

## **Judge C. Darnell Jones II**

### **Chambers Policies and Procedures as of January 12, 2009**

#### PRELIMINARY GENERAL MATTERS

1. Correspondence with the Court.

Judge Jones does not permit correspondence in lieu of formal motions or other substantive matters which should be made of record. Counsel may write to Judge Jones to request an extension of time and for all matters pertaining to scheduling. Correspondence may be faxed to Judge Jones at 267-299-5057.

Judge Jones does not accept carbon copies of letters to opposing counsel.

Judge Jones does not permit ex-parte communication with the Court, written or otherwise.

2. Communication with Law Clerks.

Judge Jones generally does not permit counsel to communicate with law clerks.

3. Telephone Conferences.

Judge Jones will use telephone conferences for scheduling changes, extensions of time, and similar matters. He will also hold telephone conference calls on discovery motions as necessary.

4. Oral Arguments and Evidentiary Hearings.

Judge Jones will hear oral argument on a motion if he believes argument will assist him in deciding the motion. A party may request such argument in writing. Judge Jones does not set aside specific days or times for oral arguments or evidentiary hearings. Arguments and hearings are scheduled on an ad hoc basis.

## MOTION PRACTICE

1. Courtesy Copies.

Judge Jones requires that counsel deliver to chambers, via United States mail or hand delivery, two courtesy copies of any dispositive motion or response thereto. Courtesy copies of other motions or responses are discouraged where the pleadings have been filed electronically, unless exhibits are voluminous.

2. Proposed Orders.

Judge Jones requires a proposed order to be filed along with every motion.

3. Rule 56 Motions - Statements of Material Facts.

Where a motion for summary judgment is filed pursuant to Fed. R. Civ. P. 56, Judge Jones requires the parties to file statements of material facts, as follows:

- a. Any motion for summary judgment shall include a separate Statement of Undisputed Facts which sets forth, in numbered paragraphs, the material facts that the moving party contends are undisputed and entitle the movant to judgment as a matter of law. Only those facts which bear on dispositive material issues shall be included in the Statement of Undisputed Facts.
- b. The papers opposing a motion for summary judgment shall include a separate Statement of Undisputed or Disputed Material Facts, responding to the numbered paragraphs set forth in the moving party's Statement of Undisputed Facts, either admitting those facts to be undisputed or

contending that there are genuine factual issues to be tried. The responding party also shall set forth, in separate numbered paragraphs, any additional facts which the respondent contends preclude summary judgment. All material facts set forth in the statement required to be served by the moving party shall be deemed admitted unless controverted by the opposing party.

- c. Statements of material facts in support of or in opposition to a dispositive motion shall include specific and not general references to the parts of the record that support each of the statements, such as the title or numbered reference to a document, or the name of a deponent and the page(s) of the deponent's deposition, or the identity of an affidavit or declaration and the specific paragraph relied upon.

4. Reply and Surreply Briefs.

Upon motion, Judge Jones may permit parties to file reply and surreply briefs or statements of material facts. A motion for leave to file such must be accompanied by a memorandum indicating why the party wishes to supply the court with **additional** information. Judge Jones will not accept repetitive pleadings. Any motion for leave to file a reply brief must be filed within five (5) business days of service of the brief in opposition.

5. Joinders in Motions.

Judge Jones disfavors joinders in the substantive motions of other parties.

## CIVIL CASES

### 1. Pretrial Conferences.

After the filing of an appearance by defense counsel in civil actions, Judge Jones schedules a Rule 16 conference to be held in chambers or on the telephone, as directed by Judge Jones. Judge Jones requires the parties to commence discovery immediately upon receipt of the Order scheduling the Rule 16 conference, and he expects the parties to conduct substantial discovery before the Rule 16 conference.

The Court's processes and procedures rely upon the good faith of counsel and the diligent compliance with Rule 26(f). A Rule 26(f) meeting shall take place as soon as possible, and at least ten days prior to the Rule 16 conference.

At least five business days prior to the Rule 16 conference, counsel must file with the Clerk of Court a completed report of their Rule 26(f) meeting. Additionally, Judge Jones expects counsel to be prepared to discuss the following at the Rule 16 conference: jurisdictional defects; the possibility of amicable settlements; alternative dispute resolution; time limitations for joining additional parties and amending pleadings, if necessary; scheduling for discovery deadlines, filing of motions, filing of pretrial memoranda, and future pretrial conferences; scheduling a date for trial; and any other appropriate matter. Judge Jones enters a scheduling order following the Rule 16 conference.

Following the Rule 16 conference, Judge Jones will enter a scheduling order which sets firm dates for the completion of discovery, the exchange of expert reports, the filing of dispositive motions, and the commencement of trial.

2. Continuances and Extensions.

Judge Jones will permit extensions of discovery deadlines only upon a showing of good cause.

Because trial dates are set well in advance, normally at the time of the initial pretrial conference, Judge Jones is extremely reluctant to grant continuances of trial dates – especially if the attorneys have not been diligent in moving the case forward. The Court will not accept accommodations counsel may extend to each other during the discovery period as a reason to extend a trial date.

3. Final Pretrial Conferences.

Judge Jones typically holds a final pretrial conference sometime during the two weeks prior to the scheduled trial date. Final pretrial memoranda must be filed according to the schedule ordered by Judge Jones and in compliance with Local Rule of Civil Procedure 16.1(c).

4. Trial Dates.

In most cases, Judge Jones sets firm dates for the commencement of civil trials.

## CRIMINAL CASES

### 1. Pretrial Conferences.

Judge Jones holds pretrial conferences only in complex criminal cases or those involving several attorneys.

### 2. Pretrial Motions.

The parties must file any pretrial motions, including Starks motions or motions to suppress evidence, as soon as possible and in any case no later than three weeks prior to the commencement of trial. The opposing party must file any response to any pretrial motion no later than one week after the filing of the pretrial motion.

Judge Jones usually holds hearings on motions to suppress separate from and in advance of trial. No later than two days following the hearing on the motion to suppress, counsel for the moving party shall file proposed findings of fact and conclusions of law.

### 3. Voir Dire.

Judge Jones conducts general voir dire in criminal cases. Counsel may submit proposed voir dire questions at least three business days prior to the trial date. Should the need for followup questioning arise, Judge Jones permits counsel to do so.

4. Proposed Jury Instructions and Verdict Forms.

Judge Jones requires each party to file and serve on opposing counsel proposed points for charge and proposed jury verdict forms no later than three business days prior to the trial date. The points for charge must also be submitted to the Court on computer diskette or cd in Corel WordPerfect or Microsoft Word format. Each proposed instruction must be submitted with authority. If a party submits a model jury instruction, the party shall state whether the proposed instruction is unchanged or modified. If a party modifies a model instruction, additions shall be underlined and deletions shall be placed in brackets.

5. Trial Memorandum.

No later than five business days prior to the trial date, the government must file a trial memorandum setting forth the essential elements of the offenses, the facts that it intends to present, the identity of each witness it intends to call, a statement of the substance of each witness' testimony and any legal issues. The defendant is not required to file a trial memorandum but may do so.

6. Guilty Plea Memorandum.

Judge Jones requires the government to file a guilty plea memorandum no later than two business days prior to the guilty plea hearing. The memorandum shall include the elements of each offense to which the defendant is pleading guilty and legal citations for the elements, the maximum statutory penalties for each offense, the terms of any plea agreement and the factual basis for the plea.

7. Motions for Downward Departure.

A motion for downward departure, except a motion filed under § 5K1.1 of the United States Sentencing Guidelines, must be filed no later than two weeks prior to the sentencing date. The motion should include legal and factual support for the proposed departure.

The government must file any motion pursuant to § 5K1.1 no later than one week prior to the sentencing date.

8. Sentencing Memoranda.

Judge Jones requires both the government and the defendant to submit sentencing memoranda no later than one week prior to the sentencing date. Sentencing memoranda must set forth any legal authority relied upon by the party.