

**PRACTICE EXPECTATIONS
FOR THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN
(AS REVISED FEBRUARY 2015)**

These Practice Expectations were compiled by the Western District Bar Association's Committee On Court Rules, Practice and Procedure, and are distributed by the Western District Bar Association as a courtesy to its members

CATEGORY	PRACTICE EXPECTATION	JUDGE CONLEY	JUDGE CRABB	JUDGE PETERSON	MAGISTRATE JUDGE CROCKER
APPEARANCES PRO HAC VICE	All counsel appearing pro hac vice	Each attorney not a member of the Court's bar must make their own motion for leave to appear pro hac vice and pay a \$50 filing fee.	SAME	SAME	SAME
I. PRIOR TO TRIAL					
A. PLEADINGS	Electronic filing	Filing documents electronically is mandatory. You may access the system at https://ecf.wiwd.uscourts.gov . Administrative Procedures for filing are located at http://www.wiwd.uscourts.gov/cmecf/AdministrativeProcedures.html .	SAME	SAME	SAME
	Permission to allow the extension of time to file an answer	Five to ten day extensions allowed by stipulation, with notice to the Court. Longer extensions require leave of Court.	SAME	SAME	SAME
B. PRE-TRIAL	Permission to extend discovery deadlines; expert disclosure deadlines	Allowed by stipulation.	SAME	SAME	SAME
	Permission to change any other date	Court permission required.	SAME	SAME	SAME
	Date on which discovery is deemed "complete"	Deadline set, parties may extend it by stipulation so long as extension will not require change in trial date.	SAME	SAME	SAME

CATEGORY	PRACTICE EXPECTATION	JUDGE CONLEY	JUDGE CRABB	JUDGE PETERSON	MAGISTRATE JUDGE CROCKER
	Scheduling non-dispositive motions	Motions handled by Judge Crocker; opponent generally has 7 days to respond, no reply by movant, hearing scheduled for Wednesday following response.	SAME	SAME	SAME
	Summary judgment procedure	Standing order available through the Clerk of Court – on website.	SAME	SAME	SAME
	Motions for injunctive relief	Standing order available through the Clerk of Court – on website.	SAME	SAME	SAME
C. DEPOSITIONS	Deposition transcripts	Complete deposition transcripts need to be filed prior to use in a brief or at trial.	SAME	SAME	SAME
D. FILING UNDER SEAL	IF CIVIL ACTION:	Documents may be filed under seal under existing protective order or pursuant to contemporaneous motion to seal. Must be accompanied by unsealed version redacting confidential information. Exception for deposition transcripts. <i>See</i> Administrative Order #311 dated May 17, 2013 (available at http://www.wiwd.uscourts.gov/local-rules-and-administrative-orders).	SAME	SAME	SAME
	IF CRIMINAL ACTION:	<i>See</i> Administrative Order #309 dated May 17, 2013.			
E. PATENT LITIGATION	Establish Standing to Assert a Patent	Plaintiffs must submit proof that they have standing to sue on the patents claimed, either by stipulation or admissible evidence, by date set in pre-trial order.	SAME	SAME	SAME

CATEGORY	PRACTICE EXPECTATION	JUDGE CONLEY	JUDGE CRABB	JUDGE PETERSON	MAGISTRATE JUDGE CROCKER
	Infringement Contentions	Plaintiffs must identify each claim in each patent being asserted against each accused device or method by date on pre-trial order.	SAME	SAME Disclosure must be in claim chart form. Amendments to core substantive contentions will be freely allowed until the deadline for amendments to pleadings, after which amendments will be allowed as provided under Rule 15.	SAME as Judge Conley
	Contentions of Invalidity/Unenforceability	Defendants must disclose their contentions of invalidity and unenforceability by date on pre-trial order.	SAME	SAME Prior art-based invalidity contentions must be made in claim chart form. Amendments to core substantive contentions will be freely allowed until the deadline for amendments to pleadings, after which amendments will be allowed as provided under Rule 15.	SAME as Judge Conley
	Exchange of Terms and Proposed Constructions	By date set in pre-trial order, parties must exchange a list of terms and proposed construction of each term for which the party intends to request construction by the Court. Parties must submit responses to the other side's proposals. Parties may supplement and amend disclosure by response date. Lists and proposed constructions are not to be filed with the Court at this time.	SAME	SAME	SAME

CATEGORY	PRACTICE EXPECTATION	JUDGE CONLEY	JUDGE CRABB	JUDGE PETERSON	MAGISTRATE JUDGE CROCKER
	Summary Judgment and Claims Construction	<p>Parties may submit requests for claim construction in the context of their summary judgment briefs. A party must seek judicial construction of a claim term by the dispositive motion deadline, whether or not the party seeks summary judgment. The parties must jointly submit a table of terms requiring construction, with each side's proposed construction. Any claim term not on the joint list will generally be given its plain meaning on summary judgment and at trial.</p> <p>Parties must jointly submit to the Court a chart that lists which claims and which products are actually at issue in the summary judgment motion.</p> <p>If either side believes a hearing on claim construction or summary judgment issues would be useful, the Court will consider such a proposal, which should be made in a succinct written motion by the summary judgment deadline.</p>	<p>Parties may submit requests for claim construction in the context of their summary judgment briefs. Parties may seek construction of other terms in their motions in limine.</p> <p>Parties must jointly submit to the Court a chart that lists which claims and which products are actually at issue in the summary judgment motion.</p>	<p>Parties may submit requests for claim construction in the context of their summary judgment briefs.</p> <p>Parties must jointly submit to the Court a chart that lists which claims and which products are actually at issue in the summary judgment motion.</p> <p>If a party seeks judicial construction of a claim term, it must do so by the dispositive motion deadline, even if the party does not seek summary judgment. The parties must jointly submit a table of terms requiring construction, with each side's proposed construction. Any claim term not on the joint list will be given its plain meaning on summary judgment and at trial.</p> <p>If either side believes a hearing on claim construction issues would be useful, the Court will consider such a proposal, which should be made in a succinct written motion by the summary judgment deadline.</p>	SAME as Judge Crabb
	Reliance on Advice of Counsel	Must be disclosed by date set in pre-trial order.	SAME	SAME	SAME

CATEGORY	PRACTICE EXPECTATION	JUDGE CONLEY	JUDGE CRABB	JUDGE PETERSON	MAGISTRATE JUDGE CROCKER
II. TRIAL					
F. TRIAL	Use of depositions, at trial	Consistent with Judge Conley's procedures governing final pre-trial submission and conference for jury trial (attached to the preliminary pre-trial conference order), narratives are encouraged, although previously-approved excerpts may be read into the record by counsel.	No restrictions. Professional readers allowed, but not encouraged	SAME as Judge Crabb	SAME as Judge Crabb
	Use of videotape depositions, at trial	Consistent with Judge Conley's procedures governing final pre-trial submission and conference for jury trial, approved video excerpts may be played provided that objections have been ruled on and deleted prior to the video being played.	Allowed, however, Court requires a written transcript before trial so that objections can be ruled upon before the video is played.	SAME as Judge Crabb	Allowed. Parties must submit a stipulated transcript or frame the dispute for the Court with their 26(b)(3) submissions.
	Use of video demonstrations, at trial	Allowed, subject to objections and Court rulings.	SAME	SAME	SAME
	Voir Dire	Circulates boilerplate voir dire and allows some additional questions proposed by counsel.	Circulates boilerplate voir dire and allows some additional questions proposed by counsel. Court conducts voir dire but allows counsel to request follow-up questions	SAME as Judge Crabb	SAME as Judge Crabb
	Establishing the expertise of an expert witness at trial	May be done only by a written summary read by the Court.	Allowed but Court does not certify that witness is an expert.	SAME as Judge Crabb Challenges to the admissibility of expert testimony must be made before trial.	Allowed within reason.
	Stipulated facts, for trial	No further testimony on a stipulated fact is permitted except for context.	Parties who wish to provide further testimony should seek permission from the Court.	SAME as Judge Crabb	Allowed
	Jury note taking	Allowed	SAME	SAME	SAME
	Disclosure of experts pursuant to a pre-trial order	Ordered	SAME	SAME	SAME

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G. EXHIBITS	Demonstrative exhibits	Received, subject to objections.	SAME	SAME	SAME
	Admission of Exhibits	All pre-admitted, reserved or excluded, subject to relevancy objection at trial.	In due course during trial	SAME as Judge Crabb	Admitted during trial unless a party requests a different procedure.
	Original trial exhibits	Counsel retains control.	SAME	SAME	SAME
	Copy of trial exhibits	Consistent with Judge Conley's procedures governing final pre-trial submission and conference for jury trial, copies of any exhibits in which objections are pending to be provided to the Court before the final pre-trial conference. Otherwise, provided to the Court on the first day of trial along with exhibit sheet. Counsel retains copies after trial.	Provided to the Court on the first day of trial along with exhibit sheet Counsel retains copies after trial	SAME as Judge Crabb	Not needed. Counsel retains copies after trial.
	Reading from exhibits at trial	Permitted as part of opening (if cleared in advance), as part of witness testimony for context and in closing.	No restrictions	SAME as Judge Conley	Allowed if necessary.
H. JURY INSTRUCTIONS	Boiler plate jury instructions	Distributed with Pre-trial Conference Order.	SAME	SAME	Available through the Clerk of Court.
	Proposed modification of standard jury instructions by parties	Deletions and additions are to be indicated with citations to authorities warranting change.	SAME	SAME	Modifications must be identified and explained.
	Specially drafted proposed jury instructions	Citations to cases and statutes are necessary.	Parties must accompany proposed jury instructions with a memorandum explaining the reasons for the request.	SAME as Judge Crabb	Sufficient legal justification must be submitted.
III. Miscellaneous					
I. SETTLEMENT LETTERS	Settlement Letters	Parties must submit confidential settlement letter to Clerk of Court under seal.	SAME	SAME	SAME

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J. REQUESTS FOR ATTORNEY FEES	All counsel requesting attorney fees at any point in a case			Requests for attorney fees must be supported by a declaration from a person with knowledge who can attest in appropriate detail: that the hourly rates are reasonable (usually because they are in line with the market rate); that the time expended has been reviewed and is reasonable; and that the client has or is expected to pay the amount requested.	

These Practice Expectations were prepared by the Western District Bar Association’s Committee on Court Rules, Practice and Procedure. The Practice Expectations do not constitute rules of the Court. Instead, they represent the Committee’s effort to provide information about what attorneys practicing in the Western District might generally expect from each of the presiding District Court judges. The Practice Expectations were developed with input from attorneys and others familiar with the practices of the judges in the Western District, but they have not been sanctioned or approved by the judges. © 2013 Western District Bar Association.