

SUPPLEMENT TO GENERAL ORDER FOR CIVIL CASES
JUDGE ANTHONY C. EPSTEIN
Updated August 29, 2022

I. GENERAL INFORMATION

Judge: Anthony C. Epstein

Chambers: Room 3430
Moultrie Courthouse
500 Indiana Avenue, N.W.
Washington, DC 20001

Phone: (202) 879-7812

Email Address: JudgeEpsteinChambers@dcsc.gov

Judicial Admin. Assistant: Marilyn R. O'Neal
Marilyn.ONeal@dcsc.gov

Law Clerk: Kali Fleming
Kali.fleming@dcsc.gov

Courtroom: Courtroom 221
Moultrie Courthouse
500 Indiana Avenue, N.W.
Washington, DC 20001

II. IN-PERSON AND REMOTE PARTICIPATION

Jury and bench trials, contested evidentiary hearings, and pretrial conferences are presumptively in person. A lawyer or self-represented party must make a written or oral motion seeking permission for a party, lawyer, or witness to participate remotely in a such a trial or hearing. Any such motion must be made reasonably in advance of the trial or hearing.

Other hearings are presumptively remote. The court encourages any party or lawyer who wants to attend in person a presumptively remote hearing to file and serve a notice at least seven days before such a hearing, although advance written notice is not required for an in-person appearance at such a hearing. A form notice is available on the court's website.

Parties and lawyers may participate remotely in the following ways:

- (1) go to the WebEx website at <https://dccourts.webex.com/meet/ctb221>, or go to <https://dccourts.webex.com> and enter meeting ID number 129 493 5162; or

- (2) download the WebEx Meetings app, open the app, select Join Meeting, and enter <https://dccourts.webex.com/meet/ctb221>; or
- (3) call 844-992-4726 or 202-860-2110, and enter meeting ID number 129 493 5162.

Judge Epstein requires lawyers participating remotely to have a video connection, except in extraordinary circumstances that make it necessary for them to participate by telephone. All other parties are encouraged, but not required, to have a video connection.

Parties having trouble connecting to a remote hearing may call chambers at (202) 879-7812 for assistance. Failure to participate in a remote hearing may result in the same consequences that would result from failure to appear at an in-person hearing, including dismissal of a case or entry of default.

When a person enters the virtual courtroom remotely, the party should not speak if another hearing is underway. The courtroom clerk will check in each remote participant at an appropriate time, and a person may check in using the “chat” function.

If a lawyer or party intends to rely on exhibits or other documents during the hearing, the lawyer or party shall provide the documents to chambers no later than 5:00 p.m. on the day before the hearing. The lawyer or party may provide the documents in one of two ways: (1) by emailing them to chambers at JudgeEpsteinChambers@dcsc.gov (with a copy to each other party); or (2) by using Box.com, using instructions that the lawyer or party can contact chambers to obtain. Each exhibit must be individually labeled so Judge Epstein and other parties can easily identify it during the remote hearing.

III. COMMUNICATIONS WITH CHAMBERS

Except as specifically authorized in this Supplement, no party or lawyer may contact chambers by telephone. Judge Epstein’s staff may not and will not provide advice of any kind about court rules, practices, or procedures. Judge Epstein does not accept letters from parties or lawyers about a case. If a party needs clarification of any rule, practice, or procedure, it should file a motion.

Parties may contact chambers *jointly* concerning urgent scheduling issues. If it is necessary for a party or lawyer to contact chambers by email, the sender must copy each other party or lawyer on the email.

IV. MOTIONS

Consent to motions: Judge Epstein expects parties to comply with the requirement in Rule 12-I(a) that, before a party files a non-dispositive motion, it must seek the consent of other parties and include in the motion a certification that the party sought consent. If a party does not include such a certification, Judge Epstein may summarily deny the motion.

The title of the motion should indicate whether it is opposed or unopposed. Judge Epstein generally grants consent motions without waiting for any response.

Paper copies: Judge Epstein expects parties to comply with the requirement in Administrative Order 06-17 that a party must provide a paper copy of any filing that, including exhibits, exceeds 25 pages. If a party fails to comply with this requirement, Judge Epstein may decide not to consider the filing.

Proposed order: Judge Epstein expects parties to comply with the requirement in Administrative Order 06-17 that a party filing a motion must submit electronically to JudgeEpsteinChambers@dcsc.gov a proposed order in a format that can be edited (generally Word). If a party does not submit a proposed order in such format, Judge Epstein may summarily deny the motion.

Length of filings: Without leave of the court, no party may submit a motion other than a summary judgment motion or an opposition to a summary judgment motion that is more than fifteen pages long, or a summary judgment motion or opposition to a summary judgment motion that is more than 20 pages long. These page limits include captions, signature blocks, statements of undisputed or disputed material facts, and anything else other than certificates of service, certificates of compliance with Rule 12-I(a), and exhibits such as deposition transcripts. If a party does not comply with these page limits, Judge Epstein may summarily deny the motion or decide not to consider the filing. Judge Epstein may grant leave to file longer documents on a showing of good cause.

Consolidated motions: A party, or multiple parties represented by the same lawyer, should ordinarily raise in one motion all the grounds for the relief they seek. For example, a party should file one summary judgment motion if the party seeks summary judgment on multiple grounds, or one motion *in limine* if the party seeks pretrial rulings on multiple issues. A party may file with the consolidated motion a motion for leave to file a longer brief to the extent that more pages are needed to address multiple issues. Judge Epstein ordinarily grants motions for reasonable increases in page limits because consolidated motions are more efficient and require fewer total pages than separate motions.

Replies: No party may submit a reply more than five pages long without leave of the court. A party may not file a sur-reply without leave of the court.

Motions for leave to file: Except in extraordinary circumstances, a party seeking leave to file a document should submit with the motion a copy of the proposed filing.

Motions to extend deadlines and reschedule hearings: Any motion for extension of time should include a statement of the number of previous extensions of the deadline, and discuss the effect of granting the motion on other deadlines that would remain unchanged if the extension is granted.

Judge Epstein does not automatically grant multiple extensions of scheduling orders even when the parties agree. Judge Epstein expects any request for an extension to be based on the

parties' realistic assessment of the time needed to complete the remaining tasks, and thereby to eliminate the need for additional extensions except in unexpected circumstances. The more extensions one or all parties request, the stronger the justification required for each successive request, including a demonstration that the factors that justify the additional extension were not reasonably foreseeable at the time the parties requested the previous extension. It is not a sufficient justification that the lawyers were too busy on other matters to complete tasks on the schedule that they previously proposed and agreed to.

Moreover, the longer the requested extension, the stronger the justification that Judge Epstein expects.

Except in extraordinary circumstances involving unforeseen and unforeseeable events, all motions seeking to continue a hearing date must be filed at least three business days before that date.

Any motion to reschedule a hearing must suggest three alternative dates and times that are convenient to all parties.

Except as provided in Rule 16(b)(7)(B), stipulations between parties or lawyers are not effective to change deadlines set by the Court. To extend any such deadline, a party must file a motion requesting and justifying the extension.

E-filed papers: It takes time for e-filed motions and other filings to reach chambers. If a party has a question about the status of a pending motion, it should check online at www.dccourts.gov, contact the clerk's office at (202) 879-1133, or check Casefileexpress.com. If a party contacts chambers about the status of a pending motion, the party will be told only that Judge Epstein rules on any pending motion as promptly as possible.

Emergency motions: Judge Epstein expects parties to request expedited action only in truly urgent situations. Parties filing emergency motions should notify chambers when they file the motion by sending an email to JudgeEpsteinChambers@dcsc.gov and other parties, with a copy of the motion and the proposed order (in an editable format) attached.

V. DISCOVERY

Rules 26(h) and 37(a)(1)(A) require the parties to meet for a reasonable period of time in an effort to resolve or narrow any discovery-related dispute and that discovery-related motions include a certification concerning advance consultation. If a party submits such a motion without such a certification, Judge Epstein may summarily deny the motion.

Before filing a motion related to a discovery dispute, the moving party must attempt to discuss with the other side dates and times for a hearing on the motion, and the motion should include three dates within two weeks after the motion is ripe on which all counsel and unrepresented parties will be available for a hearing on the motion.

VI. SCHEDULING AND PRETRIAL CONFERENCES

Scheduling praecipes: Notwithstanding the earlier deadline in Rule 16(b)(2), Judge Epstein will approve a Civil Action Form 113 (“Praecipe Requesting Schedule Order”) submitted up to noon on the day before the scheduling conference date. In cases in which all parties are represented by counsel, and no pending motions or other matters require the Court’s attention, Judge Epstein encourages attorneys to consult with opposing counsel and submit a CA Form 113 rather than appear in court for a scheduling conference.

Scheduling and calendars: Any party or lawyer who participates in a hearing where matters can reasonably be expected to be scheduled shall have a calendar available. If the person does not have his or her schedule immediately available, Judge Epstein will set a schedule, and if it turns out that the party or lawyer wants the schedule changed, the party or lawyer will have to file a motion.

Joint pretrial statements: Rule 16(e) requires the filing of a joint pretrial statement at least one week before the pretrial conference. Judge Epstein generally cancels a pretrial conference or converts it to a status conference if the parties have not timely filed the joint pretrial statement.

Six or eight weeks before the pretrial conference, Judge Epstein generally provides the parties with a template for final jury instructions, and the parties must submit either joint or separate proposed jury instructions with the joint pretrial statement. Judge Epstein provides the template so that the parties can discuss it at the meeting that Rule 16(c) requires at least four weeks before the pretrial conference.

Motions *in limine*: Consistent with Rule 16(d), parties should file motions *in limine* at least three weeks before the pretrial conference, unless the Court grants leave to file them later. Oppositions to such motions should be filed no later than one week before the pretrial conference. To the extent practicable, Judge Epstein rules on motions *in limine* at the pretrial conference.

Pretrial conferences: Judge Epstein conducts a settlement conference along with the pretrial conference. As provided in Rule 16, parties, lawyers, and non-party principals with settlement authority must participate in the pretrial conference. As stated in Part II above, pretrial conferences are presumptively in person. Any request to excuse a person from personal attendance should be made by motion at least two weeks before the date of the in-person conference.

Trial readiness hearing: At the pretrial conference, Judge Epstein ordinarily schedules a trial readiness hearing as well as a trial date. At any trial readiness hearing, counsel and unrepresented parties should be prepared to discuss any scheduling concerns, any remaining evidentiary issues, and other matters that Judge Epstein can usefully address before trial. Trial readiness hearings are presumptively remote, although any party or lawyer may attend in person.

VII. TRIALS

Trial status update: On the Wednesday preceding a trial date (unless a trial readiness hearing is scheduled on the Friday preceding a trial date), the parties jointly or, if mutually agreed on, through one party making a joint representation, shall call chambers and inform chambers whether the parties expect to proceed on the scheduled trial date.

Witness availability: Judge Epstein will not delay the trial to accommodate a witness' schedule, except in extraordinary, unexpected, and documented circumstances. If a witness availability issue arises, a party shall immediately notify other parties and chambers.

Trial schedule: Judge Epstein schedules jury trials to begin on Mondays at 9:00 a.m. Trials generally proceed Monday through Thursday from 9:00 a.m. to 4:45 p.m. Judge Epstein generally takes two morning breaks and one afternoon break, as well as a lunch break between approximately 1:00 and 2:15 p.m.

Exhibit index: On the first day of trial, each party must give to the courtroom clerk an exhibit summary form. Parties may obtain this form from the Clerk's Office or at <https://www.dccourts.gov/node/18758>.

Mid-trial issues: If an issue arises after a trial recesses for the day, Judge Epstein strongly encourages parties to raise it by sending an email as soon as possible to JudgeEpsteinChambers@dcsc.gov, with a copy to all other parties.

Custody of exhibits: After trial and until any appeal has ended or the time to appeal has run with no notice of appeal filed, each party is responsible for maintaining exhibits and other materials that should be part of the record on appeal.

Jury instructions: Judge Epstein instructs the jury before closing arguments.

Availability during deliberations: Throughout jury deliberations, counsel must be available on a maximum of ten minutes' notice. Counsel should give the courtroom clerk a telephone number where they can be reached.

VIII. LANGUAGE ACCESS

The Court provides professional interpreters in all matters for anyone who needs an interpreter. The party who needs an interpreter must notify the Court before any hearing at which an interpreter will be needed. Family members, friends, lawyers, or lawyers' staff are not permitted to interpret for parties or witnesses during a hearing.