

**Kelly K.E. Mahoney, Chief United States Magistrate Judge**

<b>Address:</b>	320 Sixth Street, Suite 104 Sioux City, 51101
<b>Phone:</b>	(712) 233-3916
<b>Fax:</b>	(712) 233-3919
<b>Email:</b>	kelly_mahoney@iand.uscourts.gov
<b>Judicial Assistant:</b>	Jami Gollhofer jami_gollhofer@iand.uscourts.gov
<b>Law Clerk:</b>	Paige Burnham paige_burnham@iand.uscourts.gov

**1. If I need to communicate with the court, how should I proceed?**

Judge Mahoney accepts all forms of communication at the addresses and numbers shown above. When emailing Judge Mahoney, copy in her judicial assistant. Counsel of record and any unrepresented parties should also be included in any email to Judge Mahoney's chambers (unless the message is a legally and ethically permissible, such as ex parte communication).

**2. How can I determine the status of a pending motion?**

Contact Judge Mahoney's judicial assistant by phone or email.

**3. If I need a trial or hearing continued, whom should I contact, and do I need to file a written motion?**

If the request is on short notice and urgent, call Judge Mahoney's judicial assistant and try to simultaneously file a written motion; otherwise, you should file a written motion.

**4. If I need to have a motion set for hearing or oral arguments, what procedure should I follow?**

Pursuant to Local Rule 7(c), a motion will be decided without an oral argument unless the court orders otherwise. If you believe an evidentiary hearing or oral argument is necessary or would be beneficial to the court, you may request a hearing.

- A request for oral argument must be noted separately in both the caption and the conclusion of the motion or resistance to the motion and must be supported by a showing of good cause. The request should also note whether the party seeks to present testimony at the hearing or whether the hearing would be limited to argument by counsel.
- Judge Mahoney encourages participation during motion hearings by lawyers who drafted or contributed to the motion or resistance and/or prepared for the hearing. If a party is represented by multiple attorneys, the attorneys may divide between themselves portions of who the hearing between themselves.

**5. How can I get an expedited ruling or hearing?**

For any matter on which an expedited ruling or hearing is necessary, you should follow Local Rule 7(i) which states, in part:

A request for expedited relief must appear in the caption of the document. Counsel must alert the assigned federal judge that expedited relief is being requested by contacting the judge's chambers by phone or email.

To comply with the rule, you should call Judge Mahoney's chamber or send an email message to Judge Mahoney and her judicial assistant with a copy of the pleading or motion at issue. To schedule an expedited hearing, you should call Judge Mahoney's judicial assistant.

Judge Mahoney expects parties will work to meet all scheduled deadlines and **timely** move to extend deadlines (prior to the date the deadline is set to expire). A party should seek expedited relief for any motion to extend a deadline filed the same day as the deadline at issue.

**6. What do I have to do to get a settlement conference scheduled? Who will conduct the settlement conference? What are the requirements?**

The court's primary ADR procedure is private mediation. See Local Rule 72B. Thus, the parties are encouraged to arrange for private mediation if they believe it would be beneficial to involve a neutral party in their settlement negotiations. That being said, the parties do have the option of requesting a settlement conference, which would be conducted by a United States Magistrate Judge. Barring extraordinary circumstances, the court will agree to conduct such a conference only if all parties agree to participate. To explore this opportunity, the parties should contact the chambers of the United States Magistrate Judge to whom the case has been referred or assigned. If the court agrees to conduct a settlement conference, the requirements for participation will be described in the order scheduling the conference.

**7. How do I get a trial date? Are trial dates firm?**

Generally, each case will be assigned a firm trial date shortly after the scheduling order is filed. If, for some reason, a trial date is not assigned to a case, or if the trial is continued and no new date has been set, you should contact Judge Mahoney's judicial assistant.

**8. Are there any special procedures for making trial or hearing exhibits?**

Yes. Those procedures are set out in the trial management order. See *also* Local Rule 83E (Exhibits).

**9. Is there anything in particular that I should or should not do when I file a motion?**

You should comply with Local Rules 7, 15, 37, 56 and Local Criminal Rule 47 that deal generally or specifically with particular motions. Take note that the court strictly enforces the rules that require communications with opposing counsel in advance of filing most types of motions. See Local Rules 7(k) and 37(a). A motion that fails to comply with those rules will most likely be denied.

- **Motions for summary judgment:** Counsel should review Local Rule 56 carefully and comply with applicable requirements. While they may seem technical and/or unnecessary, compliance is extremely useful to the court in highlighting the issues and expediting the court's consideration of summary judgment motions. Noncompliance may result in adverse consequences. Parties should take particular care to follow the directions set forth in Local Rule 56(e), concerning summary judgment appendices. As the rule explains, appendices should be page-numbered consecutively, like an appellate appendix, and citations to an appendix should be the appropriate appendix page number(s). Page references to the appendix should not be to CM-ECF page numbers.
- **Discovery motions in civil cases:** Counsel are required to meet and confer (in person or on the telephone; the exchange of letters and emails is insufficient) in a good faith effort to narrow or resolve the dispute. See Local Rule 37. Failing resolution of the dispute by the parties, and prior to filing a motion regarding a discovery dispute, the parties are encouraged to contact Judge Mahoney's chambers to request a telephone conference call to discuss the dispute prior to filing discovery-related motions.

#### **10. How does the court view motions to reconsider?**

A motion to reconsider should be reserved for situations in which it is obvious that either an error or a significant new development has occurred. For example, if an order indicates that a motion was unresisted, when a timely resistance had been filed, it would be appropriate to file a motion to reconsider to give the court the opportunity to correct the error. Likewise, if new binding authority is issued soon after an order is filed, and that authority may affect the court's analysis, a motion to reconsider the order would be expected. However, a motion to reconsider that simply repeats previously-advanced arguments is likely to be denied without explanation. In any event, Judge Mahoney will review any motion to reconsider and give it due consideration. It is important to note, however, that the rules of procedure make no specific provision for a motion to reconsider. Parties should be careful that they do not waive any jurisdictional time requirements by waiting for a ruling on a motion to reconsider.

#### **11. What trial schedule is generally used?**

On the first day of a jury trial, Judge Mahoney follows a traditional schedule. Trial commences at 9:00 am and ends by 5:00 pm, with a lunch break, a short morning recess, and a short afternoon recess. All other trial days will typically begin at 8:30 am and end at 2:30 pm, with no lunch break but with two twenty-minute recesses, one in the morning and one early in the afternoon. Any requests for modifications to this schedule should be made no later than the final pretrial conference.

#### **12. What is the court's view on sidebars?**

Judge Mahoney strongly discourages sidebars. Counsel should work with the court to anticipate issues and problems that might arise in trial and resolve them either before the trial day starts, at the conclusion of the trial day, or during breaks. Sidebars are reserved for the most unusual emergency type problems that may arise during trial.

**13. How does the court want jury instructions submitted?**

Please refer to the trial management order.

- **For cases to be tried before Judge Mahoney:** Judge Mahoney will work to have proposed jury instructions to counsel by the final pretrial conference so they can be discussed at that time. Accordingly, it is helpful if the parties notify Judge Mahoney's chambers prior to the final pretrial conference about any proposed jury instructions the parties wish the court to consider. Counsel should specifically address relevant facts and elements that may apply to pattern jury instructions (especially for proposed instructions that set forth the elements of counts or affirmative defenses at issue in the case). If counsel would like for Judge Mahoney to consider a standard, pattern jury instruction without changes, counsel may submit the pattern instruction number (rather than reproducing a copy of the pattern instruction).

**14. Does the court use preliminary jury instructions?**

Judge Mahoney typically gives nearly all instructions to the jury (including instructions concerning elements and damages) before opening statements, with only a few instructions (such as instructions about deliberations) reserved until the end of the case.

**15. Will the court conduct voir dire itself or will counsel be allowed to participate?**

Judge Mahoney will conduct a preliminary voir dire to introduce the case and cover the basic traditional issues that bear on the prospective jurors' qualifications to serve. In a typical case, this will take approximately 30 minutes. Each party will then be permitted an additional 30 minutes to conduct additional voir dire. More time may be allowed when there is good cause and a specific request is made. Additional information is contained in the trial management order.

**16. Are there are special requirements for the conduct of attorneys during trials or hearings?**

Judge Mahoney expects all attorneys to be well-prepared, well-organized, and act in a courteous and professional manner. Attorneys must be in the courtroom and ready to proceed at the scheduling starting time. Attorneys (and their clients) are free to have bottled water at counsel tables.

Attorneys may stand or sit when addressing the court or examining witnesses. However, attorneys should stand when addressing the jury. In addition, because all proceedings in the courtroom are recorded digitally, either in lieu of or in addition to being reported by a certified court reporter, all attorneys and witnesses must be near a microphone when speaking. Microphones are located at counsel tables, the witness stand, and the lectern. Portable wireless microphones are also available if, for example, an attorney wishes to make an opening statement or closing argument without standing at the lectern.

During opening statements and closing arguments, counsel are free to move within the well of the courtroom and are not restricted to a lectern. Counsel should be cognizant of the jurors' perception of personal space and not get too close to the jury box. In any event, counsel shall not touch or lean on the jury box during opening statements or closing arguments.

An attorney should ask permission before approaching the witness with an exhibit. Depending on the nature of the proceeding, the court may advise counsel that it is no longer necessary to ask permission each time. After an attorney has finished asking questions of a witness concerning an exhibit, he or she should immediately return to counsel table. Attorneys will not be permitted to act in a manner that might physically intimidate a witness during questioning.

A party intending to use a deposition during a trial should carefully follow the procedures set out in the trial management order.

The courtrooms in this district are equipped with technology, including evidence presentation hardware and software, equipment for presentation of audio and video evidence in various formats and connections from an attorney's own presentation technology. Any attorney intending to utilize the court's technology should become familiar with the operation of the equipment before trial or a hearing. You may contact court IT personnel by sending an email to: **[iandml\\_helpdesk@iand.uscourts.gov](mailto:iandml_helpdesk@iand.uscourts.gov)** to request a training session on courtroom technology or to test connectivity with your own hardware or software. Parties are expected to be familiar with the operation of all applicable technology before the proceeding begins. Judge Mahoney will not permit significant delays caused by a failure to test, or obtain training about, technology.