

THE HONORABLE RICHARD L. YOUNG  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA

QUESTIONNAIRE FOR DISTRICT JUDGE  
AND MAGISTRATE INTERVIEWS

I. Commencement of Action and General Procedures

- A. Initial court review upon filing? (Removal review; jurisdictional review; U.S. as litigant.)

Answer: The Court does not conduct an initial review of a case upon filing. Parties should raise issues such as jurisdiction, etc.

- B. Scheduling conference procedures. (When, what format, what forms used for scheduling first conferences and pretrial conferences?)

Answer: See the Court's Case Management Plan. The Magistrate Judge assigned to a case normally conducts the initial pre-trial conference and any discovery conferences, and counsel should schedule such conferences through the Magistrate Judge's office. Judge Young holds a final pre-trial conference 2-3 weeks before trial.

- C. Telephone conference calls?

Answer: The Court is willing to conduct telephone conference calls.

- D. Courtroom protocol. (Where counsel tables are positioned, whether to stand when addressing the Court; tardiness; scheduling conflicts; side-bar conferences; request to approach witness, marking and handling of exhibits, use of computers, video exhibits, CDRoms, etc.)

Answer: The Court has no rules regarding where counsel tables are positioned. Counsel should speak from the podium. If sidebar conferences are necessary, they are conducted at the bench. Counsel should request permission from the Court to approach witnesses. Counsel should pre-mark or at least pre-label exhibits. Plaintiffs are to use numbers in marking their exhibits; Defendants are to use letters. Counsel should keep track of what numbers/letters have been used and not rely on the court reporter

for this issue. The Court is willing to permit computer, video, or CDROM exhibits assuming they will be helpful to the jury.

- E. Procedures for resolving scheduling conflicts. (Trial dates, motion dates; how and when brought to Court's attention; what grounds valid for rescheduling?)

Answer: Counsel should contact the Court's secretary as soon as counsel are aware of a scheduling conflict. The Court has no specific grounds which is recognizes as automatically valid for rescheduling.

- F. Practice re assignments and references to magistrates.

Answer: Judge Young has dockets in both the Evansville and Indianapolis Divisions of the Southern District of Indiana. In both Divisions, Magistrate Judges will normally handle pre-trial and discovery matters, and Judge Young will handle dispositive motions and trial, though Judge Young may decide in a particular case to take responsibility for all proceedings in that case. In Evansville, Magistrate Judge Hussman will be responsible for Judge Young's cases. In Indianapolis, Judge Young's cases will be randomly assigned to Magistrate Judge Godlich, Magistrate Judge Shields, or Magistrate Judge Foster.

- G. ADR procedures.

Answer: The Court is willing to consider ADR procedures proposed by the parties. Normally, ADR will consist of mediation conducted by the Magistrate Judge assigned to the particular case.

## II. Civil Law and Motion Procedures

- A. Days, times for calendar. (What does the judge require in terms of advance notice to the Court, if any, of motions to be presented?)

Answer: The court prefers a week to 10 days notice of any motions to be presented to it.

B. Does the judge use a short form procedure for non-dispositive motions?

Answer: The Court has no specific short form procedure for non-dispositive motions.

C. Procedures re scheduling. (Call Judge's clerk or law clerk first to set? Resetting on Court's own motion? Short matters called first? Will any orders on motions be entered without court appearance? What types of motions? How do lawyers determine whether an appearance is required?)

Answer: Counsel should contact the Court's secretary regarding scheduling matters.

D. Procedures re obtaining orders shortening time. (Court or magistrate; need for personal appearance by attorney; ex parte vs. stipulated; notice to opposing counsel?)

Answer: Counsel should contact the Magistrate Judge assigned to the particular case regarding orders shortening time.

E. Calendaring TROs, preliminary injunction hearings, contempt hearings. (What arrangements required; practice re allowing evidentiary hearings?)

Answer: Counsel should contact the Court's secretary regarding calendaring TRO's, preliminary injunction hearings, and contempt hearings. The Court will allow evidentiary hearings if the Court feels that such a hearing is appropriate given the particular motion.

F. Continuances. (Practice re granting; preferred procedures.)

Answer: Counsel must file a motion to receive a continuance. The Court is generally opposed to continuing trial dates, and encourages counsel to resolve discovery disputes early to avoid the necessity for a continuance.

G. Briefing schedules. (Any special preferences or rules?)

Answer: The Magistrate Judge assigned to the particular case will set briefing schedules. Briefing schedules may also be affected by Local Rules.

H. Oral argument. (When desired, when unnecessary? Will oral argument on motions be granted if a party requests it? Under what circumstances? Any provision for identifying particular questions for argument? Any tentative ruling procedure? Any time limits? Preferred procedure for presenting new authorities not included in briefs?)

Answer: The Court will not automatically grant oral argument just because a party requests it. Further, the Court may schedule oral argument on its own motion despite the fact that neither party has requested oral argument. Further, the Court may on its own motion identify particular questions for argument. The Court does not have a tentative ruling procedure. The Court has no general time limits; time limits depend on the particular issue being addressed in the oral argument. If counsel wish to present new authorities not included in briefs to the Court, counsel should file supplemental briefs presenting such new authorities.

I. Motion papers and briefs. (Extra copies desired? Particular format preferred? Special length provisions? Contacts with law clerks encouraged, discouraged?)

Answer: Extra copies of motion papers and briefs are not required but may be filed with the Court if the party wishes. Motion papers and briefs should follow the format prescribed by the Local Rules, including the Local Rule regarding length. The Court has no objection to counsel contacting its law clerks.

J. Should motion papers and briefs be filed in chambers, in the clerk's office, or both?

Answer: Counsel should file motion papers and briefs in the Clerk's office. Counsel may file courtesy copies in the Court's chambers as well. Courtesy copies should be file-marked.

- K. Preparation of proposed orders after rulings. (When submitted, by whom, preferred procedures re obtaining opposing counsel's approval as to form?)

Answer: Counsel should submit proposed orders at the time of filing their Motion. The Court has no particular form order which counsel should follow. The Court may on occasion ask counsel to prepare an order memorializing rulings made by the Court.

- L. Other comments?

Answer: None.

### III. General Duty Judge -- Special Proceedings

- A. Preferred procedures for scheduling matters in General Duty department. (Call clerk? Regular calendar? Orders shortening time and emergency matters -- practice; ex parte vs. stipulation; notice to opposing counsel.)

Answer: In Evansville, counsel should contact the Court's secretary. In Indianapolis, counsel should contact the office of the Magistrate Judge assigned by rotation. Judge Young is not on the Motions Judge rotation schedule in Indianapolis.

- B. Evidentiary hearings. (How to schedule, preferred practice?)

Answer: Counsel should contact the Court's secretary to schedule evidentiary hearings.

### IV. Criminal Law Procedures

- A. Days, times for calendar.

Answer: Judge Young will not handle criminal matters in Indianapolis. In Evansville, the Court has no specific rules regarding scheduling criminal matters. Criminal matters will be set within the parameters prescribed by the Federal Rules of Criminal Procedure.

- B. Procedures for scheduling. (Scheduling orders; how firm are dates initially set? Preferred method of changing dates, continuances; conflict between criminal trial date and civil trial already set.)

Answer: Counsel should contact the Court's secretary to schedule criminal matters. Initially, the Court will set only the trial date, and the U.S. Attorney and Defendant's counsel will confer regarding intermediate dates. Criminal trial dates will take precedent over civil trials already set.

- C. Bail procedures.

1. When, by whom are initial bail determinations made; preferred method, content of presentation (proffer or live witnesses)

Answer: Normally, the Magistrate Judge conducts initial bail hearings. The Court will follow the Federal Rules of Criminal Procedure regarding initial bail determination. The Court normally prefers presentation through live witnesses. The Court normally follows recommendations of the attorneys, but will not automatically do so.

2. Procedure for appeal of magistrate's ruling on bail issues.

Answer: Counsel should file standard Notice of Appeal of Magistrate Judge's ruling.

3. Procedure for obtaining exemption from bail conditions (trip out of town) or modification of bail provisions.

Answer: Counsel should file a written request for exemption from bail conditions.

- D. Speedy Trial Act motions and orders. (Will Court accept stipulation between Government and counsel re Speedy Trial Act time exclusion, or complex case designations? If not, how, when determined?)

Answer: The Court will accept stipulations between the Government and defense counsel regarding Speedy Trial Act time exclusions, or complex case designations if the stipulation is within the Rules.

- E. Criminal evidentiary/suppression hearings. (Procedures to calendar evidentiary hearings; proffers, declarations or affidavits vs. live testimony; statements of contested and uncontested facts and issues.)

Answer: Counsel should file a Motion with the Court to request a criminal evidentiary or suppression hearing. The Court normally prefers that proffers be made through live testimony. Statements of contested and uncontested facts and issues should be included in the Motion or response thereto.

- F. Oral argument. (Ever considered unnecessary? Any provision for identifying particular issues for argument? Any tentative ruling system? Time limits? Preferred practice for submitting newly discovered authorities?)

Answer: The Court will never consider oral argument unnecessary in criminal matters. The Court does not issue tentative rulings in criminal matters. As in civil cases, counsel wishing to submit newly discovered authorities to the Court should do so through a written supplemental brief.

- G. Motion papers and briefs. Timing on filing briefs and motions in limine. (Extra copies desired? Particular format preferred? Contacts with law clerks encouraged, discouraged?)

Answer: The procedures in criminal matters are the same as those in civil matters detailed above.

- H. Trial briefs, jury instructions, forms of verdict. (When required from defense, preferred format and sequence, etc.)

Answer: Trial briefs are not required. The Court will provide jury instructions and forms of verdict in criminal cases. The parties can submit proposed jury instructions and forms of verdict.

I. Pretrial conferences. (When, how scheduled; preferred procedures?)

Answer: Judge Young is not involved in plea negotiations. Judge Young may conduct final pre-trials regarding procedures during trial 1-2 weeks before trial.

J. Discovery. (Deadlines; motions necessary? "Open-file" discovery practices? Reciprocity? Timing re Jenks Act and Rule 404(b) disclosures.

Answer: The Court prefers open file discovery in criminal cases. The Court will, of course, follow the Rules of Criminal Procedure and case law construing those Rules.

K. Entering pleas.

1. Procedure preferred re presentation of factual basis, terms of any plea bargain; when is written plea required/preferred? Will the defendant be sworn and subject to questioning at plea hearing?

Answer: Counsel should file a Petition for Change of Plea. The Court will examine the Defendant and then hear the Government's version of the facts.

2. Are nolo contendere or Alford pleas ever accepted?

Answer: The Court does not accept nolo contendere or Alford pleas.

L. Sentencing. (Does the judge confer with the probation officer without notice to and/or presence of counsel? Timing on objections to Presentence Report; must objections be in writing? Will the Court give notice of its intention to depart from the Guidelines -- opportunity to brief departure issues?)

Answer: The probation officer submits his or her recommendations to the Court, and the court goes over those recommendations with the probation officer outside the presence of counsel. The Court prefers objections to pre-sentence reports to be in writing. Such objections should follow the Rules. The Court will not give notice of its intention to depart from the guidelines, but will give counsel an opportunity to brief departure issues.

M. Other comments?

Answer: None.

V. Pretrial and Trial

A. Pretrial reports - civil. (Joint vs. separate; amount of detail; any areas of particular interest to Court? Does the judge have his own form of pretrial order, does he use a standard form prescribed for use in the court as a whole, or does each case have a customized order?)

Answer: The Court has issued its preferred Case Management Plan, a copy of which is attached. Generally, the Magistrate will manage pretrial matters and will determine whether revisions are necessary based upon the circumstances of an individual case.

B. Identification of trial witnesses. (How much detail required in statements; any flexibility in application; expert witnesses? Can witness identified as “live” be presented through deposition?)

Answer: Generally, the parties should provide as much information as possible to assist in identification of trial witnesses. Identification of trial witnesses also is addressed in the Case Management Plan. The Federal Rules of Civil Procedure also dictate the information to be provided concerning expert witnesses, and parties should adhere to those Rules. The Court will permit witnesses identified as “live” to be presented through depositions.

C. Motion cut-off date and discovery cut-off date. (What are normal limits; under what circumstances are these dates altered?)

Answer: These matters are addressed in the Court’s Case Management Plan.

D. Trial continuances. (What grounds acceptable, necessary; cut-off time for motion; effect of stipulation among counsel?)

Answer: The Court does not favor continuances of trial dates unless good cause is demonstrated. The Court is more amenable to trial continuances in criminal cases as opposed to civil lawsuits.

E. Are time limits imposed for trial?

Answer: Generally, time limits are not imposed. The Court attempts to rely upon the representations of counsel as to the amount of time required for any individual trial.

F. Are mini-opening statements and summations permitted?

Answer: Not applicable.

G. Trial exhibits:

1. Pre-marking. (When required; civil vs. criminal.)

Answer: The Court prefers that exhibits should be pre-marked, or at least that labels be placed upon them prior to trial.

2. Pretrial exchange of trial exhibits. (How required; must copies be provided to other side?)

Answer: This matter is addressed in the Case Management Plan. The Court requires pretrial exchange of trial exhibits.

3. Pretrial resolution of objections to admissibility.

Answer: As a general policy, the Court does not address resolution of objections to admissibility prior to trial. The Court will attempt, however, to resolve Daubert and Rule 404(b) issues prior to trial.

4. Marking -- numbering, lettering, conventions.

Answer: Plaintiffs should use numbers, while Defendants should use letters. Counsel should not reply upon the court reporter to determine the next lettered or numbered exhibit.

5. Copies of exhibits for judge. (Required? If so, what format -- loose, binders, etc.)

Answer: The Court prefers its own copy of exhibits. If possible, those exhibits should be contained in a binder.

6. Use in opening statement -- necessity to obtain prior court approval.

Answer: Court permission is required before exhibits may be used in opening statements due to the potential for admissibility issues.

7. Copies of exhibits for jurors? (Required/allowed? If so, what format -- loose, binders, all vs. fewer than all?)

Answer: It is not necessary to provide a separate copy of all exhibits for the jurors. The jurors are permitted to examine each exhibit as it is admitted.

8. Exhibits into jury room? (How decided; general rule?)

Answer: The Court does permit exhibits to be taken into the jury room.

9. Preferences re scheduling and briefing in limine motions?

Answer: These matters are addressed in the Case Management Plan.

#### H. Experts at trial

1. Exchange of identities. (When, how requested; civil vs. criminal.)

Answer: These matters are addressed by the Case Management Plan and the Pretrial Order.

2. Exchange of reports or summaries of testimony.

Answer: These matters are addressed by the Court's Case Management Plan and Pretrial Order.

3. Voir dire re qualifications (preferred procedures).

Answer: Initially, the Court will address the jury panel in a general manner, reading the Complaint and Answer or Indictment, and talking about the nature of the lawsuit. This general discussion will last about 45 minutes to 1 hour. During this time, the Court will ask general questions of the jury panel. Then, counsel for the parties are permitted to voir dire the jury panel. During the first round, each side will have 20 minutes to question the panel, followed by 15 minutes for the second round, 10 minutes for the third round, and 5 minutes for what is normally the last round.

4. Any special rules re presentation to jury? (Summaries in lieu of direct testimony, etc.)

Answer: None.

5. Other comments?

Answer: None.

I. Jury selection process.

1. Voir dire questions.

Answer: Counsel should submit the questions they wish to ask the prospective jurors to the Court before voir dire. The Court will not permit any questions that may constitute an argument of the case.

2. Examination of jurors. (Court vs. counsel upon request of counsel.)

Answer: See answer to V. H. 3 above, concerning voir dire regarding qualifications.

3. Exercise of challenges.

Answer: Challenges should be made at the bench. The Plaintiff or the Government will strike first in the initial round. In the second round, the Defendant is permitted to strike first. This process is alternated between the two parties thereafter.

4. General practice. (How many called up at a time; general questions to whole panel, etc.)

Answer: Where a 12-person jury is required, the Court will call a panel of around 40 persons. For a 6-person jury, the panel will consist of 20 to 24 prospective jurors.

J. Juror note taking during trial. (Allowed? prohibited? cautionary instructions?)

Answer: The Court prohibits juror note taking during trial. However, the issue is open to discussion.

K. Visual aids during trial (charts, videos, models, computer generated exhibits).

1. Use in opening statements. (Need for judicial approval? limitations? conditions on use?)

Answer: The Court generally does not permit use of visual aids during opening statements unless the parties stipulate to their use and the Court further finds that their use would be appropriate and helpful to the jury.

2. Stipulations/pretrial exchange required?

Answer: Yes.

3. Court permission required during trial? (When, how, any limit on types of visual aids?)

Answer: Court permission is required for use of visual aids during trial.

L. Deposition testimony at trial. (Preferred practice; who reads what parts, etc.)

Answer: Generally, the Court permits counsel to decide how the reading of deposition testimony is handled at trial, i.e., who will be reading the testimony.

M. Jury instructions.

1. Format, preferred sources.

Answer: The Court will provide boilerplate instructions and relies upon counsel to submit their own requests for jury instructions.

2. Does judge have own preferred instructions? (If so, are they required? When are they provided to counsel?)

Answer: The Court does have a few preferred instructions, particularly concerning deliberation by the jury.

3. Hearing re objections and making record.

Answer: The Court permits counsel to make a record of his or her objections after the jury begins deliberation.

4. When is jury instructed? (Any pre-instruction at commencement of case? Before or after argument, or both?)

Answer: The jury receives preliminary instructions at the commencement of the case. Final instructions are given after closing arguments.

5. How is jury instructed? (Orally only? Are transparencies of the instructions used as the judge reads? Are copies of instructions given to jurors during deliberation?)

Answer: The jury is instructed orally, and one copy of the instructions is sent into the jury room for jurors' use during deliberation.

- N. Closing argument -- ground rules. (Where to stand; what can be used, e.g., exhibits, blowups of instructions, blowups of trial testimony; preferred method of handling objections during argument; any special rules re what can be said about instructions; time limits?)

Answer: Counsel are cautioned to limit their closing arguments to a reasonable amount of time, as the Court does not provide any set time limits. Counsel are permitted to use admitted exhibits during closing argument. The Court prefers that closing argument be made from the podium, although counsel is permitted to move about when using admitted exhibits.

VI. Discipline and Sanctions

- A. Civil matters -- Rules 11, 16, 26, etc.

Answer: The Court is hesitant to impose sanctions. Any request for sanctions must be made in writing.

- B. General sanctions under 28 U.S.C. 1927 (when imposed, what sort of hearing held, what types of notice given?)

Answer: Generally, the Court will determine whether sanctions are warranted based upon the written materials submitted by the parties.

- C. Criminal matters.

Answer: Requests for sanctions in criminal matters are handled in the same manner as requests for sanctions in civil cases.

VII. Settlement and Sentencing

A. Civil settlement conferences.

1. When, how set? (Routinely? Only as requested? At what stage of the proceedings? How many times?)

Answer: Civil settlement conferences are established under the Case Management Plan. The Magistrates may ask the parties to submit Confidential Settlement Statements. The Court attempts to explore settlement in all civil cases. At the final pretrial conference, the Court will require that the parties be prepared to discuss settlement and that persons with authority to settle be available for consultation during the final pretrial conference.

2. Before whom? (Trial judge? Magistrate? Another district judge?)

Answer: Generally speaking, the Magistrate handles settlement conferences. The Court, however, is amenable to conducting a settlement conference upon request.

3. Settlement conference statements, procedures. (Written statements required/desired? Are they filed? Must clients be present? What format for conference? Use of computer-generated and video materials at conference?)

Answer: Generally, Magistrates are permitted to determine the procedures for settlement conferences and to determine whether Settlement Conference Statements will be required. As noted above, the Court will require that someone with settlement authority be available during the final pretrial conference that will take place about two weeks prior to trial.

4. Any special procedures? (Early Neutral Evaluation? Special arbitration procedures? Mediation? Rent-a-judge? Mini-trial?)

Answer: Practically speaking, settlement is not discussed until discovery is completed. The Magistrates will conduct settlement conferences as a general rule. The Court is amenable to conducting a summary jury trial in particular circumstance, and is amenable to requests for other settlement methods or procedures.

B. Criminal matters.

1. Sentencing memoranda (preferences).

Answer: Defense attorneys generally file a Memorandum in Aid of Sentencing with the Court.

2. Resolution of factual disputes on sentencing.

Answer: Defense counsel's objections are forwarded to the Probation Department, where the Court requires the probation officer to address those objections. The probation officer is permitted an opportunity to rebut those objections or to amend his or her report in light of those objections.

VIII. Ex Parte Communications

- A. Communications between Court and party. (Any circumstances when permitted; clerk/law clerk involvement?)

Answer: Under no circumstances are ex parte communications permitted between the Judge and counsel for a party. Counsel are permitted to communicate with members of the Court's staff or law clerks, if involvement will clarify the procedures to be followed by counsel. Counsel are cautioned not to ask law clerks about matters pertaining to the Court's ruling, including when the Court is expected to issue a ruling.

B. Communications between Court and state court on related cases.

Answer: The Court contemplates that it may communicate with a State Court Judge on related cases where the issues are similar and where such communication would resolve an issue or assist in determining a resolution of the issue.

C. Differences between civil and criminal?

Answer: The Court does not treat ex parte communications differently in civil and criminal cases.

IX. Any other comments?

Answer: None.