

**Hon. Richard E. Myers II**  
**Chief United States District Judge**  
**Practice Preferences and Procedures**

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**I. GENERAL PREFERENCES AND PRACTICES**

- A. **Filing and Briefing Requirements.** The parties shall adhere to the [Local Rules](#) as well as the [Electronic Case Filing Administrative Policies and Procedure Manual](#). Leave to exceed the prescribed page length must be obtained by motion.

When referring to the record in the briefing on any motion, counsel must specify the relevant exhibit, page, and line numbers. 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.

If excerpts of a **deposition transcript** are referenced in memoranda, a party shall file the entire transcript **in its original form** (i.e., transcripts reduced in size are unacceptable).

Before filing a motion, the movant must confer with the opposing party regarding the relief requested and must note in the motion the movant's efforts to confer and the opposing party's position on the requested relief (i.e., opposed, unopposed, none).

- B. **Proposed Amended Pleadings.** 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. The proposed pleading **must be properly signed**.
- C. **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 Myers. If Judge Myers is assigned, the deputy clerk (at intake) or civil case manager should be advised that the matter requires immediate attention. Except in admiralty matters, Judge Myers 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.

- D. **Proposed Documents.** Parties shall file proposed orders, jury instructions, and findings of fact and conclusions of law in PDF format through the CM/ECF system. 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.) Any motion requesting relief (except dispositive motions and, in criminal cases, motions to continue, seal, and withdraw) shall be accompanied at the time of filing with a proposed form of order, stating its requested relief. Along with submitting proposed orders in PDF format through the CM/ECF system, counsel shall send proposed orders electronically in Word format to: Documents\_Judge\_Myers@nced.uscourts.gov.
- F. **Decorum.** Counsel's demeanor should be one of courtesy and professionalism. Counsel should never act or speak disrespectfully to the court or opposing counsel in any manner. The court expects punctuality by all persons involved in a courtroom proceeding. Chief Judge Myers is zealously protective of the integrity of the federal court and the legal profession. 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.

## II. TERMS OF COURT

- A. **Monthly Terms.** Subject to change, the court's term calendar is published on the public website, [www.nced.uscourts.gov](http://www.nced.uscourts.gov).
- B. **Criminal Trials Preempt.** Criminal trials always preempt civil trials due to statutory and constitutional speedy trial requirements.
- C. **Start Time.** Ordinarily, all civil and criminal hearings start at 10:00 a.m. Jury selections in criminal and civil trials start at 10:00 a.m. Thereafter, court resumes at 9:30 a.m. each day until the conclusion of the trial.
- D. **Calendar Changes.** All requests for calendar changes **must be made by motion** for the court's consideration stating the opposing party's position. The court **will not entertain calendar changes made via email** to chambers or the Clerk's office.

## III. TRIAL PROCEDURES GENERALLY

- A. **Jury Selection.** All juries to sit during a term are selected on the same day. The court utilizes the Arizona struck jury process to empanel the jury. Jurors may take notes at trial.

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- B. **Opening Statements.** Counsel may not make arguments in their opening statements, and the court will stop an attorney who begins to argue during opening.
- C. **Closing Arguments.** Counsel will be permitted to choose the length of time for closing arguments, and both sides will be afforded the same amount of time. A charge conference will be held in advance of closing arguments. Closing arguments will occur after the judge orally instructs the jury. The jury will receive a written copy of the judge's instructions.
- D. **Trial Exhibits.** All exhibits **shall be pre-marked** pursuant to [Local Civil Rule 39.1\(b\)](#).
- The parties must prepare two tabbed notebooks containing trial exhibits for the court and its staff. Large exhibits must be reduced to 8 1/2" x 11" for preservation in the record. Original exhibits must be handed to the clerk at time of admission by the court. See also Judicial Preference Order 20-JP-1-M.
- E. **Questioning of Witnesses.** 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.
- The court will not permit a witness to hedge and dodge a question, and will instruct the witness to answer counsel's questions. Also, the court will not permit counsel to argue with a witness.
- F. **Courtroom Technology.** Counsel must adhere to the requirements set forth in Local Civil Rules 16.1(3) and 39.1(c). Counsel may bring laptops or tablet computers into the courtroom, but any such equipment shall not be used for recording or transmitting. Counsel shall adhere to [Standing Order 05-PLR-7](#). For further technology requirements, visit the District Court's [website](#).
- G. The attention of counsel is directed to Local Civil Rules 45.1, 48.1 and 54.2. All counsel are reminded to review Local Civil Rules 39.1-39.4. In all cases, in addition to filing, counsel shall submit electronically documents required by Local Civil Rules 39.1, 51.1, and 52.1 to: Documents\_Judge\_Myers@nced.uscourts.gov (*this email address is receipt only*).

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#### IV. CRIMINAL PROCEDURES

- A. **Motions to Continue.** Motions to continue, either by attorneys or the United States Probation Office, must be filed **at least five (5) business days** prior to the first day of the term of court in which the proceeding is scheduled, absent exigent circumstances.

Motions to continue court proceedings other than sentencing hearings must be consistent with the requirements of the Speedy Trial Act, 18 U.S.C. § 3161(h), and must **explain in reasonable detail** why the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial.

- B. **Motions in Limine.** Motions in limine must be filed **at least ten (10) business days** prior to the pretrial conference, absent exigent circumstances. Responses must be filed **at least five (5) business days** prior to the pretrial conference.

- C. **Miscellaneous Non-Emergency Motions.** Any motion of a non-emergency nature not filed **at least five (5) business days** prior to the first day of the term of court in which the proceeding is scheduled must be received in the Clerk's Office by 4:00 p.m. on the date filed, and will be heard in open court, at which time all parties and counsel must be present.

- D. **Arraignment Hearings.** Copies of proposed plea agreements must be submitted to the court **at least five (5) business days** prior to the first day of the term of court in which the arraignment is scheduled. Submissions shall be made to my criminal case manager at [angela\\_shoe@nced.uscourts.gov](mailto:angela_shoe@nced.uscourts.gov).

Prior to any arraignment, counsel shall confirm the Government's **penalty sheet** correctly advises as to the following: (1) the maximum and minimum terms of imprisonment; (2) the statutory terms of supervised release, (3) the maximum fine; and (4) the term of imprisonment upon revocation of supervised release. The penalty sheet must be consistent with the Memorandum of Plea Agreement, where applicable.

If a **Criminal Information** is the subject of a Memorandum of Plea Agreement, counsel shall confirm that the Memorandum nowhere refers to the charging document as an "Indictment" or "Superseding Indictment."

If a defendant is pleading guilty to more than one charge, counsel shall confirm that the **Memorandum of Plea Agreement**, if any, includes an accurate statement of the cumulative total minimum and maximum penalties, including fines and restitution, to which the guilty plea exposes his or her client.

All defendants scheduled for an arraignment hearing during a court term must be present in the courtroom no later than 10:00 a.m. to hear the court's advice of rights. Any defendant out on bond who arrives late will be taken into custody.

- E. **Sentencing Hearings.** Relevant motions (e.g., motions for departure or variance), sentencing memoranda, and character letters shall be filed no later than 4:00 p.m. at **least five (5) business days** prior to the first day of the term of court in which the proceeding is scheduled.

If a sentencing hearing will include live testimony, counsel shall notify the Clerk **at least two (2) business days** before the first day of the term of court in which the proceeding is scheduled and advise as to the anticipated length of said testimony.

Character letters shall be attached to a memorandum and filed on the case docket under the event “Criminal Letters – Chief Judge Myers” at **least five (5) business days** prior to the first day of the term of court in which the sentencing hearing is scheduled. Such memorandum may or may not include argument for variance or departure; if no argument is included, the memorandum shall state only that character letters are attached.

- F. **Revocation of Supervised Release Hearings.** **Five (5) business days** before the first day of the term of court in which the proceeding is scheduled, defense counsel must file a notice providing the following information: (1) whether any violations supporting the USPO’s motion remain pending; (2) whether the defendant intends to plead no contest to any violations; and (3) any other pending issues (e.g., housing concerns).

- G. **Trials.** The United States Attorney must advise of any anticipated trials and the expected length of each trial **at least ten (10) business days** before the first day of the term of court in which the proceeding is scheduled.

**Proposed jury instructions and verdict forms** must be filed no later than 4:00 p.m. **five (5) business days** prior to the pretrial conference. Proposed instructions must include a citation reference to each proposed instruction.

The court 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 shall file **proposed voir dire**, if any, no later 4:00 p.m. **five (5) business days** prior to the pretrial conference.

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## V. CIVIL PROCEDURES

- A. **Referral to USMJ.** Most pretrial matters are referred to the assigned magistrate judge until the calendar is published, except in complex litigation.
- B. **Consent to USMJ Jurisdiction.** Civil litigants may consent to Magistrate Judge jurisdiction, including a trial on a date certain.
- C. **Requests for Extensions of Time.** When a pretrial conference and trial date have been scheduled in a case, any party seeking an extension of the discovery cutoff and/or dispositive motions deadline must also include a request for continuance of the pretrial conference and trial dates commensurate with the requested extension.
- D. **Courtesy Copies.** Counsel shall provide a courtesy copy of all filings **containing one hundred (100) or more pages**, including all attachments and/or exhibits. All courtesy copies should be mailed or delivered to the attention of the Clerk, U.S. District Court, Eastern District of North Carolina, 2 Princess Street, Wilmington, NC 28401. The courtesy copies shall be submitted and tabbed by docket entry and exhibit number in a three-ring binder. The courtesy copy shall include the CM/ECF file stamp.
- E. **Motion Hearings.** Hearings on civil motions are rare. The parties shall set forth their arguments and the authority therefor in the memoranda submitted in support of, and in opposition to, dispositive motions.
- F. **Opinion Witnesses.** Material regarding expert witnesses—called “opinion witnesses” by the court—including curricula vitae, reports, depositions, and objections to qualifications, must be submitted to chambers in accordance with the trial scheduling order so that the court may conduct its gatekeeping function.
- G. **Pretrial Conference.** The conference usually precedes trial by approximately two weeks. The court will not automatically continue the pretrial conference if dispositive motions remain pending.
- H. **Pretrial Hearing.** The court generally conducts 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.
- I. **Proposed Voir Dire.** The court conducts voir dire. In addition to the court’s standard questions, the parties are invited to suggest other questions that 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.