

Standing Order Governing Criminal Pretrial & Trial Procedures

This Standing Order applies to all criminal pretrial and trial procedures. The purpose of these requirements is to promote a fair and expeditious trial. The Court will set a deadline for the filing of the pretrial filings described below.

A proposed pretrial order must be filed electronically on the docket using CM/ECF (no need for courtesy copies). To file it, select the appropriate CM/ECF event, "Other Filings" and then "Other Documents," and choose the Proposed Pretrial Order event. Also email it to Proposed_Order_Jenkins@ilnd.uscourts.gov in Microsoft Word format.

1. *Joint Pretrial Statement.* The parties should agree on a Joint Pretrial Statement with the following items:

a. *Case Statement.* The parties shall confer and provide a concise agreed statement of the case to be read by the Court to the jury pool during jury selection. This is a neutral description of the case, with just enough information to introduce the case to the jury and to ask potential jurors whether they happen to know anything about the case. After reading the case statement, Judge Jenkins also ordinarily reads the third paragraph of Pattern Instruction 1.02: "The indictment is simply the formal way of telling the defendant what crimes he is accused of committing. It is not evidence that the defendant is guilty. It does not even raise a suspicion of guilt."

b. *Trial Length / Number of Jurors.* State the estimated number of trial days, including jury selection and deliberations, premised on six-hour trial-testimony days (the six hours already accounts for lunch and breaks). Provided estimated sub-totals for the government's case and the defense case (if any is anticipated). Propose time limits for opening statements and closing arguments, per side. Propose the number of alternate jurors.

c. *Voir Dire Questions.* Attached to this Standing Order is the juror letter with standard background questions that the Court asks prospective jurors during *voir dire* (the background letter is provided to the jurors when they are in the Jury Department room). For additional questions, the parties must file a list divided into (a) agreed-upon questions and (b) proposed questions to which there is an objection. A short basis for any objection must accompany the list. Each side is limited to **15 proposed disputed questions**, unless a motion is filed before the pretrial conference that explains good cause for proposing more than the limit. Each side shall provide the other with proposed voir dire questions 5 business days before the due date of the Joint Pretrial Statement, and confer by 2 business days before the due date in order to generate this section of the Statement.

d. *Stipulations and Uncontested Facts.* In numbered paragraphs, set forth any stipulations and uncontested facts. No later than 5 business days before the pretrial conference, the parties must serve on each other proposed stipulations. No later than 2 business days before the due date, the parties must confer in good faith to arrive at as many stipulations and uncontested facts as possible.

2. *Witness Description Lists.* Each party provide a list of witnesses, including expert witnesses, divided into (a) witnesses who *will* be called; and (b) witnesses who *might* be called. For each witness, provide a *very* concise (one or two sentences) description of the witness and the witness’s role in the case. For example: “Martha Washington is the case agent for the case. She also participated in executing the search warrant.” Or: “George Washington is XYZ Corporation’s Chief Operating Officer. He questioned the defendant about the allegedly fraudulent accounting entries.” The names of witnesses on the lists will be read to the jury during jury selection to ensure that potential jurors do not personally know any witnesses.

3. *Exhibit Lists and Proposed Exhibits at Pretrial Stage.* The parties must jointly submit an exhibit list that includes the Government’s exhibits and each Defendant(s) exhibits using the template uploaded to the Court’s webpage. The template requires the parties to provide the following information: (a) the exhibit number; (b) the date of the document or exhibit, if applicable; (c) a concise, neutral description of the exhibit; (d) a concise statement of the exhibit’s relevance; and (e) whether there is an objection to the exhibit’s admission, and if so, a concise explanation of the objection and the proponent’s theory of admissibility. The concise explanation of objection and theory of admissibility must be complete (i.e., list each distinct basis for admission or exclusion, such as Rules of Evidence or court opinions) but need not be as exhaustive as a brief would be. If additional argument on an issue will benefit the Court, it will ask the parties to brief the issue or address it at the final pretrial conference. Grounds not listed may be waived, **except for foundation and authentication**. Unless the parties stipulate to the admissibility of an exhibit, the proponent must be prepared to properly lay foundation and authenticate the document at trial. The parties shall, however, make a good faith effort to stipulate to the authenticity of exhibits to the extent reasonable. In addition to substantive exhibits and Rule 1006 summary exhibits, the list should also include proposed demonstrative exhibits and any exhibits that are likely to be referred to at trial even though not allowed into evidence.

No.	Date	Description	Relevance	Objection
1	02/02/23	2023 Performance Review	Proves record of satisfactory job performance	R. 402 relevance; R. 403 confusion. Plaintiff fired in 2020.

Because of the need to work together to create the charts (because of the objection column), the parties must exchange their respective proposed exhibit charts **10 business days** before the deadline for filing the pretrial order, and the objecting side must return the chart with the objection column filled in **5 business days** before the deadline.

If, due to unforeseen circumstances during trial, a party wishes to introduce an exhibit not previously listed, notice should be given as soon as possible to the opposing side and to the Court so that any objections can be discussed. Absent abuse of this process, an exhibit will not be deemed inadmissible simply because it was not included on the original exhibit list, provided the exhibit/document was earlier produced to the opposing side during discovery.

With regard to creating and naming the electronic versions of the exhibits, the parties must use the **exhibit-file format and exhibit-naming convention** for the Jury Evidence Recording System (JERS). Information on JERS is found on the Court's Standing Order page.¹ No later than **5 business days before the pre-trial conference**, the parties must submit to chambers all of the proposed exhibits using a box.com link the Court will provide upon request. Unless the parties agree otherwise, the party that is objecting to an exhibit is responsible for providing the copy of the objected-to exhibit. During the pretrial conference, the parties should raise any objections to exhibits that can be resolved before trial, in order to promote an expeditious trial and to avoid sidebars.

4. *Motions in Limine.* In the Proposed Pretrial Order, each party must provide a list that very briefly summarizes its motions in limine, e.g., "Motion to bar reference to Witness A's drug use." Motions in limine must be separately filed on the docket by the due date set by the Court. A party must consolidate separate motions in limine into a single filing (meaning the same ECF entry). The parties must also consolidate their responses to motions in limine into a single response brief (meaning the same ECF entry). Separately filed motions or separately filed responses to each motion are not permitted. Motions in limine are limited to 25 pages per side absent leave of Court. The Court's goal is to be in a position to decide as many of the motions in limine *before* the pretrial conference by **relying on the briefs**; any remaining motions in limine will be decided at the pre-trial conference, if at all possible. Unless set separately, the deadline on motions in limine includes *Santiago* motions by the government to allow co-conspirator statements. *Santiago* motions must be specific in identifying the offered statements, so that the parties may brief, and the Court may analyze, the propriety of each statement.

5. *Jury Instructions / Verdict Forms.* The parties must confer in order to attempt to agree on as many jury instructions as possible, as well as the verdict form. Where applicable, the Court generally prefers the Seventh Circuit's Pattern

¹ Ideally, any exhibit in .pdf format will have undergone Optical Character Recognition (OCR)

Instructions, but of course the parties may propose modifications to the Pattern and may propose additional, non-Pattern Instructions. The proposed jury instructions must state, on an instruction-by-instruction basis, the following information: the proponent of the instruction, the legal authority for the instruction, and whether there is an objection to the instruction. If an instruction is disputed, the proponent of the instruction should concisely explain the basis for the instruction, if more explanation is required beyond the identified legal authority (often citing to the Pattern or to a case will be explanation enough). Moreover, if an instruction is disputed, the objecting party must concisely state—immediately below the proposed instruction—the grounds for the objection, as well as any proposed modification or alternative. The same principles apply to proposed verdict forms. The jury-instructions filing also must be emailed to Judge Jenkins’s Proposed Order email account in Word format along with the proposed final pretrial order.

6. *Jury Selection.* As noted above, in the Jury Department, jurors are provided with a letter stating the general background questions each juror will answer during *voir dire*. Jurors will be seated in the jury box and in the gallery according to the random-order list. The Court will ask the background questions of all jurors. After each juror answers, the Court will ask the additional questions approved, during the pre-trial conference, for *voir dire*. After that questioning, counsel will have a chance to propose follow-up questions at a side-bar (though the Court will ask the questions). After that last round of questioning, counsel will exercise for-cause challenges. That will leave the qualified pool on which peremptory strikes will be made (double-strikes count against both sides). The first 12 non-struck jurors on the random-order jury list will comprise the jury. Then the parties will exercise their peremptory (or peremptories, if more than one) challenge for the alternate (or alternates, if more than one).

7. *Exhibits at Trial Stage.* Just as at the pretrial stage, when preparing exhibits for the trial itself, use the **JERS exhibit format and naming convention**. The Court does not require exhibit binders, but if a binder is prepared, it should separate the exhibits with tabs that correspond to the exhibit number.

8. *Displaying Exhibits on the Video Monitors.* If you need instruction on the courtroom display technology equipment, please call the Systems Department (312.435.6045) within the Clerk’s Office. Please note that the courtroom’s evidence-display technology has separate controls for the counsel-table video monitors, the witness’s monitor, and the jury’s monitors. The judge will leave the counsel-table monitors set to display during the entire trial. Generally, the judge also will leave the witness’s monitor set to display during the entire trial, because usually the other side does not have an objection to the witness being shown the proposed exhibit. But in order to give the other side time to object to even that step, the offering party should state something to the effect of, “I’d like to show Government’s Exhibit 1 to the witness.” If the opposing party objects to even showing the witness the exhibit, that is the time to object. Otherwise, the offering party may display the

exhibit to the witness via the offering party's laptop or the document camera.

To publish the exhibit to the jury, preface your request with something to the effect of, "May we publish Government's Exhibit 1 to the jury?" The Court will ask whether there is an objection, and then if publication is allowed, the Court will turn on the jury's video monitors. When done with that exhibit, say something to the effect of, "Your Honor, we're done with that exhibit," and the Court will turn off the jury's video monitors (and that also will be a signal to your co-counsel or assistant if you have someone putting on and off an exhibit via a laptop).

As we get deeper into the trial, we might be able to avoid turning off the jury monitors at certain points. For example, if you're asking a witness about an exhibit or set of exhibits already allowed into evidence and already published, you may signal that you're going to move onto an exhibit that's already been published (*e.g.*, "Your Honor, we're done with that exhibit, and I'd now like to show Government's Exhibit 1, which has already been published." The Court will ask whether there's any objection, and if not, the jury monitors will remain on.

9. *Witness Examinations / Jury Addresses.* In order to respect the jury's time, ***always*** have enough witnesses available so that we make use of the full trial day. All witness examinations must be conducted from the podium unless otherwise allowed by the Court. The only alternative site is the end of the jury box, but you must speak loudly enough for the witness, judge, jury, and court reporter to easily hear you, and speak into the microphone at the end of the jury box so that the audio-recording system can record you. Jury addresses must take place at the podium as well: even if you speak loudly for us to hear you, again the audio-recording system relies on the microphones to record what you say, and the recording is necessary for transcript preparation or to resolve a dispute over what a transcript says.

10. *Objections.* When you object, you must stand so that the Court and the witness are on alert that an objection will be made. Before trial, counsel should instruct their witnesses not to answer a question when they see the opposing lawyer stand and while an objection is pending. You must state a short, non-argumentative basis for the objection (*e.g.*, relevance, hearsay), and responses must be similarly short and non-argumentative. Ideally, there will be little or no need for a side-bar if objections and responses are succinct.

Revised: February 5, 2025