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### I. District and Magistrate Judge Roles<sup>1</sup>

Other than *pro se* prisoner cases, bankruptcy cases, foreclosure cases, and habeas corpus petitions<sup>2</sup>, every case is assigned to both Judge Hawley and a magistrate judge. As a general rule, the magistrate judge is responsible for all non-dispositive matters until the dispositive motion deadline has passed, at which time Judge Hawley will be responsible for all matters in the case. Dispositive matters are not referred to the magistrate judge for a “Report and Recommendation” or “Findings of Fact and Conclusions of Law.”<sup>3</sup>

Dispositive motions addressed by Judge Hawley include:

- Motion to Dismiss
- Motion for Temporary Restraining Order
- Motion for Preliminary Injunction

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<sup>1</sup> Judge Hawley will perform all the duties of a magistrate judge in his civil cases where a magistrate judge is not referred on the case, as evidenced by only Judge Hawley’s initials, “JEH,” being in the case number.

<sup>2</sup> *Pro se* prisoner cases are not referred to a magistrate judge, except for settlement conferences. However, if counsel is recruited or enters an appearance in a *pro se* prisoner case, at that time a magistrate judge will be referred on the case.

<sup>3</sup> Two exceptions to this rule are matters relating to Social Security Appeals where Judge Hawley is presiding. If the parties do not consent to a magistrate presiding over a Social Security Appeal, all dispositive matters will be addressed by the magistrate judge by Report and Recommendation. Secondly, where a party fails to participate in litigation, the magistrate judge will make a Report and Recommendation on the record that the matter be dismissed for failure to prosecute or default judgment enter for failure to defend.

- Motion to Remand
- Motion to Arbitrate
- Motion for Preliminary Certification of a Class
- Motion to Certify a Class
- Motion to Approve a Settlement (any kind)
- Motion for Entry of a Consent Decree
- Motion for Summary Judgment
- Motion for Default Judgment
- Motion to Alter Judgment
- Motion for Attorney Fees
- Motion for Rule 11 Sanctions
- Motion for Finding of Contempt
- Motions relating to any dispositive motion, *e.g.*, motion to extend time to file a dispositive motion, motion to continue a hearing related to a dispositive motion, motion to file a dispositive motion or exhibit thereto under seal.

Non-dispositive motions addressed by the magistrate judge include:

- Motion to Amend the Complaint
- Motion for More Definite Statement
- Motion to Strike Affirmative Defense
- Motion to Continue a Discovery Deadline
- Motion to Compel
- Motion for Protective Order
- Motion to Quash
- Motion to Stay
- Motion for Extension of Time to File something that is non-dispositive
- Motion for Default
- Motion for Citation to Discover Assets
- Motion for Rule 16 Hearing
- Motion for a Hearing Regarding a Discovery Dispute

If a judge will rule on a motion or matter contrary to the general rule, a text order will reflect that a matter has been referred to or un-referred from the magistrate judge.

## II. [Motions, exhibits, and affidavits related to motions for summary judgment](#)

When attaching exhibits to a motion, parties should limit those exhibits to only those documents which are necessary for the Court to review. The filing of excessive, marginally useful, or irrelevant exhibits creates a burden on the Court and the

parties. Parties should not file as an exhibit documents which are already filed on the Court's docket.

For scanned documents, counsel should, whenever possible, perform an optical character recognition (OCR) on the document prior to its filing, thereby making the document searchable.

Any document referenced in support or in response to a motion for summary judgment must have been provided to and disclosed to an opposing party **prior to the date for the close of the discovery as set by the Court in its scheduling orders.** **This requirement includes any affidavit.** If a party files an affidavit in support of or in opposition to a motion for summary judgment, the Court will not consider the affidavit unless it was provided to the opposing party *before* the deadline for the completion of discovery has passed.

### III. Setting of the Final Pretrial Conference and Trial Date

At the Rule 16 Scheduling Conference, a Final Pretrial Conference and a Trial Date will not be set. Instead, a firm date for pretrial motions, the Final Pretrial Conference, and trial will be set after the dispositive motion deadline passes without the filing of a dispositive motion or, if a dispositive motion is filed, after the Court rules on the dispositive motion. The Court will generally rule on dispositive motions filed after the close of discovery within 90 days from the filing of Reply, if any.

### IV. Deadlines and filings related to the final pretrial conference

#### A. Deadlines

The final pretrial conference will generally be set between 30 and 15 days prior to the date set for the beginning of a trial. In the order setting the date for the final pretrial conference, the following deadlines will also be set:

1. Motions *in limine*: 35 days before final pretrial conference
2. Responses to motions *in limine*: 14 days later
3. Proposed final pretrial order: 7 days later

#### B. Motions *in Limine*

Counsel shall file a *single* motion *in limine* instead of multiple, separately filed motions, with each separate issue numbered within the single motion as follows: "Issue 1," "Issue 2," etc. Prior to the filing of a motion *in limine*, counsel shall confer with opposing counsel and determine which, if any, issues are unopposed. All unopposed issues shall be listed first among the issues and designated as "unopposed," "uncontested," or the like.

The response to a motion *in limine* need not address “unopposed” or “uncontested” issues, but the response to each separately numbered issue in the motion *in limine* should correspond to the same number of the issue in the motion *in limine*, e.g. “Response to Issue 1,” “Response to Issue 2,” etc.

The Court will generally orally rule on motions *in limine* at the final pretrial conference. Counsel should accordingly be prepared to argue the motions *in limine* at the final pretrial conference.

### C. Exhibits to the proposed final pretrial order

The proposed final pretrial order shall contain the following exhibits:

1. *Witness lists.* Each party’s witness list, separately listed as an exhibit, whether each witness is a fact or expert witness, and whether the party intends to call the witness in person or by video;
2. *Exhibit lists.* Each party’s exhibit list, a joint exhibit list where applicable, and whether the admission into evidence of each item on a party’s list is contested or uncontested. For each contested item, the exhibit list shall contain a short statement of the basis for the opposition evidence along with the Federal Rule of Evidence at issue. Items on a joint exhibit list should not be re-listed on an individual party’s exhibit list. Counsel are encouraged to confer prior to the filing of exhibit lists and agree upon the admission of exhibits when possible. For all items of evidence on a joint exhibit list for which admission is not contested, the parties at trial need not lay a foundation for admission ordinarily required by the Federal Rules of Evidence.
3. *Jury Instructions.* The parties shall confer prior to the filing of the proposed final pretrial order and determine those instructions to which the parties agree. All agreed instructions shall be filed as the parties’ “Joint Jury Instructions.” For contested proposed instructions, each party shall file their proposed instructions. Each party’s proposed instruction should indicate if opposing counsel is offering a different version of the same instruction. For example, if the parties disagree on the language of an “elements instruction” and each party offers a separate “elements instruction,” then each party’s elements instruction should be numbered ***the same as the opposing party’s instruction***. If a party offers a proposed instruction for which the opposing party does not offer a corresponding instruction, then the party proffering the only instruction on the issue should indicate the same on the face of the proposed instruction. The Court will resolve all jury instruction issues on the record at the final pretrial conference (except for those instructions which depend on events at trial, e.g. evidence is admitted for a limited purpose at trial. The combination of a party’s proposed jury instructions and the joint

jury instructions should constitute *all* the instructions a party believes should be given to the jury, including the verdict form.

## V. Jury Trials

### A. Schedule

Jury trials will generally begin on Monday mornings at 9:30 a.m. During each day of trial, the Court will break once in the morning for ten minutes, break for one hour at noon, and break again for ten minutes in the afternoon. The trial will begin each day at 9:30 a.m. and conclude each day at 4:00 p.m. For trials that require more than three days, the Court will recess the trial on Thursdays (to allow for criminal matters) and resume the trial on Friday.

### B. Jury Selection

For civil jury selection, eight jurors will be selected with no alternate jurors. The Court will initially question the entire venire regarding general questions concerning hardships and inability to serve as a juror. Panels of six jurors will then be called to the jury box. Each side will have ten minutes to question the panel of jurors. Counsel will then have an opportunity to make challenges for cause for that panel.

Additional rounds of six jurors will be called, with additional rounds of attorney questioning, until at least 14 jurors have not been stricken for cause. Each side will then exercise peremptory challenges, with the defendant exercising the first strike, then the plaintiff, and so on, until a total of six strikes have been made, leaving eight jurors. If more than eight jurors remain after the use of peremptory challenges, then the jurors called to the jury box last will be stricken until eight jurors remain.

## VI. Contacting Chambers

Counsel should ordinarily not communicate directly with chambers staff by email or telephone except when contacted by the Court regarding scheduling issues where all parties are copied on the communication. The typical response from chambers staff to most communications from counsel will be, "File a motion." Remember that communicating with chambers staff is equivalent to communicating directly with Judge Hawley, so if it would be inappropriate for counsel to contact Judge Hawley by telephone or email for a specific purpose, then it would also be equally inappropriate to contact chambers staff for that purpose.