including name of letter writer and relationship to defendant.

- B. Plea Agreements and Substantial Assistance Motions.** Counsel is reminded that any motion regarding the substantial assistance of a defendant – including under the Sentencing Guidelines, 18 U.S.C. § 3553(e), or Rule 35 – must be filed under seal. There is no need for a separate motion and order to seal in such cases. Plea agreements will also be filed under seal. [See In re: Public Access to Plea Agreements and Substantial Assistance Motions, 09-SO-02 \(E.D.N.C. Feb. 12, 2010\).](#)
- C. Rule 35 Proceedings.** The motion shall include: (1) facts on which the motion is based; (2) recommendation, if any, of the United States Attorney with regard to the extent of departure; and (3) confirmation that in advance of filing the motion, the government initiated conference with counsel for defendant to ascertain if there are compelling reasons why the motion cannot be heard in the absence of defendant. The court ordinarily does not require a defendant to attend the hearing.