

TABLE OF QUESTIONS

GENERAL MATTERS

1. Do you permit counsel to correspond directly with you? If so, under what circumstances and in what manner?

WOODLOCK, J: No. All communications regarding cases should be channeled through the courtroom deputy clerk for the session, or through the docket clerk if the courtroom deputy is unavailable.

2. Do you permit communications between counsel and your law clerks? If so, under what circumstances and in what manner?

WOODLOCK, J: No, unless a law clerk functions in the courtroom as a courtroom deputy clerk, and then only to that extent for that case. In all other instances, counsel should contact the courtroom deputy clerk for the session or the docket clerk if the courtroom deputy is unavailable. Counsel should never initiate communications with a law clerk. The law clerks are not permitted to communicate with counsel regarding a case.

3. Do you prefer, require or prohibit courtesy copies of pleadings and memoranda to be sent directly to your chambers?

WOODLOCK, J: Unless specifically requested for a particular filing, courtesy copies are not accepted in chambers. Courtesy copies are generally not required, but are often considered useful in complex cases or in cases with a mass of evidentiary materials. The courtroom deputy clerk or the docket clerk will contact counsel if courtesy copies are sought for the session. If requested, courtesy copies should be submitted in the Clerk's office, but must be clearly labeled as "Courtesy Copy - Do Not Scan" to avoid duplicative docketing.

PRETRIAL MATTERS

Case Management

Civil Cases

1. Do you require the parties to file a joint statement in accordance with Local Rule 16.1(D) prior to the case management conference mandated by the Local Rules promulgated under the Expense and Delay Reduction Act?

WOODLOCK, J: Yes.

- a. Do you require a joint statement in all cases? If not, in what kinds of cases would you not require a joint statement to be filed, e.g., pro se cases?

WOODLOCK, J: No. Cases exempted by Local Rule 16.2 generally do not require a scheduling conference and joint statement, unless directed by the Court in a specific matter.

- b. Do you impose a time deadline by which the parties must confer in order to prepare the joint statement?

WOODLOCK, J: Not specifically, but counsel should confer in sufficient time to file a satisfactory joint statement with the Court in a timely fashion and in any event no later than 21 days before the conference as Fed. R. Civ. P. Local Rule 16.1(B) provides.

- c. Do you require the parties to confer in person or is a telephone conference sufficient to meet that requirement?

WOODLOCK, J: It is left to counsel's discretion so long as a satisfactory joint statement can be produced.

2. Do you have a specific scheduling order setting forth the requirements for the joint statement? If so, please attach a copy of that order.

WOODLOCK, J: Yes. See Appendix. Previously, the scheduling order for my session mirrored Attachment D to the Local Rules. However, noncompliance with that order was prevalent, leading to a revision of the scheduling order issued in my session. The revised scheduling order emphasizes that certifications of counsel pursuant to Local Rule 16.1(D)(3) must be filed *with* the joint statement no later than five business days before the conference, and the certifications must be signed not only by counsel, but also *by an authorized representative of each party*. Additionally, the scheduling order reminds the parties of their obligations under Local Rule 26.2(A) with respect to automatic disclosure, and provides that *no party may initiate any formal discovery unless that party has complied with the requirements of Local Rule 26.2 in its entirety*.

3. Do you require that a certain format be followed by the parties in filing the joint statement?

WOODLOCK, J: No specific format is required so long as the necessary topics are addressed.

4. Are there any distinctive requirements or modifications to your Scheduling Order that differ from the format set forth in Local Rule 16.1(D)?

WOODLOCK, J: Yes. Previously, the scheduling order for my session mirrored Attachment C to the Local Rules. However, noncompliance with this order was prevalent, leading to a revision of the scheduling order. Currently, the scheduling order has been revised to emphasize that certifications of counsel pursuant to Local Rule 16.1(D)(3) must be filed *with* the joint statement no later than five business days before the conference, and the certifications must be signed not only by counsel, but also *by an authorized representative of each party*. Additionally, the scheduling order reminds the parties of their obligations under Local Rule 26.2(A) with respect to automatic disclosure, and provides that *no party may initiate any formal discovery unless that party has complied with the requirements of Local Rule 26.2 in its entirety*.

5. How far in advance of the case management conference do you require the parties to file a joint statement? Is this deadline strictly enforced?

WOODLOCK, J: The joint statement is due five business days before the conference as Local Rule 16.1(B) provides. The deadline is sometimes relaxed with prior permission of the Court if the joint statement is filed in a fashion permitting review before the scheduling conference. However, sanctions may be imposed for failure to file the joint statement in a timely fashion without leave of Court.

6. Do you require a certification that the attorney has conferred with his or her client on costs and expenses also be signed by the client? If so, does that requirement apply to corporate or institutional clients?

WOODLOCK, J: Yes, as Local Rule 16.1(D)(3) requires.

- a. If you do not require a client's signature, how do you ensure that this requirement has been fulfilled by counsel?

WOODLOCK, J: The certifications submitted are reviewed and inquiry of counsel is made at the conference if none is submitted. Sanctions may be imposed for failure to file proper certifications in a timely manner

- b. Do you require this certification be filed in advance of the conference or may it be filed at the conference?

WOODLOCK, J: The certification should be filed in advance as required by Local Rule 16.1(D)(3)

- 7. Do you require trial counsel or the senior attorney handling the case to appear for the case management conference?

WOODLOCK, J: Yes, unless excused for good cause shown. Any counsel substituting for properly excused trial counsel must be sufficiently familiar with the issues presented in the case and the proposed discovery plan, and must also be familiar with trial counsel's calendar in the event further scheduling is required to be in a position to bind a party at the hearing. However, pursuant to the Standing Order regarding Courtroom Opportunities for Relatively Inexperienced Attorneys, see Appendix, senior attorneys are encouraged beginning with the initial scheduling conference to find ways to provide "participation of relatively inexperienced attorneys in all court proceedings."

- 8. What do you expect counsel for one party to do when counsel for the opposing party refuses to cooperate in the preparation of a joint statement?

WOODLOCK, J: Counsel should file a separate statement reporting the difficulties and complying with the requirements of the Local Rules to the extent practicable.

- 9. At the case management conference mandated by the new Local Rules promulgated under the Expense Delay and Reduction Act, do you usually set discovery deadlines?

WOODLOCK, J: Yes.

- a. If so, do you have any specific policy or policies for setting discovery deadlines? What are those policies?

WOODLOCK, J: A discovery schedule is set by the court at the Local Rule 16.1 conference. Recommendations by the parties as to the schedule will not be adopted unless reasonable. Any proposals for alterations to the discovery schedule thereafter must be timely and supported by good cause in order to be approved by the Court. In the event the case is referred to the magistrate judge for case management proceedings pursuant to Local Rule 16.3, the magistrate judge thereafter may adjust discovery deadlines originally imposed at the initial scheduling conference on the same basis.

- b. Do you establish a separate protocol for electronic discovery?

WOODLOCK, J: No

- c. Do you take the burdensomeness of electronic discovery into consideration in setting dates?

WOODLOCK, J: Yes, if advised by counsel who should be prepared to make a sufficient showing that this is a problem in the case at hand.

- 10. At the case management conference, do you usually set trial dates?

WOODLOCK, J: No. However, a further scheduling conference and/ or a final pretrial conference date is generally set at the initial scheduling conference. Counsel are instructed the case should be

ready for trial as of the date of the final pretrial conference and a firm trial date will generally be set at that time.

- a. If so, do you have any specific policy or policies for setting trial dates? What are those policies?

WOODLOCK, J: The goal is to set realistic and reliable trial dates; consequently, the schedule is not established until the case is essentially ready to try. Trial dates set months in advance of expected trial have proven illusory. In instances where dispositive motions are contemplated, motion hearing dates or further scheduling conferences are set in lieu of the final pretrial conference. At the conclusion of dispositive motion practice, a final pretrial conference date is then set, at which time a firm trial date is established.

- b. Does your policy differ for different kinds of cases? If so, what factors do you consider and how do these factors affect the scheduling in different kinds of cases?

WOODLOCK, J: In lengthy trials or trials where witness or counsel availability is a potential problem and where counsel report that a case is likely to try and not settle, a specific trial date may be established as much as six months in advance.

- c. Do you set dates for trial-related motions (Daubert motions, motions in limine) at the case management conference?

WOODLOCK, J: Generally not, unless discovery is likely to be affected by such rulings.

Discovery Practice

Civil Cases

1. Is there a time deadline by which you require automatic discovery to be provided to opposing counsel pursuant to Local Rule 26.2?

WOODLOCK, J: Automatic disclosure pursuant to Local Rule 26.2 should be done as soon as practicable and in any event no later than 14 days after the conference of counsel required by Fed.R.Civ.P. 26(f) and Local Rule 16.1. However, no party is permitted to initiate any formal discovery unless that party has complied with the requirements of Local Rule 26.2 in its entirety.

2. What guidelines do you have for supplementation of automatic discovery statements? Do you anticipate supplementation in most cases or in only the rare case?

WOODLOCK, J: Every discovery obligation carries with it a duty of timely supplementation under Fed.R.Civ.P. 26(e). As to automatic discovery, I find that the supplementary material has generally become a subject of regular discovery requests and process, with their own special duties of timely supplementation.

3. In cases other than those under PSLRA, do you ordinarily stay discovery or expect that it not be undertaken while a motion to dismiss is pending?

WOODLOCK, J: No. However, the question of stay can be discussed at the initial scheduling conference and will be allowed on motion for good cause.

4. Have you established guidelines for electronic discovery?

WOODLOCK, J: No.

a. If so, what are they?

WOODLOCK, J: N/A

b. If not, do you plan to do so in light of the new rules on electronic discovery?

WOODLOCK, J: Only if the new rules need a further gloss and then my preference would be for uniform Local Rules rather than individual session guidelines or standing orders.

c. Do you expect parties to produce electronic discovery in native format? With metadata? Or do you require good cause shown for production of metadata?

WOODLOCK, J: Have not been asked to address the issue in an actual case or controversy.

d. Do you set the search protocol, do you expect the parties jointly to agree on the search protocol, or do you leave it up to the requesting or producing party?

WOODLOCK, J: Have not been asked to address the issue in an actual case or controversy.

e. Given the fact that theories may change in the course of a case and new facts may be discovered, do you allow for supplemental production of electronic data, without sanction, where it has become apparent that the original search may not have captured all relevant documents?

WOODLOCK, J: Have not been asked to address the issue in an actual case or controversy.

f. What guidelines do you follow regarding costs incurred in electronic discovery? Do you order that the parties share the costs? Do you engage in a cost-benefit analysis where you weigh the claimed damages vs. the costs of electronic discovery and then tailor the search protocol accordingly?

WOODLOCK, J: Have not been asked to address the issue in an actual case or controversy.

5. Do you have any policy concerning the disclosure of information subject to cooperative discovery pursuant to Local Rule 26.1?

WOODLOCK, J: The rule should be liberally construed to permit the exchange of the maximum amount of relevant information voluntarily and in compliance with Fed.R.Civ.P. 26(a)(1). Such information will become subject to general disclosure only when submitted to the court in support of some request for relief.

6. Do you permit counsel to take or schedule depositions without the permission of the Court before the case management conference?

WOODLOCK, J: Yes, provided the party seeking to take the deposition has complied with the automatic disclosure requirements of Local Rule 26.2.

7. Do you generally grant permission to parties, after filing a motion pursuant to Local Rule 26.2(B), that would allow them to serve in excess of 30 interrogatories? If so, under what circumstances?

WOODLOCK, J: Permission is granted only for good cause shown.

8. Do you ordinarily consider discovery motions filed without the Local Rule 7.1 certification or are they returned to counsel without any action taken?

WOODLOCK, J: The deputy clerk will inform counsel of the need to consult and provide a certification, failing which the motion will be denied. Counsel must also comply with the conferral requirements of Local Rule 37.1.

a. If you do consider such motions, do you impose any sanctions on counsel for failure to confer?

WOODLOCK, J: Not the first time but thereafter sanctions may be imposed for continued noncompliance.

b. How detailed do you expect or require expert disclosures to be?

WOODLOCK, J: Consistent with Fed.R.Civ.P. 26(a)(2), disclosures must be sufficiently detailed to put opposing parties on notice both as to the substance of the opinions and the grounds. To the degree a disclosure does not provide such notice, the expert testimony may be restricted or excluded.

9. Do you require counsel to confer with parties proceeding pro se?

WOODLOCK, J: Yes.

a. Do you require pro se parties to confer with counsel prior to filing motions?

WOODLOCK, J: Yes.

b. If the party proceeding pro se is incarcerated, do you still require a conference pursuant to Local Rule 7.1?

WOODLOCK, J: Yes, unless counsel has filed a motion and shown good cause to be excused from that requirement.

c. Under what circumstances may counsel request to be excused from the requirements of Local Rule 7.1? What must counsel do to be excused, e.g., must counsel file a motion with the Court prior to filing the motion?

WOODLOCK, J: Counsel must file a motion to be excused from the requirements of Local Rule 7.1 demonstrating that compliance would be unduly burdensome or otherwise nonproductive.

10. Do you ordinarily refer discovery motions to a magistrate judge? If so, under what circumstances?

WOODLOCK, J: Nondispositive discovery disputes are often, but not always, referred to a magistrate judge. Determination of whether to refer to a magistrate judge is made on a case-by-case, motion-by-motion basis after review of the written submissions.

11. If a party does not have a written report of an expert—whom it intends to call as a witness at trial—at the time the party is required to disclose such reports pursuant to Local Rule 26.2(3), do you require the party in question to produce a written report in order for it to be disclosed in accordance with the spirit of the rule?

WOODLOCK, J: If there is not a timely written report under Local Rule 26.2(3), the expert testimony may be restricted or excluded. At the initial conference, it is made clear to the parties that compliance with Local Rule 26.2(3) will be strictly enforced. Willful abuse of the expert disclosure process and failure to conform to the court orders may lead to sanctions. These may include monetary sanctions, cost shifting, monies paid in to the Court, preclusion of evidence, default and, in extreme cases, dismissal.

- a. Do you impose a time limitation for the production of the disclosure of expert reports?

WOODLOCK, J: Yes, time limitations for production of the disclosure of expert reports are established at the initial conference scheduling.

- b. In your view, should the requirement to disclose expert report(s) be included among the disclosure requirements for medical information in personal injury cases pursuant to Local Rule 35.1?

WOODLOCK, J: Yes, if available, but the timing of future expert reports will be set at the initial scheduling conference.

- c. Do you require expert reports to be disclosed for physicians testifying as both treating physician and expert?

WOODLOCK, J: Yes, but this requirement may be satisfied if the physician's opinion is reflected in the medical reports previously prepared as part of treatment.

- d. Do you require reports of treating physicians to be disclosed? Under what circumstances?

WOODLOCK, J: Yes, generally as part of automatic disclosure under Fed.R.Civ.P. 26(a)(1)(B) and pursuant to Local Rule 35.1 with timely supplementation thereafter.

- e. Do you strictly limit the scope of expert testimony at trial matters explicitly disclosed in expert reports, or would you where appropriate permit an expert to testify on matters related to but not specifically described in the reports?

WOODLOCK, J: Yes, but the reports will be read by me in a manner sensitive to the variety of ways testimony at trial may reshape or refocus opinions, so long as opposing parties cannot be said to have been subject to unfair surprise.

12. Do you permit depositions of experts if requested or agreed by the parties?

WOODLOCK, J: Yes, in accordance with Fed.R.Civ.P. 26(b)(4).

- a. In your view, is the disclosure of expert reports pursuant to Local Rule 26.2(3) a consideration in determining whether an expert may be deposed?

WOODLOCK, J: No. The decision to depose is a strategic judgment for counsel. In any event, the Local Rule's expert discovery provisions must be read in light of the national rules, *see generally* Fed.R.Civ.P. 26(a)(2) and (b)(4), which mandate complete reports and their disclosure and contemplate a right to expert depositions after a report is provided.

- b. In your view, is the sufficiency of answers to expert interrogatories a consideration in determining whether an expert may be deposed?

WOODLOCK, J: No. The decision to depose is a strategic judgment for counsel. In any event, the Local Rule's expert discovery provisions must be read in light of the national rules, *see generally* Fed.R.Civ.P. 26(a)(2) and (b)(4), which mandate complete reports and their disclosure and contemplate a right to expert depositions.

- c. In your view, is the sufficiency of detail in the expert report a consideration in determining whether an expert may be deposed?

WOODLOCK, J: No. The decision to depose is a strategic judgment for counsel. In any event, the Local Rule's expert discovery provisions must be read in light of the most recent iteration of the national rules, *see generally* Fed.R.Civ.P. 26(a)(2) and (b)(4), which mandate complete reports and their disclosure.

13. What policy, if any, do you have with respect to allowing expert testimony that goes beyond answers to interrogatories or information disclosed in the expert report(s)?

WOODLOCK, J: Such testimony is subject to a well-founded objection or motion to strike if not timely disclosed, but the reports will be read by me in a manner sensitive to the variety of ways testimony at trial may reshape or refocus opinions, so long as opposing parties cannot be said to have been subject to unfair surprise..

14. What policy or time requirements, if any, do you have with respect to identifying expert witnesses?

WOODLOCK, J: The identification of experts should be made voluntarily and as promptly as possible. Formal deadlines, however, are established at the Rule 16(b) scheduling conference and will generally be set for a date near or at the end of the discovery period.

- a. Do you require a plaintiff to disclose the expert's report as part of the disclosure requirements of Local Rule 35.1?

WOODLOCK, J: Yes, if available at the time called for under Local Rule 35.1.

- b. Do you require plaintiffs to disclose their expert reports before the defendant or do you require reciprocal disclosures?

WOODLOCK, J: Generally, it is reciprocal with the party bearing the burden of establishing an element going first; however, simultaneous disclosure may be required depending on the case.

15. Under what circumstances, if any, are you likely to impose sanctions in discovery disputes? What form do these sanctions usually take?

WOODLOCK, J: Willful abuse of the process and persistent failure to conform to court rules or orders may

lead to sanctions. Monetary sanctions, either fee and cost shifting or monies paid in to Court; preclusion of evidence; default; and, in extreme cases, dismissal are among the sanctions that have been imposed.

16. If you have a standing order relating to discovery, please attach it to your responses to this survey.

WOODLOCK, J: A form scheduling order issued after the scheduling conference is submitted separately.

17. In class actions, do you ordinarily bifurcate class vs. merits discovery?

WOODLOCK, J: Generally, but not always. The decision turns on the facts and circumstances of the case.

18. What is the preferred/best way for counsel to present that issue:

Motion to bifurcate?

Request to bifurcate in the Rule 16 statement?

Request made at the initial scheduling conference?

WOODLOCK, J.: The matter is best raised as early as possible, ideally in the Rule 16.1 joint statement and initial scheduling conference.

Criminal Cases

1. What is your practice or policy regarding the production of Jencks Act material?

WOODLOCK, J.: Generally, three weeks before trial, unless particular circumstances justify modification.

Motion Practice

Generally

1. Do you require that counsel stand in a particular place during argument on a motion? If so, where?

WOODLOCK, J: No, but most argue standing at counsel table.

2. Do you impose specific time limits for counsel to present their arguments?

WOODLOCK, J: Indirectly, I will tell counsel when an issue has been exhausted.

- a. If so, what are the limits imposed?

WOODLOCK, J: The argument is generally conducted through responses to questions from the bench for as long as the Court considers productive.

- b. Does your practice differ from civil to criminal cases?

WOODLOCK, J: No.

3. Do you generally rule on motions from the bench or take them under advisement?

WOODLOCK, J: If at all possible, I attempt to rule from the bench, dictating findings and conclusions into the transcript.

4. Do you allow/require reply or surreply briefs after argument?

WOODLOCK, J: Not as a matter of course for any motion, unless some issue needs further development and then only upon request of the Court of a party under Local Rule 7.1(B)(3) by motion.

- a. For all motions?

My practice is the same for all types of motions.

- b. For only dispositive motions?

My practice is the same for all types of motions.

- c. For none?

My practice is the same for all types of motions.

5. Do you have any policy with respect to accepting briefs and memoranda in excess of 20 pages?

WOODLOCK, J: They are discouraged and then, if filed with a motion seeking leave to do so, read with a profound sense of resentment if they turn out to be repetitive or prolix.

6. When do you prefer Daubert motions to be brought? When will you permit an evidentiary hearing to take place in connection with such a motion, and how and when should counsel request such a hearing?

WOODLOCK, J: Sufficiently in advance of that point, *e.g.*, summary judgment hearing or trial, when the expert testimony is to be offered. In order to frame the issue, the party opposing the expert testimony should make a motion to strike, limit or exclude the testimony. If necessary an appropriate hearing involving live testimony will be scheduled.

Civil Cases

1. Do you ordinarily hold hearings on:

- a. dispositive motions?

WOODLOCK, J: Yes.

- b. discovery motions?

WOODLOCK, J: Very rarely.

- c. preliminary injunctions?

WOODLOCK, J: Yes.

- d. motions for class certification?

WOODLOCK, J: Yes.

- e. motions by pro se parties?

WOODLOCK, J: Yes, depending on the capacity of the pro se party to present sustained and rational argument.

- f. other motions?

WOODLOCK, J: It depends on the nature of the issues and the significance of the motion to the disposition of the case.

- 2. Do you follow any special procedure or have any different requirements for motions for summary judgment other than those listed in Local Rule 56.1?

WOODLOCK, J: No.

- 3. Under the Local Rules promulgated under the Expense Delay and Reduction Act, do you reject any motions that do not contain the Local Rule 7.1 certification?

WOODLOCK, J: Motions will be received; however, counsel will be notified by the courtroom clerk or the docket clerk regarding the deficiency in the motion and the need to take the appropriate corrective action immediately, failing which the motion will be denied. Sanctions will be considered for continued non-compliance.

- 4. Under the Local Rules promulgated under the Expense Delay and Reduction Act, do you have any policy regarding exemptions to the requirements for the Local Rule 7.1 certification in cases involving pro se plaintiffs or incarcerated pro se plaintiffs?

WOODLOCK, J: Unless another party can show on a case-by-case basis why consultation with the pro se party would be ineffective, not productive, burdensome or prohibited, consultation is expected in all such cases. Counsel must file a motion seeking leave to be excused from the requirements of Local Rule 7.1 and demonstrate good cause for the motion prior to filing the substantive motion. Blanket excuses in a case are disfavored, and leave should be sought each time a motion is filed.

- 5. When do you hold Markman hearings during the progress of a case? Are you willing to hold a Markman hearing early in the case? Prior to the close of discovery? Prior to expert reports?

WOODLOCK, J: After hearing from the parties, including efforts to begin the discussion at the initial Rule 16(b) conference, a Markman hearing is scheduled when seems most appropriate to develop the particular case..

- 6. Prior to, or as part of a Markman hearing, does the Court seek to have the parties present an impartial expert tutorial on the technology subject to the patent? Does the Court have a policy on its own retention of experts to aid

it in understanding the subject technology? Are communications by the Court with such an expert on the record?

WOODLOCK, J: Depending on the complexity of the technology, a tutorial would be welcomed. The Court generally does not retain its own experts. If such experts were retained, substantive communication between the Court and those experts would be made part of the record.

7. Have you ever reconsidered a Markman ruling based upon information developed as the case progressed?

WOODLOCK, J: Yes. As with all interlocutory decisions, the Markman ruling is subject to reevaluation. But, given the effort put into getting it right the first time, the likelihood of substantive change is minimal.

8. During argument on claim construction, do you generally go claim term by term or have each side argue their full slate of terms, followed by the other side?

WOODLOCK, J: Generally claim term by claim term with active inquiry by the Court..

Criminal Cases

1. Please describe any practices or procedures that you follow for motion practice in criminal cases, especially if they differ in any way from the practice described above for motion practice in civil cases?

WOODLOCK, J: I expect full briefing, on the schedule I establish, prior to argument because I usually decide the criminal motions from the bench.

2. Do you ordinarily hold hearings on:

a. dispositive motions?

WOODLOCK, J: Generally yes.

b. appeals of discovery motions?

WOODLOCK, J: Generally yes.

c. motions to suppress?

WOODLOCK, J: Generally yes.

d. motions to sever?

WOODLOCK, J: Rarely and only incidentally to conferences or hearings on scheduling matters.

e. appeals of detention orders?

WOODLOCK, J: Yes.

f. motions in limine?

WOODLOCK, J: Yes, they are usually addressed at the final pretrial conference.

3. Are there any matters, other than discovery motions and detention hearings, that you routinely refer to a magistrate judge?

WOODLOCK, J: Arraignments and, in the first instance, motions for adjustments in the terms and conditions of release.

4. Do you hear discovery motions and detention hearings yourself, rather than refer them to a magistrate judge?

WOODLOCK, J: In the first instance, such matters are heard by the magistrate judge and reviewed by me on motion by a party.

5. Do you permit motions in limine regarding evidentiary matters to be presented during the course of the trial as the evidence is introduced, or would you prefer these motions in advance of trial?

WOODLOCK, J: In advance of trial, if possible.

6. Do you hear objections to the admission of expert testimony to be raised before trial, or do you prefer to conduct a voir dire during trial?

WOODLOCK, J: In advance of trial if possible.

Pretrial Conferences and Memoranda

Civil Cases

1. After the initial case management conference, do you schedule any further conferences?

WOODLOCK, J: Yes. The initial conference is the scheduling conference conducted by the district judge under Local Rule 16.1. One or more case management conferences under Local Rule 16.3 or other types of conferences (*i.e.*, status conferences, further scheduling conferences, settlement conferences, pretrial conferences) will be scheduled either by the magistrate judge or the district judge as appropriate. In some instances, hearing dates for dispositive motions will also be scheduled at the initial conference.

- a. status conferences?

WOODLOCK, J: Sometimes.

- b. further scheduling conferences?

WOODLOCK, J: Sometimes.

- c. settlement conferences?

WOODLOCK, J: No. I refer the parties to ADR programs.

- d. pretrial conferences?

WOODLOCK, J: Yes.

2. What type of conferences, if any, do you refer to a magistrate judge?

WOODLOCK, J: Occasionally, case management and discovery supervision.

3. If you have any standing orders or notices regarding status, scheduling, settlement or pretrial conferences, please attach a copy to your response to this survey.

WOODLOCK, J: See Appendix.

4. Do you have any standing pretrial or trial orders in civil cases? If so, please attach copies?

WOODLOCK, J: See Appendix.

5. What information do you require to be advised of at:

- a. status conferences?

WOODLOCK, J: Anything pertinent to the issues being addressed at the conference.

- b. scheduling conferences?

WOODLOCK, J: Anything pertinent to the issues being addressed at the conference.

- c. settlement conferences?

WOODLOCK, J: I do not conduct Settlement Conferences in cases I am responsible for dealing with on the merits, unless a special request to do so is made by all parties and even then with reservations.

- d. pretrial conferences?

WOODLOCK, J: Anything pertinent to the issues being addressed at the conference.

What policy or procedure do you have with respect to continuing any of the above-listed conferences?

WOODLOCK, J: Continuances are granted only upon good cause shown.

7. What methods, if any, do you use to facilitate settlement?

WOODLOCK, J: Referring the case to a magistrate judge, to a mediation panel or to an outside ADR organization, when and if the circumstances suggest and the parties report that such conferencing would be appropriate.

- a. Do you refer cases to the mediation panel to require the parties in a civil case to engage in alternative dispute resolution (ADR)?

WOODLOCK, J: Yes, when and if the circumstances suggest, and the parties report that such conferencing would be appropriate.

- b. Do you have any policy or procedure for allowing or requiring parties to engage in other types of ADR?

WOODLOCK, J: No. If the parties report that such evaluation would be appropriate, the matter is addressed at that time.

- c. If you do have such a policy or procedure, at what point in time do you make the referral?

WOODLOCK, J: When the parties all agree to the referral.

- d. Do you engage in or manage settlement discussions with the parties?

WOODLOCK, J: No.

If so:

- I. What is your policy or practice?

WOODLOCK, J: If the parties report that court intervention is requested to facilitate settlement, the matter is referred to a court-sponsored ADR unless the parties have made private arrangements.

- ii. At what point in time do you engage in such discussions?

WOODLOCK, J: When and if the circumstances suggest, and the parties report that such conferencing would be appropriate.

- d. Do you refer cases to a magistrate judge for a mediation conference? If so, at what point in time do you make the referral?

WOODLOCK, J: Yes, when and if the circumstances suggest and the parties report that such conferencing would be appropriate.

- e. Do you refer cases to outside ADR companies for a mediation or settlement conference? If so, at what point in time do you make the referral?

WOODLOCK, J: Yes, when and if the circumstances suggest and the parties report that such conferencing would be appropriate.

8. What procedures do you follow at the fairness hearing upon settlement of a class action? Do you allow all or any objectors to speak at the hearing? If so, what type of actual notice must they provide?

WOODLOCK, J: I require full briefing and complete submissions and hold a hearing affording any party or timely objector the opportunity to appear and be heard.

9. When do you require pretrial memoranda and/or trial documents to be filed?

WOODLOCK, J: Seven days before the final pre-trial conference as provided in my standard pre-trial orders. See Appendix.

- a. What is the degree of evidentiary detail that you would like to see in the memoranda or trial document?

WOODLOCK, J: Detail adequate to identify potential issues and educate me about the case.

- b. Do you preclude testimony of witnesses and/or experts that is not set forth in the memoranda or trial document?

WOODLOCK, J: Depending on the circumstances, testimony of witnesses and/or experts that is not set forth in the memoranda , or has otherwise not been identified to the opposing party, may be precluded or excluded.

- c. What is the degree of detail that you would like to see as to potential legal or evidentiary issues expected to be presented by the trial?

WOODLOCK, J: Detail adequate to identify potential issues and educate me about the case.

- d. Do you exclude witnesses or exhibits that are not listed in the pretrial memoranda?

WOODLOCK, J: Depending on the circumstances, testimony of witnesses or exhibits that are not listed in the pretrial memoranda may be precluded or excluded.

- e. Do you require the parties to file a joint memoranda or may they submit separate documents?

WOODLOCK, J: Counsel may file either jointly or separately.

- 10. Do you permit telephone conferences? If so, under what circumstances?

WOODLOCK, J: Yes, in emergency circumstances or when counsel can demonstrate why their actual presence is not necessary. However, those who choose to litigate in this Court are expected to be prepared to appear in person during the course of the litigation.

Criminal Cases

- 1. Is it your practice to hold pretrial conferences in criminal cases?

WOODLOCK, J: Yes.

- a. If so, when do you typically schedule and hold such conferences?

WOODLOCK, J: Whenever it appears that such a conference will expedite trial or other disposition. The timing of the conference will depend on the circumstances, but generally, conferences will be set following completion of proceedings before the Magistrate Judge.

- b. If so, what matters do you typically consider at such conferences?

WOODLOCK, J: In addition to the topics identified in the local criminal rules, whatever topics are likely to expedite trial or other disposition will be considered, as well as other issues raised by the parties.

- 2. If you have any standing orders or notices regarding status, scheduling or pretrial conferences, please attach

a copy to your response to this survey.

WOODLOCK, J: See Appendix.

3. Do you have any standing pretrial or trial orders in criminal cases? If so, please attach copies.

WOODLOCK, J: See Appendix.

4. What information do you require to be advised of at:

- a. status conferences?

WOODLOCK, J: Anything pertinent to the issues being addressed at the conference.

- b. scheduling conferences?

WOODLOCK, J: Anything pertinent to the issues being addressed at the conference.

- c. pretrial conferences?

WOODLOCK, J: Anything pertinent to the issues being addressed at the conference.

5. What policy or procedure do you have with respect to continuing any of the above-listed conferences?

WOODLOCK, J: Continuances will be granted only for good cause shown.

6. Do you require and/or welcome trial memoranda to be filed in a criminal case?

WOODLOCK, J: Yes.

- a. If so, what matters or information would you like to be included in such memoranda?

WOODLOCK, J: The most effective are those that briefly set forth the nature of the case and its proof and that red flag potential disputed issues, generally of an evidentiary nature, concerning which the Court may be required to act during trial.

GENERAL COURTROOM PRACTICE

Scheduling Trials

1. What procedure, if any, do you follow in setting a trial schedule:

- a. In civil cases?

WOODLOCK, J: After consultation with counsel, firm dates are generally set by the Court at a pre-trial conference.

- b. In criminal cases?

WOODLOCK, J: After consultation with counsel, firm dates are generally set by the Court at a pre-trial conference.

2. Do you have a different procedure for setting jury and nonjury cases for trial? If so, what is that procedure?

WOODLOCK, J: Yes. A separate order for nonjury cases, attached, is entered contemplating direct testimony by affidavit followed by live cross examination if requested and the exchange between the parties of marked up draft findings and conclusions.

3. Do you give any special considerations when setting cases for trial that involve out-of-town witnesses?

WOODLOCK, J: Yes, when raised well in advance by counsel, an effort will be made to accommodate schedules.

4. Do you have a specific policy regarding

- a. granting enlargements of time to file motions and/or memoranda?

WOODLOCK, J: Enlargements of time will only be granted upon motion for good cause shown.

- b. granting continuances of trials and/or hearings?

WOODLOCK, J: Continuances will only be granted upon motion for good cause shown.

5. Do you have a regular schedule for trial days?

WOODLOCK, J: Yes.

- a. What time do trial days begin and end?

WOODLOCK, J: Trial days generally begin at 9:00 A.M. and end at 1:00 P.M.

- b. What time are breaks/recesses scheduled during the trial day?

WOODLOCK, J: A fifteen-minute break is generally taken around 11 a.m.

6. Do you have a standard practice or policy toward recusal, e.g., cases where a party is represented by a firm with which you were previously associated, or do you tend to simply disclose potential relationships and seek counsel's input?

WOODLOCK, J: I have no presumptive grounds for recusal other than those mandated by statute or ethical rule but whenever there is arguably a grounds for concern about the appearance of conflict, I will raise the matter with counsel if they have not done so themselves earlier.

7. What is your practice for certification of interlocutory issues for appeal? Do you apply specific guidelines in exercising your discretion?

WOODLOCK, J: Given the austere views of the First Circuit concerning certification, the ground must be especially compelling.

8. Do you have any specific requirements and procedures for filing papers under seal?

WOODLOCK, J: In accordance with Local Rule 7.2.

Civil Cases

1. In civil cases, do you set time limitations for evidentiary hearings and trials pursuant to Local Rule 43.1(A)?

WOODLOCK, J: If appropriate to structure the proceedings, time limitations will be set after consultation with the parties.

a. If so, what guidelines or policies do you employ in setting those time limitations?

WOODLOCK, J: They are developed after consultation with counsel regarding appropriate limitations.

b. Do you strictly enforce those time limitations?

WOODLOCK, J: Yes.

2. Do you strictly enforce the requirements concerning the disclosure of the identity of witnesses, the use of testimony and the introduction of documentary evidence at evidentiary hearings or trial pursuant to Local Rule 43.1(B)?

WOODLOCK, J: Yes

Criminal Cases

1. In criminal cases, do you set time limitations for evidentiary hearings and trials?

WOODLOCK, J: If appropriate to structure the proceedings, time limitations will be set.

a. If so, what guidelines or policies do you employ in setting those time limitations?

WOODLOCK, J: They are developed after consultation with counsel regarding appropriate limitations.

b. Do you strictly enforce those time limitations?

WOODLOCK, J: Yes.

2. Do you have any practice or policy concerning the grant of an evidentiary hearing on a suppression (or other pretrial) motion in a criminal case? If so, what is your practice or policy?

WOODLOCK, J: Yes. If proper resolution will benefit from such a hearing, it is ordered.

a. Do you require the defendant to file an affidavit framing the issues and alleging sufficient facts to support his or her claim?

WOODLOCK, J: Yes, to establish a basis for the relief sought and a basis for assessing the appropriateness of a hearing or the existence of evidence to support the claim.

- b. In an appropriate case, do you resolve a suppression motion on affidavits submitted by both parties?

WOODLOCK, J: If the affidavits do not reveal a disputed issue of material fact.

Jury Selection and Practice

1. What procedure do you follow in jury selection (i.e., jury box versus struck jury system, simultaneous strikes, in writing or in the presence of the jury)?

WOODLOCK, J: A full panel (consisting of the number of jurors and alternates to be empaneled, plus additional members of the venire in anticipation of peremptory challenges) is qualified after consideration of challenge for cause; the parties may then use their peremptory challenges as to this panel by submitting them simultaneously and in writing to the clerk; the panel members remaining after peremptories are then seated in the order in which they are seated.

2. Do you allow counsel to ask questions on voir dire?

WOODLOCK, J: No. They may submit proposed questions for the Court to ask.

3. Do you allow specific questions to be asked of prospective jurors during voir dire? If so, under what circumstances? .

WOODLOCK, J: Counsel may submit proposed special questions before trial. For circumstances that could not reasonably have been anticipated before trial, they may orally request other questions at sidebar during voir dire.

4. Are questions asked of the jurors orally or do you prepare (or permit the parties to prepare) questionnaires so that questions may be submitted to the jurors in writing? If you allow written questions, under what circumstances?

WOODLOCK, J: The questioning is almost always done orally. Counsel seeking use of a questionnaire should make a motion to the Court well in advance of trial.

5. Do you follow a formula concerning the sequence in which counsel exercise their peremptory challenges?

WOODLOCK, J: Peremptory challenges are made simultaneously and submitted in writing to the courtroom deputy clerk.

6. How and when is the foreperson of the jury selected?

WOODLOCK, J: At the conclusion of jury instructions, by the Court.

7. Do you require or allow counsel to submit proposed voir dire questions to the jury? If so, when should they do so?

WOODLOCK, J: Such questions should be submitted to the Court in writing prior to the trial as provided in the pre-trial order.

8. Do you read a list of witnesses to the jurors during voir dire?

WOODLOCK, J: Yes. Counsel should identify all relevant persons about whom there may be testimony by name, hometown and relevant occupational status, to provide a basis to determine if they are known to potential jurors and, if so, to permit the Court to explore whether such knowledge might give rise to a question of bias, prejudice or extrajudicial knowledge.

9. Do you require or prefer counsel to submit proposed jury instructions?

WOODLOCK, J: Yes. As directed by the pre-trial order. See Appendix.

- a. If so, when should they be filed? .

WOODLOCK, J: In accordance with the pre-trial order, seven days before the final pre-trial conference.

- b. Do you prepare a written set of instructions that is provided to counsel prior to closing argument?

WOODLOCK, J: Generally not.

10. Do you allow jurors to take notes during trial? If so, do you give the jurors any instructions? What do you instruct the jurors and at what time relative to note taking? What happens to the notes after trial?

WOODLOCK, J: Ordinarily note taking is not permitted.

11. What practice, if any, do you follow when, during deliberations, jurors

- a. submit questions to you?

WOODLOCK, J: Jury questions are marked as Jury Exhibits and shared with counsel. A conference will be held in open court to address questions with counsel. The Jury Exhibit, with an answer written by the Court, is brought back to the jury room by the courtroom deputy clerk. On some occasions, the jury may be brought back into the courtroom for further instructions.

- b. ask that testimony be read back?

WOODLOCK, J: In order to avoid overemphasizing portions of the testimony, I generally instruct the jurors to rely on their recollections.

- c. ask that video or audiotapes be replayed?

WOODLOCK, J: In order to avoid only overemphasizing portions of the evidence, I generally instruct the jurors to rely on their recollections.

12. Do you ever allow jurors to ask questions during the presentation of evidence? If so, what procedure do you usually follow?

WOODLOCK, J: If such a question were raised (I do not raise the prospect with jurors) it would be framed by me for a question to a witness after review of the juror's inquiry with counsel.

Civil Cases

1. Do you empanel a summary/advisory jury in civil cases? If so, under what circumstances? In what manner is the trial conducted?

WOODLOCK, J: Yes, with the agreement of counsel, if such a jury would have a reasonable prospect of resolving the case or giving an indication of the likely allocation of responsibility among multiple defendants. In addition, where some claims require a jury and some are to be determined jury-waived in a joint trial, the jury will generally receive special questions on the jury-waived issues to permit them to function in an advisory capacity.

2. Do you allow the jury to be polled in civil cases?

WOODLOCK, J: Yes.

3. Do you allow counsel in civil cases to interview jurors in a summary/advisory jury trial?

WOODLOCK, J: Yes, under the supervision of the Court in nonbinding summary/advisory jury trials.

4. Do you interview jurors after the conclusion of a civil trial?

WOODLOCK, J: Generally not..

- a. If so, do you ever share any information learned with counsel for the parties in the case?

WOODLOCK, J: If asked by counsel and with the agreement of the jurors.

- b. If not, why not?

WOODLOCK, J: Jurors are entitled to as much confidentiality in their work as they ask for.

Criminal Cases

1. How many alternate jurors do you select in criminal cases?

WOODLOCK, J: As few as two and as many as six, depending on the length of trial and the potential for mid-trial excuse of regular jurors and substitutions by alternates.

- a. Does your policy change for lengthy criminal trials?

WOODLOCK, J: The policy does not change but the likelihood of an increase in alternates does.

2. At what point do you designate jurors as alternates in criminal cases?

WOODLOCK, J: They are identified at the time of selection because of the sequence of juror

selection under Fed.R.Crim.P. 24. However, the jury panel is not directly advised about the operation of the rule and, consequently, designated alternate jurors may not be aware of their status during the trial.

3. In multidendant cases, do you ever increase the number of peremptory challenges beyond the numbers provided in Fed.R.Crim.P. 24? If so, what do you usually do?

WOODLOCK, J: Yes. If there appears to be potential conflict among codefendants, requests for additional peremptory challenges will be considered.

4. Do you ever interview jurors after the conclusion of a criminal trial?

WOODLOCK, J: No.

- a. If so, do you permit counsel to be present?

WOODLOCK, J: Not applicable.

- b. Do you ever share any information learned with counsel for the parties in the case?

WOODLOCK, J: Not applicable.

- c. Have you ever or would you ever permit counsel to contact jurors after a verdict? After a hung jury?

WOODLOCK, J: No. *See generally United States v. Kepreos*, 759 F.2d 961 (1st Cir.) , *cert. denied*, 474 U.S. 901 (1985).

Trial Practice

Scheduling Trials

1. What procedure, if any, do you follow in setting a trial schedule:

- a. in civil cases?

WOODLOCK, J: At a scheduling or pre-trial conference, I will attempt to identify a real trial date after consultation with counsel, in light of the Court's schedule.

- b. in criminal cases?

WOODLOCK, J: Same as with civil cases.

Generally

1. Do you impose any time limits for opening statements and closing arguments of counsel? If so, what is your policy?

WOODLOCK, J: Counsel are strongly encouraged to limit openings to 20 minutes and closings to 30 minutes.

2. Do you have any practice or policy regarding the use of charts or chalks in opening statements and closing arguments?

a. If so, what is your practice or policy?

WOODLOCK, J: If there is no objection—or even if there is an objection—they may be used if they fairly reflect admissible evidence, so long as they were disclosed in a timely fashion before trial.

b. If so, what guidelines should counsel follow in disclosing such exhibits prior to use?

WOODLOCK, J: Counsel should identify potential chalks or exhibits to their adversaries in a timely fashion to permit objections to be addressed in consultation among the parties and if necessary by the Court. This permits time for modifications, if necessary, in chalks and charts and refinements to trial strategy.

3. Do you prefer counsel to address the jury from a particular location in the courtroom? If so, where?

WOODLOCK, J: Apart from examination of witnesses, which I require counsel to do from the podium at the far end of the jury box, I leave the choreography of opening statements and closing arguments to counsel, so long as the jurors, the Court, the court reporter, the parties and other counsel can see and hear without strain or difficulty.

4. Do you have a general policy regarding exclusion of future witnesses from the courtroom prior to their testimony?

WOODLOCK, J: Yes, witnesses are usually sequestered on request of counsel consistent with Fed.R. Evid. 615.

5. Do you allow the examination of witnesses out of sequence? If so, under what circumstances?

WOODLOCK, J: Yes, but only when necessary to keep trial moving forward or accommodate a witness's compelling scheduling difficulties.

6. Do you require that counsel advise you and request permission for the use of any demonstrative evidence during trial?

WOODLOCK, J: Yes.

If so,

a. At what point in time would you prefer to be advised by counsel of the use of such evidence?

WOODLOCK, J: Pretrial, after discussion with opposing counsel.

b. Would you prefer that counsel set up the demonstrative evidence outside of the presence of the Court and/or jury?

WOODLOCK, J: Yes.

- c. Do you have any practice or policy regarding the use of overhead projectors?

WOODLOCK, J: As with any tool, their appropriate use is encouraged to display documentary evidence, although my customary courtroom is fully equipped with an electronic evidence presentation system, which is probably better than overhead projectors.

- d. Do you have any practice or policy regarding the use or admission of photographs or an enlargement of a photograph as evidence? If so, what is that practice or policy?

WOODLOCK, J: Assuming a photograph is admitted, enlargements, if not misleading or unfairly prejudicial, will be permitted.

7. Do you have any practice or policy regarding the use of computers by counsel while on trial? If so, what is that practice or policy?

WOODLOCK, J: My customary courtroom is fully equipped with an electronic evidence presentation system which can accommodate computers and counsel are encouraged to make use of it. Counsel are allowed to attach laptops to this system, but should make arrangements in advance through the courtroom deputy clerk to establish connections and develop familiarity with the use of the system.

8. Do you have any practice or policy regarding the use of computerized document management systems by counsel while on trial? If so, what is that practice or policy?

WOODLOCK, J: Yes. I encourage counsel to use the electronic evidence presentation system in my customary courtroom.

9. Do you have any practice or policy regarding the use of video display systems or videotaped testimony during trial? If so, what is that practice or policy?

WOODLOCK, J: Yes. I encourage counsel to use the electronic evidence presentation system in my customary courtroom for such evidence.

10. Do you permit the examination of a witness or argument by more than one attorney for each party?

WOODLOCK, J: No. While multiple attorneys can participate at trial, only one can be responsible for a single witness or present argument on a segregable point. However, a rebuttal closing—if permitted—can be presented by separate counsel from counsel who presents the principal closing.

11. Do you allow cross-examination of witnesses beyond the scope of the direct? If so, under what circumstances?

WOODLOCK, J: Generally not, unless such a witness will become unavailable for recall.

12. Do you allow examination of witnesses beyond redirect and recross?

WOODLOCK, J: Generally not.

13. In bench trials, do you require/request counsel to submit direct testimony in writing? If so, do you permit counsel to conduct a limited live direct examination?

WOODLOCK, J: In accordance with my Non-Jury Trial Pre-trial Order, see Appendix, I require direct testimony in writing for witnesses from whom an affidavit may be obtained by counsel. There is no need for such counsel to conduct live direct examination, although redirect examination may be conducted.

14. Is there a particular place in the courtroom where you prefer attorneys to stand when examining witnesses?

WOODLOCK, J: Yes, because of sight lines and acoustics and to avoid the potential for witness intimidation, examination should be conducted from the podium near the corner of the jury box farthest from the bench.

15. Do you require that attorneys ask permission to approach the witness?

WOODLOCK, J: Yes.

16. Do you allow or require trial exhibits to be premarked?

WOODLOCK, J: Yes

a. If so, is there any procedure or system of numbering that you prefer counsel to follow in marking exhibits?

WOODLOCK, J: In accordance with the pre-trial orders. See Appendix.

b. Does it matter to you if exhibits do not come into evidence in numerical sequence?

WOODLOCK, J: While preferable, exhibits need not be offered in numerical sequence.

17. Do you have any policy or practice regarding circulating exhibits among jurors? If so, what is that policy or practice?

WOODLOCK, J: Virtually all exhibits are now presented to the jury through the electronic evidence presentation system. For those few exhibits which cannot be presented in that fashion or whose actual condition is relevant and consequently should be handled by the jurors, the exhibits should be handed to the courtroom deputy clerk, who will pass them to the jury while counsel will ordinarily continue examination of the witness. The courtroom deputy clerk will also retrieve the exhibits from the jury after completion of their review.

18. Do you generally permit or require that attorneys state the grounds for their objections? Do you permit arguments on objections at sidebar?

WOODLOCK, J: Only if there is some question about the grounds and then only by bare reference to the relevant Federal Rule of Evidence on other basis. Sidebars are discouraged, unless absolutely necessary.

19. Do you permit sidebar conferences? If so, under what circumstances?

WOODLOCK, J: Sidebars are discouraged unless absolutely necessary. Anticipated disputes should be raised and addressed before trial starts for that day or taken up at the break.

20. Do you permit motions in limine regarding evidentiary matters to be presented during the course of the trial as the evidence is introduced, or would you prefer these motions in advance of trial?

WOODLOCK, J: Motions in limine should, if possible, be filed in accordance with orders setting the case for trial—before the trial in order to begin the process of reflecting on the issues they pose.

a. Do you make any distinctions in this regard with respect to civil and criminal cases?

WOODLOCK, J: No.

21. Do you have any policy or special practice you request counsel follow with respect to videotaped or audiotaped testimony or the use of transcripts? If so, what is that policy or practice?

WOODLOCK, J: When a video tape or audio tape is offered, I will explain to the jury how the transcripts may be used as an aid to listening.

a. Do you allow the party offering the tape-recorded conversation as evidence to provide the jury with individual copies of transcripts?

WOODLOCK, J: Yes, unless the accuracy of the transcript is disputed and then only in conformity with *United States v. Rengifo*, 789 F.2d 975 (1st Cir. 1986).

b. Do you permit at least one set of transcripts to go to the jury room?

WOODLOCK, J: No, the jurors must rely upon what they heard in the courtroom with the aid of the transcript they reviewed then.

c. Does your practice change if the transcripts are translations of conversations that originally took place in another language? If so, how does your policy change?

WOODLOCK, J: No, the jurors must rely upon what they heard in the courtroom with the aid of the transcript they reviewed at that time.

d. Do you have any practice or policy regarding the playing of part, rather than the whole, of tape-recorded conversations?

WOODLOCK, J: Unless necessary to provide context, the playing of tape recorded conversations should be limited to the inculpatory (or exculpatory) portions.

22. Do you have any policy or special practice you request counsel follow with respect to reading documents or prior deposition testimony into the record?

WOODLOCK, J: Documentary evidence should be read only after offered and admitted on a proper foundation laid in such a fashion as to make the reason for the admission comprehensible to the jury. Documents may be read to the jury by counsel. For deposition presentation of any length, generally a pro forma witness (a paralegal or some other person not otherwise actively engaged in the presentation of evidence) should sit in the witness box and the respective parties' counsel should ask the deposition questions to reenact the question-and-answer format as it occurred.

23. Do you have any special practice with respect to offering or receiving exhibits into evidence?

WOODLOCK, J: Unless there is a dispute among the parties, or in the case of contraband—which is maintained by the government—the preferable procedure is for the parties to maintain custody of the exhibits by agreement when court is not in session. Ordinarily, the courtroom deputy will not maintain custody except when court is in session for the case.

24. Do you require or prefer to have a copy of documentary exhibits—or, at least, significant documentary exhibits—for your own use?

WOODLOCK, J: Yes.

25. What procedure do you follow in accepting offers of proof?

WOODLOCK, J: They should be undertaken outside the presence of the jury at a time that does not interfere with or disrupt the maximum use of jury time for the actual receipt of evidence by them.

26. What is your policy, if any, with regard to the availability of counsel during jury deliberations?

WOODLOCK, J: Counsel authorized to speak for a party must provide the courtroom deputy with a means to insure presence within five minutes of any order of the court to convene the proceedings.

27. Do you allow the government to have a case agent or other party representative at counsel table to assist the Assistant U.S. Attorney? What is your practice if the case agent or other party representative is going to testify in the case?

WOODLOCK, J: Yes, as consistent with Fed.R.Evid. 615.

Criminal Cases

1. What procedure do you follow in setting a trial schedule in criminal cases?

WOODLOCK, J: At an initial pre-trial conference, I will attempt to identify a real trial date after consultation with counsel in light of the Court's schedule.

2. Do you have any procedures you require in criminal trials regarding the custody of exhibits? Do you prefer the parties or the clerk to retain custody of exhibits once they are admitted? Does this procedure differ in civil cases?

WOODLOCK, J: Unless there is a dispute among the parties, or in the case of contraband—which is maintained by the government—the preferable procedure is for the parties to maintain custody of the exhibits by agreement when court is not in session. Ordinarily, the courtroom deputy will not maintain custody except when court is in session for the case.

3. Do you allow the government to have a case agent or other party representative at counsel table to assist the Assistant U.S. Attorney? What is your practice if the case agent or other party representative is going to testify in the case?

WOODLOCK, J: Yes, as consistent with Fed.R.Evid. 615.

4. Do you permit the defendant to have an investigator or other assistant present at counsel table?

WOODLOCK, J: Yes, as consistent with Fed.R.Evid. 615.

Jury Deliberations and Verdicts

1. What is your procedure for receiving verdicts?

WOODLOCK, J: After the jury reports to the court officer attending outside the jury room that a verdict has been reached, the jury is brought into the court and inquiry is made by the Judge in open court of the foreperson whether a verdict has been reached. If the answer is "yes," the verdict slip is reviewed for form by the Judge. If the verdict is formally correct, the Judge directs the courtroom deputy to publish the verdict by reading it.

2. Under what circumstances do you submit special questions or interrogatories to the jury?

WOODLOCK, J: In virtually every civil case and very rarely in criminal cases.

3. In criminal cases, do you usually send a copy of the indictment to the jury room with the jurors for their use in deliberations?

WOODLOCK, J: Yes.

- a. If so, do you send one copy of the indictment to the jury room, or a copy for each juror?

WOODLOCK, J: One for each juror.

- b. Do you typically require any redactions to the indictment? If so, what information is typically redacted?

WOODLOCK, J: Yes, if the evidence will not support an allegation, or in instances in which allegations charged in the indictment are not relevant.

4. Do you typically send a copy of your instructions to the jurors to the jury room?

WOODLOCK, J: No.

a. If not, are there circumstances under which you would send a copy of your instructions to the jury room?

WOODLOCK, J: Questions are generally answered orally in open court.

5. Who usually prepares the verdict form?

WOODLOCK, J: Parties file proposed verdict forms which the Court will finalize providing an opportunity for discussion and review with counsel.

6. What are your usual procedures with regard to deliberating juries? What are the hours you allow/require them to deliberate? Do you bring them into the courtroom at the beginning and end of each day?

WOODLOCK, J: The jurors are expected to deliberate from 9:00 A.M. to 5:00 P.M., but at their request the day can be extended. They are generally brought into court only at the end of the first day of deliberations.

7. Do you, the clerk or the foreperson of the jury read the verdict?

WOODLOCK, J: The clerk reads the verdict in civil cases. In criminal cases, the clerk inquires of the foreperson as to the verdict.

Arraignments

1. Do you conduct arraignments yourself or do you refer the matter to a magistrate judge?

WOODLOCK, J: Refer to the magistrate judge.

2. What is your position or policy on the use of videoconferencing for conducting arraignments or other pretrial proceedings?

WOODLOCK, J: Arraignments are referred to a magistrate judge and that decision is left to that judicial officer. Videoconferencing of pretrial proceedings should not be undertaken, except under exceptional circumstances.

Plea Agreements and Sentencing

1. What are your views, in general, regarding mandatory plea agreements in criminal cases under Rule 11(e)(1)(C)?

WOODLOCK, J: They will be considered but not acted upon until after the review of the presentence report. Not infrequently, such agreements have been rejected.

2. In light of the Booker case, with regard to dispositions under the Sentencing Guidelines, do you usually give the parties any notice if you intend to apply the guidelines differently than as recommended by the probation office in the presentence report?

WOODLOCK, J: The parties should be in a position to define or contest any aspect of the present report. If a party cannot fairly be said to have had notice that a particular issue is in play, adequate opportunity to contest the newly identified issue will be afforded.

3. Under what circumstances do you hold evidentiary hearings to resolve disputed matters under the Sentencing Guidelines? What standard of proof do you apply for enhancements under the guidelines? For reductions?

WOODLOCK, J: When material to application of the guidelines and ascertaining the appropriate sentence, I will hold an evidentiary hearing. Guideline calculations are made against a fair preponderance standard.

a. Do you ever decide a disputed sentencing matter based upon the information submitted in the presentence report or on affidavit?

WOODLOCK, J: Yes, unless an evidentiary hearing or other submission is requested.

b. If you do decide a disputed sentencing matter based upon the information submitted in an affidavit, do you prefer or require the filing of affidavits prior to the grant of an evidentiary hearing?

WOODLOCK, J: Affidavits are the most compelling manner by which to demonstrate a truly disputed fact and thereby generate an evidentiary hearing. But the need for evidentiary hearings regarding disputes is ascertained on a case-by-case basis after review of supporting affidavits.

4. May the parties assume that they need not be prepared to present evidence for factual matters in the presentence report to which there is no objection?

WOODLOCK, J: Yes, unless the Court directs otherwise.

5. To what extent do you permit or welcome sentencing memoranda beyond what has been submitted to the probation department in connection with the preparation of the presentence report?

WOODLOCK, J: They are welcome as a way to assist reflections before the sentencing hearing regarding the proper sentence. Sentencing memoranda are required to be filed at least three business days prior to the sentencing hearing.

a. Is there anything that you particularly like to be included in such sentencing memoranda?

WOODLOCK, J: Candor and thoughtfulness about the case at hand and the defendant's relationship to it, rather than boilerplate.

b. Is there anything that you particularly do not like to be included in such sentencing memoranda?

WOODLOCK, J: Irrelevancy and bathos.

6. What is your practice with respect to permitting counsel to file a sentencing memorandum under seal?

WOODLOCK, J: In accordance with the Local Rule 7.2 regarding submissions under seal.

7. Do you ever disclose the probation officer's recommendation to counsel? Do you consider such recommendations? What weight do you give them?

WOODLOCK, J: I have instructed the Probation Office not to submit any recommendations to me that has not been shared with counsel. Because as a matter of policy the Probation Office declines to share its recommendations with counsel, I do not receive recommendations from the Probation Office.

8. What weight do you generally give to the sentencing guidelines? If a defendant is seeking a below-guideline sentence, do you require a written motion or memorandum?

WOODLOCK, J: They are the beginning point for development of a reasonable sentence. To frame the discussion and alert me to the issues, counsel should file a memorandum identifying and justifying guideline departures.

9. How do you assess the factors under 18 U.S.C. § 3553(a) when they are not addressed in the PSR by the probation department?

WOODLOCK, J: I examine all submissions and direct further submission, if necessary, to assure that all of the § 3553 factors are fully developed for my calibration in formulating the sentence.

10. What procedure do you follow with respect to victim statements at sentencing?

WOODLOCK, J: In accordance with the Victim Witness Protection Act, all opportunities written and oral for victims to be heard are afforded in connection with the sentencing proceeding.

Findings and Conclusions in Nonjury Cases

1. In a nonjury case, do you require or prefer that counsel submit requests for proposed findings of fact and conclusions of law? If so, when should these be submitted?

WOODLOCK, J: Yes, in accordance with the order regulating nonjury trials. See Appendix.

2. In a nonjury case, do you dictate or announce your decision from the bench or do you take the case under advisement? If so, under what circumstances?

WOODLOCK, J: If possible, findings and conclusions are dictated from the bench.

3. Do you issue a written decision in each case, or are there cases in which you will issue bench memoranda? Under what circumstances?

WOODLOCK, J: The preference is to attempt, if possible, to dictate findings and conclusions into the transcript that, subject to the need to tidy them up, will stand as the findings and conclusions required by Fed.R.Civ.P. 52.

Miscellaneous Proceedings

1. Do you ordinarily hold ex parte hearings on applications for temporary restraining orders (TROs)?

WOODLOCK, J: No.

2. Do you permit or require live testimony at preliminary injunction hearings or are these matters decided solely on the basis of affidavits?

WOODLOCK, J: As appropriate, if review of the papers suggests live testimony is advisable, an evidentiary hearing will be held but this is relatively rare. If such an evidentiary hearing is held, it may be part of a procedure to consolidate with trial on the merits pursuant to Fed.R.Civ.P. 65 (a)(2).

3. Are you generally amenable to motions to convert hearings on applications for preliminary injunctions to hearings on the merits?

WOODLOCK, J: Yes, pursuant to Fed.R.Civ.P. 65(a)(2) but to “trial,” not “hearing,” on the merits.

OTHER MATTERS

1. Are there any other matters that have not been inquired of about which you would like to advise the members of the bar with regard to practice or procedure in your courtroom?

WOODLOCK, J: All parties are encouraged to consult with the courtroom deputy regarding questions of practice or procedure.

2. Are there common deficiencies in practice that you regularly observe in your courtroom among members of the bar that you would like to comment on or warn against?

WOODLOCK, J: Lack of preparation by counsel and failure to keep the Court apprised of a course of proceedings that may affect the Court’s calendar, late or last-minute filings prior to a scheduled hearing and posthearing submissions viewed by counsel as an opportunity to reargue matters already addressed in the initial briefs or at the hearing.

3. Are there any other standing orders in your courtroom about which you would like to advise the members of the bar? If so, please attach copies to your response.

WOODLOCK, J: No, the issues have been fully developed in this questionnaire and by the various standing orders referenced and submitted with the answers..

4. Would you be amenable to discussing your answers to this survey in a personal interview or a public panel discussion?

WOODLOCK, J: Public panel discussion.