U.S. District Court
District of Idaho
District Judges' and Magistrate Judges' Procedural Policies

April 2008

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Assignment of Cases

- Pursuant to Local Rule 40.1, civil and criminal cases will be assigned by the Clerk to the respective judges of the Court by lot. If it appears that a case has been improperly assigned for any reason, the Court may, in its discretion, reassign the case to another calendar area without prior notice.
- Death penalty and pro se cases are assigned on a rotating basis founded upon workload and relative assignment of a companion case.

Correspondence with the Court

- Communication with the Court is governed by Local Rule 77.4.
- Correspondence, email, and telephone calls for the purpose of notifying the Court of something is permissible; however, it should not be used as a substitute for seeking relief on a matter more properly brought as a motion.
- All parties should receive copies of all correspondence

Communications with the Staff Attorneys and Law Clerks

- Communication with the Court is governed by Local Rule 77.4.
- Law clerks are available to answer general procedural, scheduling, and non-substantive questions.
- Questions of a substantive nature should be made in the presence of the other counsel or by telephone conference call.
- **Judge Winmill:** Law Clerks also mediate discovery disputes with all counsel present – this is explained at the Scheduling Conference for all cases.
- **Judge Williams**: The law clerk may be reached by calling (208) 334-9330.
- **Judge Boyle:** The staff attorneys may be reached by calling (208) 334-9010.
- **Judge Dale:** The staff attorneys may be reached by called (208) 334-9111.

Communications with Courtroom Deputies

- The courtroom deputy will assist with administrative, procedural, and all calendar matters. You may contact or leave messages and a call will be returned ASAP.
- All scheduling issues must be presented first to the courtroom deputy clerk, and not to chambers.

Courtroom Services Contact List

- **Judge Winmill:** LaDonna Garcia @ (208) 334-9021
- **Judge Lodge:** Anne Lawron @ (208) 334-9022
- **Judge Boyle:** Lynette Case @ (208) 334-9023.
- **Judge Candy Wagahoff Dale:** Amy Hickox @ (208) 334-9387
- **Judge Williams**: Amy Hickox @ (208) 334-9387
- **Court Services Supervisor:** Kathy Stutzman @ (208) 334-9327

- **Electronic Sound Recording:** Vicki Jones @ (208) 334-1595
- **Judge Winmill Court Reporter:** Stacy Heinz @ (208) 334- 9700
- **Judge Lodge Court Reporter:** Lisa Yant @ (208) 334-9721

- **Jury Administrator:** Joanne Cook @ (208) 334-1493

Chambers Contact List

Judge Winmill: Susie Boring-Headlee @ (208) 334-9373
Judge Lodge: Diane McDonald @ (208) 334-9270

Judge Boyle: Law Clerks @ (208) 334-9010
Judge Dale: Law Clerks @ (208) 334-9111
Judge Williams: Law Clerks @ (208) 334-9330

Proposed Order E-mail Addresses

Judge Winmill BLW_Orders@id.uscourts.gov
Judge Lodge EJL_Orders@id.uscourts.gov
Judge Boyle LMB_Orders@id.uscourts.gov
Judge Dale CWD_Orders@id.uscourts.gov
Judge Williams MHW_Orders@id.uscourts.gov
Consents: consents@id.uscourts.gov

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ADR - Alternative Dispute Resolution

General Approach
Referral for Settlement
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General Approach

- The Court encourages the use of all ADR options available and recommends the use of the Court's mediation program.
- Counsel will be expected to have discussed ADR with their client(s) prior to the Rule 16 scheduling conference and to report at that conference on their client's willingness to participate in ADR and which form is preferrable.
- Alternative dispute resolution will be discussed during scheduling conference and ordered if agreed to by all parties.
- The Court prefers that the parties submit a joint ADR plan, but in the absence of a agreement on an ADR option, each side may submit an individual ADR plan.
- The ADR plan shall include the specific ADR option selected, the name of the ADR provider and the date by which teh ADR option shall be completed.
- The ADR plan is electronically filed.

For further details, you may contact **Denise Asper,** ADR Administrator @ (208) 334-9067.

Referral for Settlement

- Upon request by the parties and as long as there is sufficient time prior to the trial date, a case may be referred to another judge for a settlement conference..
- **Judge Winmill:** Contact Susie Headlee at (208) 334-9373 for an order of referral.
- **Judge Lodge:** Contact Diane McDonald at (208) 334-9720 for an order of referral.
- **Judge Boyle**: Contact Kate Ball at (208) 334-9010 for an order of referral.
- In magistrate cases, the matter is referred to the other magistrate judge.

Settlement Conferences

- When all parties agree to a court-assisted settlement conference, it will be set on a mutually agreeable date, and a settlement conference order will issue.
- Full and half-day conferences are available.
- A confidential settlement brochure is due in chambers one week before the conference and it should address the points set forth in the Court's settlement conference order.
- Settlement brochures are returned to the parties at the end of the settlement conference to maintain confidentiality and to ensure that they are not placed in the Court file.

Referral for Mediation or Arbitration

Judge Winmill and Judge Lodge

- Mediation and Arbitration will be discussed during the scheduling conference.
- The Court will only refer a case to arbitration if the parties stipulate to the referral.
- The Court reserves the right to order the parties' participation in mediation in accordance with Local Civil Rule 16.5.
- Counsel shall notify the mediator of the requirement to submit a confidential mediation status report.
- The Mediation Status Report is due within 5 days of the ADR process.
- Upon the request of parties, the Court will refer a case to arbitration or mediation and order a stay, pending the completion of the ADR option.

Judge Boyle, Judge Dale and Judge Williams

- If the parties wish to engage in mediation, they should notify the Court and an order of referral will be issued.
- The order will direct the parties to contact the ADR Program Director, Denise Asper, at (208) 334-9067 in the event they need assistance in selecting a mediator.
- Counsel shall notify the mediator of the requirement to submit a confidential mediation status report directly to Ms. Asper within five (5) days of the ADR process.
- A copy of the form appears on the Court's website under Court Information/ADR.

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HEARINGS and CONFERENCES
Telephone Conferences
Oral Argument & Evidentiary Hearings

Telephone Conferences

Judge Winmill

- Status and scheduling conferences are routinely held by telephone.
- Hearings on motions must be held in person, unless otherwise authorized by the Court.
- The moving party (or the plaintiff, in the case of scheduling and status conferences) will be responsible for initiating the telephone conference, and should check with the courtroom deputy to determine which court personnel should be included and the telephone numbers.
- Counsel are required to use a telephone conferencing service.

Judge Lodge

- Telephone conferences are only held when oral argument is necessary, and attendance by parties is not possible or the issue is limited in nature.

Judge Boyle

- Judge Boyle will hear non-dispositive motions, status and scheduling conferences via telephone if all parties agree.
- Requests for telephone hearings should be made through the courtroom deputy, Lynette Case at (208) 334-9021.
- The party responsible for initiating a telephone hearing conference call should dial Judge Boyle's chambers at (208) 334-1495

Judge Dale

- Judge Dale will hear non-dispositive motions, status and scheduling conferences, as well as other matters via telephone if all parties agree.
- Requests for telephone hearings should be made through the courtroom deputy, Amy Hickox at (208) 334-9387.
- The party responsible for initiating a telephone hearing conference call should dial Judge Dale's courtroom at (208) 334-1504.

Judge Williams

- Judge Williams will hear non-dispositive motions, status and scheduling conferences, as well as other matters via telephone if all parties agree.
- Requests for telephone hearings should be made through the courtroom deputy, Amy Hickox at (208) 334-9387.
- The party responsible for initiating a telephone hearing conference call should dial Judge Williams' courtroom at (208) 334-1504.

Oral Argument and Evidentiary Hearings

Judge Winmill

- Oral argument is crucial.
- Counsel should be prepared for questions from the Bench. The Court will have read the briefs, and counsel will be expected to go right to the heart of their argument.
- Telephone hearings are generally not allowed – the hearings must be in-person. To set a hearing, please call the courtroom deputy, LaDonna Garcia at (208) 334-9021.

Judge Lodge

- Upon review of the briefing, the Court determines if a hearing is necessary.
- Hearings are the exception rather than the rule.
- If a hearing is necessary, the Court calendars a hearing through the courtroom deputy in accordance with Local Rule 7.1(d).
- Anne Lawron at (208) 334-9022

Judge Boyle

- In accordance with Local Rule 7.1(d), and upon review of the briefing, the Court determines if a hearing is necessary.
- Telephone hearings on dispositive motions are generally not permitted. The hearings must be in person.
- If a hearing is necessary, the Court calendars a hearing through the courtroom deputy, Lynette Case at (208) 334-9021.

Judge Dale

- Counsel are generally requested to present oral argument on dispositive and non-dispositive motions unless calendar restraints prevent holding a hearing, or the Court determines a hearing is unnecessary in accordance with Local Rule 7.1(d).
- The moving party should contact the courtroom deputy, Amy Hickox, at (208) 334-9387, for a hearing date at the time the motion is filed.
- After receiving a hearing date from the courtroom deputy, the moving party must electronically file the notice of hearing.

Judge Williams

- Counsel are generally requested to present oral argument on dispositive and non-dispositive motions unless calendar restraints prevent holding a hearing.
  The moving party should contact the courtroom deputy, Amy Hickox, at (208) 334-9387, for a hearing date at the time the motion is filed. After receiving a hearing date from the courtroom deputy, the moving party must electronically file the notice of hearing.

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CONTINUANCES & EXTENSIONS
General Policy
Requests for Extensions

General Policy

Judge Winmill

- Civil trial dates are set with the agreement of counsel. Consequently, a change in the trial date will only be made in extra-ordinary circumstances.
- All other deadlines are subject to change if stipulated to by counsel and will not impact the scheduled trial date.

Judge Lodge

- Good cause must be shown before continuances or extensions will be granted.
- Cases are evaluated on a case-by-case basis.

Judge Boyle

- Good cause must be shown before continuances or extensions will be granted.
- Cases are evaluated on a case-by-case basis.

Judge Dale

- Requests for continuances and extensions are analyzed case by case.
- Considerstation is given regarding the impact the continuance or extension will have on hearing or trial dates, as well as the reasons for the request.

Judge Williams

- Requests for continuances and extensions are analyzed case by case.
- Considerstation is given regarding the impact the continuance or extension will have on hearing or trial dates, as well as the reasons for the request.

Requests for Extensions

- Requests for extensions should be made by motion in writing and e-filed.
- The moving party is encouraged to determine if the motion is unopposed, and place that notation in the motion. A separate stipulation is not required.

A proposed order should be sent to:
Judge Winmill BLW_Orders@id.uscourts.gov
Judge Lodge EJL_Orders@id.uscourts.gov
Judge Boyle LMB_Orders@id.uscourts.gov
Judge Dale CWD_Orders@id.uscourts.gov
Judge Williams MHW_Orders@id.uscourts.gov

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DISCOVERY

Confidentiality Agreements
Length of Discovery Period & Extensions
Discovery Conferences
Expert Witnesses

Confidentiality Agreements

- As a general rule, all pleadings and proceedings before the Court are a matter of public record. Requests to seal portions of the record will be considered on a case by case basis and granted upon a showing of good cause.
- In cases where the parties enter an agreement, a stipulation should be filed and a proposed order approving the agreement should be emailed to the judge's order e-mail address.

Length of Discovery Period and Extensions

Judge Winmill

- The Court has found that counsel are usually in agreement at the Rule 16 Scheduling Conference as to how much time they need for discovery.
- When counsel agree, the Court usually does not impose a different deadline.
- Extensions are permitted so long as the trial date is not affected

Judge Lodge

- Pursuant to Local Rule 16.1, the parties will meet and determine a litigation plan.
- In determining their case litigation plan, counsel shall be expected to follow the civil case litigation outline as provided by the court.
- Limited extensions are granted if such extension does not interfere with the scheduled trial date.

Judge Boyle

- The length of the discovery period will be discussed at the scheduling conference if counsel do not agree in their Litigation Plan.
- The Court prefers to have the parties stipulate to extensions.
- Regardless of whether an extension request is made by stipulation or motion, counsel must email a proposed order.
- Limited extensions may be granted if the extension does not interfere with the trial date.

Judge Dale

- Length of discovery period will be discussed at the scheduling conference.
- The Court prefers to have extension motions in the form of a stipulation between parties.
- A stipulation should be submitted with a proposed order.

Judge Williams

- Length of discovery period will be discussed at the scheduling conference.
- The Court prefers to have extension motions in the form of a stipulation between parties.
- A stipulation should be submitted with a proposed order.

Discovery Conferences

Judge Winmill

- No motions may be filed in a discovery dispute until all counsel have placed a conference call with the law clerk assigned to the case.
- If the dispute cannot be resolved in that call, the parties shall discuss the issue on the phone with the Judge.
- If the dispute still exists, then and only then, is counsel free to file a motion.
- Judge Winmill will resolve the motion, and will not refer it to the Magistrate.

Judge Lodge

- Discovery conferences not normally held.
- Local Rule 37.1 applies for discovery disputes.
- The Court refers most discovery matters to the magistrate judges.

Judge Boyle

- Counsel must meet and confer with opposing counsel in a reasonable effort to reach agreement on discovery disputes, as required by Local Rule 37.1, before filing a discovery motion.
- The Court prefers, however, to not get involved in discovery disputes and strongly encourages the parties to attempt to resolve disputes before filing motions

Judge Dale

- If parties cannot agree upon discovery, either a motion to compel or motion for protective order should be filed as provided for in Local Rule 37.2.
- Moving party should contact the courtroom deputy for a hearing date.
- The Court prefers, however, not to get involved in discovery disputes and strongly encourages the parties to attempt to resolve disputes amongst themselves before filing a motion to compel, as provided in the Local Rules.

Judge Williams

- If parties cannot agree upon discovery, a motion to compel should be filed as provided for in Local Rule 37.2.

- Moving party should contact the courtroom deputy for a hearing date.
- The Court prefers, however, not to get involved in discovery disputes and strongly encourages the parties to attempt to resolve disputes amongst themselves before filing a motion to compel, as provided in the Local Rules.

Expert Witnesses

Judge Winmill

- With regard to the disclosure of expert witnesses, the Court requires strict adherence to the terms of its scheduling order, the Federal Rules, and the Local Rules.
- Failure to comply with those requirements, including the filing of a full and complete Rule 26 Report, will result in exclusion of the expert's testimony.

Judge Lodge

- In accordance with Local Rule 26.2(b).

Judge Boyle

- Deadlines for when expert witness reports must be exchanged will be set at the initial scheduling conference, unless counsel stipulate to those deadlines in their Litigation Plan, in which case the Court generally will adopt the stipulated deadlines.
- Separate deadlines for completion of expert and factual discovery are usually set.

Judge Dale

- Deadlines for when expert witnesses must be revealed and when their reports must be exchanged will be set at the initial scheduling conference.
- Defendants will generally have 30 days past the plaintiff's deadline in which to reveal their experts.
- Separate deadlines for the completion of expert and factual discovery are usually set.

Judge Williams

- Deadlines for when expert witnesses must be revealed and when their reports must be exchanged will be set at the initial scheduling conference.
- Defendants will generally have 30 days past the plaintiff's deadline in which to reveal their experts.
- Separate deadlines for the completion of expert and factual discovery are usually set.

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INJUNCTIONS

Scheduling and Expediting Discovery
Proposed Findings of Fact and Conclusions of Law
Referral to Magistrate Judges

Scheduling and Expediting Discovery

Judge Winmill

- Contact law clerks to discuss emergency TRO's

Judge Lodge

- For good cause shown, expedited scheduling is granted.
- Helpful to notify law clerk/staff attorney of written request after filing for such treatment.

Judge Boyle

- Judge Boyle follows the directives set forth in Fed. R. Civ. P. 65 for motions for preliminary injunctions or for TROs.
- Judge Boyle reserves the right to shorten the briefing periods sua sponte from that set forth in the Local Rules in order to hold a hearing expeditiously
- Helpful to notify staff attorney of written request after request is filed.
-

Judge Dale

- Judge Dale follows the directives set forth in Fed. R. Civ. P. 65 for motions for preliminary injunctions or for TROs.
- Judge Dale expressly reserves the right to shorten the briefing periods sua sponte from that set forth in the Local Rules in order to hold a hearing expeditiously.
- It is helpful to notify the law clerk at (208) 334-9111 of the written request after it is filed.

Judge Williams

- Judge Williams follows the directives set forth in Fed. R. Civ. P. 65 for motions for preliminary injunctions or for TROs.
- Judge Williams expressly reserves the right to shorten the briefing periods sua sponte from that set forth in the Local Rules in order to hold a hearing expeditiously

Proposed Findings of Fact and Conclusions of Law

Judge Winmill & Judge Lodge

- The Court will expect these at a preliminary injunction hearing.

Judge Boyle, Judge Dale & Judge Williams

- Depending upon the complexity of the matters at issue, the Court may request that the parties submit proposed findings of fact and conclusions of law after the hearing has concluded.

Referral to Magistrate Judges

The Court does not normally refer TRO's or preliminary injuction matters to the magistrate judges.

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PRETRIAL PROCEDURES

Rule 16 Scheduling Conference
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Rule 16 Scheduling Conference

Judge Winmill

- Rule 16 scheduling conferences are scheduled by LaDonna Garcia, Courtroom Deputy.
- Scheduling conferences are usually conducted by the Judge. If he is unavailable, they will be conducted by his Administrative Officer, Susie Boring-Headlee.
- If the conference needs to be rescheduled, do not file a motion, simply call LaDonna Garcia (208) 334-9021.

Judge Lodge

- Rule 16 scheduling conferences are conducted 90 days after complaint is filed by Diane McDonald, Administrative Assistant.
- If counsel timely files a joint litigation plan, the scheduling conference is vacated and an order is entered using the dates stated in the parties litigation plan.

Judge Boyle

- As stated in Local Rule 16.1, each party should fill out and file with the Court prior to the scheduling conference a litigation plan which covers the parties' stipulated deadline dates.
- Judge Boyle presides over his scheduling conferences which generally are held by telephone.

Judge Dale

- As stated in Local Rule 16.1, each party should complete a litigation plan and file with the Court prior to the scheduling conference.
- The litigation plan should contain specific dates rather than a length of time, e.g., "180 days before trial."
- Judge Dale presides over her scheduling conferences generally held by telephone.
- At the time of the schedulng conference, Judge Dale also may set dates for status conferences during the pendency of the litigation.

Judge Williams

- As stated in Local Rule 16.1, each party should complete a litigation plan and send to the Court prior to the scheduling conference.
- The litigation plan should contain specific dates rather than a length of time, e.g., "180 days before trial."
- Judge Williams presides over his scheduling conferences generally held by telephone.

Pretrial Conferences

Judge Winmill

- These are conducted by the Judge in person 2-3 weeks prior to trial.
- It is anticipated that (1) all motions in limine will be discussed and, if possible decided, (2) agreement will be reached on the admissibility of most exhibits, (3) the use of jury questions will be discussed, and (4) an effort will be made to narrow the issues remaining for trial.

Judge Lodge

- Court does not normally hold formal pretrial conferences. In complex cases, conferences will be held.

Judge Boyle

- Judge Boyle generally sets a pretrial conference one to two weeks before the trial to discuss the Court's trial preferences, set a trial schedule, and discuss any other issues related to the trial.
- Stipulated exhibit and witness lists are due one week before the pretrial conference.

Judge Dale

- A pretrial conference is set at the time of the initial scheduling conference.
- Generally, it will take place 10 days to 2 weeks prior to the trial date.
- At that time the Court will discuss its general trial preferences, jury instructions, etc.
- Stipulated exhibit and witness lists are due one week before the pretrial conference.
- Counsel will also be asked to discuss whether or not to allow the jurors to ask questions of the witnesses.
- The Court encourages the use of the electronic evidence presentation systems and this will be subject of discussion at the pretrial conference.

Judge Williams

- A pretrial conference is set at the time of the initial scheduling conference.
- Generally, it will take place 10 days to 2 weeks prior to the trial date.
- At that time the Court will discuss its general trial preferences, jury instructions, etc.
- Counsel will also be asked to discuss whether or not to allow the jurors to ask questions of the witnesses.

Referral to Magistrates

Judge Winmill

- The Court typically does not refer any motions to the Magistrate Judges.

- However, some classes of cases are assigned to Magistrate Judges by General Order.

Judge Lodge

- Certain categories of cases such as Social Security appeals and tax issues are routinely referred for all pretrial matters.
- Other civil matters are referred on a case-by-case basis and may be referred for either all pretrial motions or only non-dispositive pretrial motions.
- Referrals are generally made at the time of the Rule 16 scheduling conference.

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TRIAL PROCEDURES

Scheduling of Trials
Conflicts of Counsel
Trial Briefs
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In Limine Motions
Opening Statements & Summations
Proposed Findings of Fact and Conclusions of Law

Scheduling of Trials

Judge Winmill

- Except for the setting of the trial date, all scheduling is handled at the time of the Rule 16 scheduling conferences.
- The trial date is set during a telephone conference held shortly after all dispositive motions have been ruled on.
- Multiple civil & criminal cases may be set for the same date.
- Multiple settings rarely result in continuances, and counsel should assume that the trial will proceed to trial on the date set.
- Counsel are expected to discontinue all settlement discussions at least 5 weeks prior to trial, and are asked to inform the Court whether the case will go to trial.

Judge Lodge

- All scheduling is handled at the time of the Rule 16 scheduling conferences.
- Multiple civil cases may be set for the same date and criminal cases may cause a civil trial to be post-poned.
- Counsel should assume that the trial will proceed to trial on the date set unless otherwise notified by the Court.

Judge Boyle

- Trials are scheduled only after all dispositive motions have been decided.
- After all dispositive motions have been ruled on, the Court will set a telephone conference for the purpose of choosing a trial date.
- Judge Boyle does not double-set civil trials.

Judge Dale

- Trials are scheduled only after all dispositive motions have been decided.
- After all dispositive motions have been ruled on, the Court will set a telephone conference for the purpose of choosing a trial date.
- Judge Dale does not double-set civil trials.

Judge Williams

- Trials are scheduled only after all dispositive motions have been decided.
- After all dispositive motions have been ruled on, the Court will set a telephone conference for the purpose of choosing a trial date.
- Judge Williams does not double-set civil trials.

Conflicts of Counsel

- Counsel should resolve conflicts to the best of their abilities without judicial intervention.
- If conflicts exists, they may be brought to the law clerk's attention to assist in resolution.
- If conflicts cannot be so resolved, they should be brought to the Court's attention by written pleadings.

Trial Briefs

- Typically, the Court's scheduling orders require trial briefs be filed the same day as the pretrial conference. Normally due 2-3 weeks prior to trial.

Side Bars

- Discouraged, but permitted.
- The Court prefers to keep side bar conferences to a minimum.
- Any matters that counsel wish to address outside of the jury's presence should be done so before trial begins or resumes in the morning, at breaks, or at the end of a day.
- Whenever possible, counsel should notify the Court's law clerk to arrange a time for such matters to be considered.

In Limine Motions

- Encouraged. The Court wants to resolve as many evidence questions prior to trial as possible
- A deadline for the submission of motions in limine will be set at the initial scheduling conference.
- Counsel are cautioned that dispositive matters are not to be brought disguised as motions in limine.
- However, Court may not hear motions until shortly before trial or during trial.

Opening Statements and Summations

Judge Winmill & Judge Lodge

- Time limits for such statements will be set by the Court after consultation with counsel.
- Visual aids permitted with prior approval of the Court.
- Trial exhibits may only be used if their admission has been stipulated to prior to the trial.

Judge Boyle, Judge Dale & Judge Williams

- The Court provides counsel with an opportunity to give opening statements after the jury is sworn and preliminary instructions are given.
- Counsel for the defense may reserve giving an opening statement until the beginning of the defendant's case.
- Closing arguments are allowed at a point during the Court's final jury instructions.

Proposed Findings of Fact and Conclusions of Law

- Required for bench trials.
- The Court will set a deadline for the submission of proposed findings of fact and conclusions of law by each party.

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EXAMINATION OF WITNESSES

- Out-of-Town Witnesses
- Out of Sequence
- Beyond Redirect or Recross
- By more than one attorney
- Video Testimony

Scheduling Out-of-Town Witnesses

Judge Winmill

- Counsel will be expected to cooperate in scheduling witnesses to accommodate out-of-town witnesses and to minimize costs..

Judge Lodge

- Will accommodate out-of-town witnesses to testify out of order only if convenient for both parties and they both agree.

Judge Boyle

- Will accommodate out-of-town witnesses to testify out of order only if convenient for both parties and they both agree.

Judge Dale

- Counsel will be expected to work together on witness scheduling to accommodate out-of-town witnesses and to keep costs down.

Judge Williams

- Counsel will be expected to work together on witness scheduling to accommodate out-of-town witnesses and to keep costs down.

Examination of Witnesses out of Sequence

- Allowed where necessary, particularly where necessary to keep the trial moving and to keep jurors hearing testimony from 9:00 a.m. to 5:00 p.m.

Examination of Witnesses Beyond Redirect or Recross

- Rarely permitted.

Examination of Witnesses by More than one Attorney

Judge Winmill and Judge Lodge

- Not normally allowed.
- The attorney who examines the witness must also function as the objecting attorney on any issues relating to that witness. Argument may be tag-teamed in appropriate cases.

Judge Boyle, Judge Dale and Judge Williams

- The Court follows Local Rule 39.1(c).
- Only one attorney per side may conduct an examination of the witness.

Video Testimony

- Videotaped testimony will be allowed if it meets the requirements of the Fed. R. Ev. and Fed. R. Civ. P.
- If a party objects to the presentation of videotaped testimony, the objection should be raised as a motion in limine or as early as possible before the testimony is anticipated in order to give the Court time to consider its ruling and to avoid delay at trial.

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EXHIBITS

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Preparation of Exhibits

Judge Winmill

- Trial exhibits must be pre-marked in accordance with directions from the courtroom deputy.
- Parties should submit the original and one copy of all marked exhibits in 3-ring binders along with the same number of witnesses and exhibit lists prior to trial.
- The Court's own Exhibit List form must be used and may be obtained from the court's website or the courtroom deputy.
- Counsel must meet before trial to attempt to reach a stipulation as to the admissibility of exhibits. The exhibit list should identify any stipulations reached by counsel.

Judge Lodge

- Parties are directed to coordinate exhibits with courtroom deputy before trial begins in accordance with Scheduling Conference Order.
- Parties should submit the original and two copies of all marked exhibits along with the same number of witnesses and exhibit lists on the first day of trial.
- Counsel must meet before trial to attempt to reach a stipulation as to the admissibility of exhibits. The exhibit list should identify any stipulations reached by counsel.

Judge Boyle

- Exhibits should be submitted in accordance with the scheduling conference order.
- The Court encourages as many stipulations as possible prior to trial.
- The Court's own Exhibit List form must be used and may be obtained from the court's website or the courtroom deputy.

Judge Dale

- Each party should contact the courtroom deputy, Amy Hickox, at (208) 334-9237, for exhibit numbers.
- Parties should submit the original and two copies of all marked exhibits to the Court along with the same number of witness and exhibit lists prior to trial.
- The Court exhibit/witness list form should be followed.
- The Court encourages the use of electronic evidence prsentation systems and this will be subject of discussion at the pretrial conference.

Judge Williams

- Each party should contact the courtroom deputy, Anne Lawron, at (208) 334-9387, for exhibit numbers.
- Parties should submit the original and two copies of all marked exhibits to the Court along with the same number of witness and exhibit lists prior to trial.
- The Court exhibit/witness list form should be followed.

Offering Exhibits into Evidence

- Consistent with Local and Federal Rules.
- Where a stipulation has been reached prior to trial as to foundation and authenticity, the exhibit will be immediately admitted into evidence upon being offered by counsel.
- Otherwise, exhibits may be offered into evidence after the appropriate foundation has been laid.The Court will ask whether the other party has any objection.

Reading Materials into the Record

- Allowed where necessary.

Exhibits in Jury Room

- After trial is over, counsel will meet with the Court's courtroom deputy and reach agreement on which exhibits were admitted. All admitted exhibits (except those admitted solely for demonstrative purposes) are provided to jury at time of deliberations.
- Transcripts are not provided.
- If the exhibits are voluminous, counsel are urged to prepare an index of the admitted exhibits for the jury's use.

U.S. District Court
District of Idaho
District Judges' and Magistrate Judges'
Procedural Policies
April 2008

JURY MATTERS

Proposed Jury Instrictions and Special Verdict Forms
Voir Dire
Note Taking by Jurors
Submission of Questions by Jurors
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Juror Requests to Read Back Testimony or Replay Tapes
Availability of Counsel during Jury Deliberations
Taking the Verdict
Polling the Jury

Proposed Jury Instructions and Special Verdict Forms

Judge Winmill

- Must be submitted within the time periods prescribed by Local Rule and the Court's pretrial order.
- These should be filed on the ECF system

Judge Lodge

- Pursuant to Local Rule 51.1 and in accordance with Scheduling Conference Order, proposed jury instructions, and verdict forms must be e-filed with the Court two weeks before trial.
- In addition, the instructions should also be submitted in WordPerfect format to the Court's proposed order electronic mailbox.

Judge Boyle

- The parties should confer and submit one complete set of agreed upon instructions 14 days before trial.
- If counsel cannot agree upon one complete set of instructions, one set of instructions that have been agreed upon should be submitted and each party should also submit a supplemental set of instructions that are not agreed upon.
- The Court prefers that the proposed instructions be submitted in WordPerfect format e-mailed to the Judge's proposed order e-mail address LMB_orders@id.uscourts.gov

Judge Dale

- The parties should confer and submit one complete set of agreed upon instructions 14 days before trial. Also include a verdict form.
- If counsel cannot agree upon one complete set of instructions, one set of instructions that have been agreed upon should be submitted and each party should also submit a supplemental set of instructions that are not agreed upon.
- The Court prefers that the proposed instructions be submitted in WordPerfect format e-mailed to the Judge's proposed order e-mail address CWD_orders@id.uscourts.gov
- See Local Rule 51.1

Judge Williams

- The Court discusses the submission of proposed jury instructions and verdict forms at the pretrial conference.The Local Rule applies.
- The Court prefers submission in WordPerfect format to MHW_Orders@id.uscourts.gov.
- The parties should confer and submit one complete set of agreed upon instructions.
- If counsel cannot agree upon one complete set of instructions, one set of instructions that have been agreed upon should be submitted and each party should also submit a supplemental set of instructions that are not agreed upon.

Voir Dire (Civil and Criminal)

Judge Winmill

- Counsel may submit proposed voir dire to be asked by the Court.
- Non-argumentative questions will generally be asked.
- Counsel will get about 20-30 minutes per side after the Court is done.

Judge Lodge

- Primarily conducted by Court to jury panel as a whole after considering proposed voir dire of parties (due two weeks before trial).
- Counsel, when appropriate, are allowed a short follow-up of 5 to 10 minutes.

Judge Boyle, Judge Dale and Judge Williams

- Primarily conducted by Court to the jury panel as a whole after considering proposed voir dire of parties (due two weeks before trial).
- Counsel allowed to follow up on Court's voir dire.

Note Taking by Jurors

- Jurors are allowed to take notes for their own personal use. Notes are destroyed at the end of the trial

Submission of Questions by Jurors

Judge Winmill

- May be permitted if raised before trial by counsel. Is not done as a matter of course.

Judge Lodge

- Not normally allowed.

Judge Boyle

- May be considered if all counsel agree.
- The Court will discuss the matter with counsel at the pretrial conference and a process for the submission of questions will be determined at that time.

Judge Dale

- Jury questions are only allowed with the approval of all parties.

- After the witness has finished testifying, each juror passes a piece of paper.
- Jury questions will be marked as court exhibits.
- Counsel, at a side bar, review the question, state any objection, and then the question is asked of the witness by the Judge.

Judge Williams

- Jury questions are only allowed with the approval of all parties.
- After the witness has finished testifying, each juror passes a piece of paper.
- Jury questions will be marked as court exhibits.
- Counsel, at a side bar, review the question, state any objection, and then the question is asked of the witness by the Judge.

Exhibits in Jury Room

- After trial is over, counsel will meet with the Court's courtroom deputy and reach agreement on which exhibits were admitted. All admitted exhibits (except those admitted solely for demonstrative purposes) are provided to jury at time of deliberations.
- Transcripts are not provided.
- If the exhibits are voluminous, counsel are urged to prepare an index of the admitted exhibits for the jury's use.

Juror Requests to Read Back Testimony or Replay Tapes

Judge Winmill and Judge Lodge

- Allowed when required by the jurors. Court, counsel, and parties are present during the read-back.

Judge Boyle, Judge Dale and Judge Williams

- For a number of reasons, the Court discourages the reading back of testimony or replay of an electronic recording.
- If the jury makes such a request in the course of deliberations, the Court will treat it the same as if it were a question from the jury.
- The request will be marked as a court exhibit, and it will first be discussed with counsel outside the presence of the jury. The Court will then have the jury brought in and will answer the jury's request on the record.

Availability of Counsel During Jury Deliberations

- Counsel are asked to provide the telephone number and location of where they can be reached if they leave the immediate area during deliberations.
- Counsel must stay within 15 minutes driving distance of the courtroom

Taking the Verdict

- The jury will be brought in and the verdict form will be examined by the Court.
- The courtroom deputy publishes the verdict.

Polling the Jury

- The jury members will be individually polled after the verdict is read if requested by counsel.
- Generally, the jury members are individually polled by the courtroom deputy.

U.S. District Court
District of Idaho
District Judges' and Magistrate Judges'
Procedural Policies
April 2008

CRIMINAL PROCEDURES

Procedural Orders
Sealed Information
Time Frames for Accepting Pleas
Arraignments
Continuances
Oral Argument or Briefing
Telephone Conferences
Superseding Indictments
Discovery
Motions Practice
Pretrial Conference
Disclosure of Witnesses
Presentence Report
Sentencing Memoranda

Procedural Orders

- A procedural order based on a standardized form is entered at a defendant's initial appearance by the magistrate judge.
- Unless otherwise ordered by the Court, procedural orders are not entered in petty offense cases.
- No scheduling conference is held.

Sealed Information

- A request to seal should be submitted by motion and accompanied by a proposed order.
- Court will order sealing where appropriate.
- At arraignments, if pretrial services reports are admitted as evidence, they are automatically sealed.
- Financial affidavits are automatically sealed.
- Search warrants require a motion and proposed order to seal.

Time Frames for Accepting Pleas

- The Court will accept a plea at the time of a defendant's initial appearance.
- Further, the Court will consider a defendant's request to change a plea at any time up to trial.
- See Local Cirminal Rule 11.1

Arraignments

- The date and time for appearance for arraignment is coordinated through the courtroom deputy.
- Counsel should arrive at the courthouse at least 30 minutes early and are expected to meet with their client prior to court time.
- At an arraignment proceeding, the Court will discuss (1) if appointment of counsel is necessary, (2) the issue of detention, and (3) the entry of a procedural order.

Continuances

- Upon good cause shown, first time continuances are granted as long as the continuance does not violate the Speedy Trial Act.
- Requests for further continuances are examined closely.
- The moving party should contact the courtroom deputy when requesting a continuance

Oral Argument or Briefing

Judge Winmill

- Oral argument is usually held.
- The Court is generally prepared to rule from the bench.

Judge Lodge

- Generally, oral argument is only held on motions requiring an evidentiary hearing (i.e.motions to suppress).
- Discovery matters are normally ruled upon based on the briefing.

Judge Boyle, Judge Dale and Judge Williams

- The moving party should contact the courtroom deputy for a hearing date and time or to determine if oral argument is necessary.

Telephone Conferences

Judge Winmill and Judge Lodge

- Not normally held. See Pretrial Conferences below.

Judge Williams and Judge Boyle

- The Court generally prefers not to discuss matters in criminal cases by telephone conference. However, if circumstances or time constraints do not allow for a hearing in person, the Court will make an exception.

Superseding Indictments

Judge Winmill and Judge Lodge

- May cause trial to be continued if superseded indictment materially changes the nature of charges against defendant. However, the trial is not automatically continued.

Judge Williams and Judge Boyle

- Defendants will be arraigned on a superseding indictment.
- However, in some circumstances, a defendant will be allowed to waive arraignment.
- Date and time for arraignments are arranged through the courtroom deputy,

Discovery

Judge Winmill and Judge Lodge

- Discovery motions are generally ruled upon based upon briefing.

Judge Boyle, Judge Dale and Judge Williams

- The Court prefers to rule on discovery motions after oral argument; however, rulings may also be issued solely on the briefs. Some aspects of discovery are addressed in the procedural order.

Motions Practice

- Deadline for filing of motions is set in the procedural order.

Pretrial Conference

Judge Winmill and Judge Lodge

- **Judge Winmill** occasionally uses pretrial conferences to see if the case is really going to trial and to resolve any non-substantive housekeeping matters.
- Pretrial conferences are informal, generally held without defendant(s) present, and on the telephone.
- **Judge Lodge** does not general hold a pre-trial conference.

Judge Boyle, Judge Dale and Judge Williams

- Rarely used except in complex cases.
- Court relies on parties to submit comprehensive pretrial memorandum.
- If a pretrial is to be held, the court staff will contact the parties as to scheduling.

Disclosure of Witnesses

- Disclosure must comply with the Federal Rules and applicable case law.
- Witnesses should be disclosed in accordance with procedural order deadlines.

Presentence Report

- Final report is sealed by the Court after sentencing. Disclosure is limited by Federal Rule of Criminal Procedure and Local Criminal Rule 32.
- Counsel are provided with copies of all sentencing materials and recommendations provided to the Court by the Probation Office.
- Objections to the presentence report must be in writing.
- Motions for departure should be filed on or before the date objections are due.
- Magistrate Judges request pre-sentence reports in all Class A misdemeanor cases, especially if it is a Guideline case.
- The Court generally does not request a presentence report in Class B or C cases and infraction cases.

Sentencing Memoranda

- Not required.
- If submitted, memorandum should be filed at least one week before sentencing date.
- In cases where the Court requires sentencing memoranda, a deadline for submission will be set.