

**The Honorable Malcolm J. Howard
Senior United States District Judge
Practice Preferences**

I. Brief Requirements:

- Parties shall adhere to the Local Rules, including regarding document length.
- Please label exhibits clearly and use charts where applicable.

II. 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 Judge Howard. If Judge Howard is assigned, the intake deputy clerk should be advised the matter requires immediate attention. Counsel may call Judge Howard's chambers after a case number is assigned, and may discuss setting a hearing with a law clerk.

III. Scheduling and Filing Questions:

Administrative questions should be directed to Lisa Lee (Criminal) and Donna Rudd (Civil) in the Greenville Clerk's Office (252) 830-6009.

IV. Pretrial Matters:

A. Civil

- The Final Pretrial Conference, conducted by a magistrate judge, usually precedes trial by at least two-three weeks.
- Counsel should follow the dictates of Local Civil Rule 16.1(b)(1) in preparation for the final pretrial conference, noting that the final proposed pretrial order needs to be filed seven (7) days prior to the final pretrial conference.
- Motions to continue a civil hearing or civil trial should be filed at least two weeks prior to the scheduled hearing or trial.
- Judge Howard refers most pretrial matters to the assigned magistrate judge.
- Because of Judge Howard's criminal docket, civil litigants are encouraged to consent to magistrate judge jurisdiction for trial on a date certain.
- The parties should submit all expert witness material to chambers in advance of the final pretrial conference so that the court may conduct its gatekeeping function.

- Any motion seeking to amend a pleading shall include as exhibits both the proposed amended pleading and a red-lined version of the proposed amended pleading showing changes proposed to be made.
- Please send hard copies of any filings over 100 pages in length to the Clerk's Office in Greenville.

B. Criminal

- Motions to continue a criminal hearing **MUST** be filed by the Wednesday preceding the criminal term. Motions to continue filed after the Wednesday noon deadline may not be considered, and counsel will be expected to appear at the scheduled time. Character letters and sentencing memos should also be filed by the Wednesday deadline.
- Please submit proposed orders via CM/ECF with motions to continue criminal matters; orders continuing arraignment must contain appropriate speedy trial language.
- Court will begin promptly at 10:00 a.m. on the first day of the criminal term and at 9:00 a.m. on subsequent days, unless otherwise specified in the calendar. Attorneys, agents and defendants are expected to be present and ready to proceed at the time specified by the calendar. A defendant who arrives late may be taken into custody.
- Arraignments and Rule 11 hearings for entries of guilty pleas are usually conducted on the first day of a term of court in front of a magistrate judge, with sentencings and motions hearings in front of Judge Howard following the next day and continuing into the week as necessary. Arraignments are typically conducted by a magistrate judge.
- Attorneys who anticipate scheduling conflicts should direct "conflict letters" to each judge whose docket will be affected. Lisa Lee, Judge Howard's case manager will attempt to resolve the conflict and notify counsel.
- Large exhibits should be reduced to 8 ½" x 11" for preservation in the record.

V. Proposed Orders:

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

VI. Scheduling Hearings:

- Hearings on civil motions are rare. Judge Howard expects counsel to set forth their arguments and the authority in the memoranda submitted in support of, and in opposition to, the dispositive motions.

- Judge Howard is punctual and expects the same of all persons involved in a courtroom proceeding.

VII. 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) 830-6009 well in advance of a proceeding/trial to receive instruction on the equipment and appropriate file formats for electronic evidence presentation. Counsel should carefully read and follow Local Criminal Rule 24.1(c) or Local Civil Rule 16.1 (b)(3) requiring, among other things, that counsel file a certification of training no later than seven days before the scheduled proceeding.

VIII. Trial:

- Please contact Judge Howard's case manager at least one week prior to a trial in which you want to use evidence-presentation equipment that is the property of the court.
- Please prepare 2 tabbed notebooks containing trial exhibits for Judge Howard and the law clerk. Original exhibits must be handed to the clerk at time of admission by the court.
- Opening and closing statements should be brief and to the point. Judge Howard will specify time limits prior to the commencement of the trial.
- 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.
- Generally, court begins at 9:00 a.m., recesses at noon for one hour for lunch, and recesses for the day at 4:30 p.m. The court generally takes one break in the morning and one in the afternoon, each of approximately 10-15 minutes' duration.
- 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.
- 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*.
- 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.
- Please note the courtroom technology requirements section above.