

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

STANDING ORDER FOR FINAL PRETRIAL ORDER, SELECTION OF
JURORS AND JURY INSTRUCTIONS FOR TRIALS BEFORE MAGISTRATE JUDGE COLE

1. Follow the form specified in the final pretrial order appended to Local General Rule 16.1 and Form L.R. 16.1.1 (which Rule should be reviewed in detail and complied with by counsel), except as directed below.
2. File the final pretrial order and all copies in chambers.
3. Bind the original copy at the top, pursuant to Local Rule 5.2(a), but submit one extra copy to chambers bound on the side in a three-ring binder.
4. Include an index to each binder at the front of the binder. All subsections of the pretrial order should be tabbed for easy access by the reader.
5. One copy of all deposition excerpts that the parties intend to read into the record should be submitted under separate cover prior to trial as set by the court at or before the final pretrial conference. All objections to portions of deposition transcripts should be identified by marking such portions in a manner that will inform the court as to the nature of the objection and the offering party's response.
6. One bench book of exhibits (in a three-ring binder) for each party should be submitted to chambers in advance of trial, pursuant to a schedule to be set at or before the final pretrial conference.

Each exhibit should be tabbed for easy access by the court. Any objections to exhibits and responses thereto should be appended to each exhibit.

7. All Motions in Limine must be supported by comprehensive supporting memoranda and must be fully briefed by both sides at the time the pretrial order is submitted and shall be submitted along with the pretrial order. That requires that the parties exchange their respective Motions in Limine in sufficient time that each side has an opportunity to respond to the motion. The Motions in Limine shall be submitted under separate cover at the time the pretrial order is filed. Generally, the motions will be decided at or before the final pretrial conference. Motions to which one's opponent has not had an opportunity to respond will not be considered.

Motions challenging the admissibility of expert testimony under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) are *not* deemed Motions in Limine and must be filed in accordance with the applicable schedule for such motions.

8. The parties should submit pretrial briefs in non-jury as well as jury trials.

9. Jury Instructions and Voir Dire

A. For jury trials, the court will insist on strict compliance with footnote 10 of paragraph 2(i) of the final pretrial order Form 16.1.1. This provision reads as follows:

"Agreed instructions shall be presented by the parties whenever possible. Whether agreed or unagreed, each marked copy of an instruction shall indicate the proponent and supporting authority and shall be numbered. All objections to tendered instructions shall be in writing and include citations of authorities. Failure to object may constitute a waiver of any objection." (Emphasis in original.)

It is the duty of the plaintiff's attorney to prepare the first draft of jury instructions, keeping in mind that the parties are expected to agree on all instructions other than those about

which there is a genuine, material dispute. All parties shall confer in good faith to accomplish this goal.

When submitted to the court, the jury instructions shall conform to the following outline:

(i) Voir Dire

a. A short description of the case to be read to the venire panel;

b. **Jury selection procedures:** questioning of prospective jurors in open court will be conducted only by Judge Cole; counsel may question individuals as permitted by the court at sidebar. The jury is selected by eliminating the names of all persons who have been excluded for cause or on the parties' exercise of peremptory challenges, and selecting the jury from the computerized random list provided to the court; the first 8 names (for most civil juries) on that random list will be selected as the jury. Thus, every member of the venire panel has an equal chance of being selected as a juror.

(ii) Prefatory Instructions

a. This court will use standard prefatory instructions, unless counsel suggest and the court approves a variation thereof. The court encourages including a version of the "elements" instruction to the jury at this stage.

(iii) Instructions at close of trial

a. Use the Seventh Circuit Pattern Instructions where applicable.

b. Arrange in the order to be given and number the instructions.

c. Again, all instructions should be agreed except for those about which there is a genuine, good faith dispute.

- d. Place contested instructions in the order they would be given if accepted, and for each such instruction the party opposing it must succinctly state the grounds for objection and, if appropriate, tender an alternate instruction. ***The parties may be able to accomplish this by highlighting, bracketing or redlining the challenged portion of an instruction and indicating alternate language within the body of the instruction.*** The proposing party may also submit the reasons supporting the instruction as tendered. These objections and supporting materials shall be included in the binder of proposed instructions immediately following the challenged instruction in question. Full compliance with this procedure is required and will result in more efficient and expeditious resolution of disputed pretrial issues.
- e. Where Illinois law applies, use the Illinois Pattern Instructions. Jury instructions should be submitted in hard copy and also be available on computer disk for Word Perfect.
- f. **Make sure to tailor your proposed instruction to the factual and legal issues of your case.**

ENTER: February 7, 2006

Jeffrey Cole
United States Magistrate Judge