

Judicial Orders Providing/Encouraging Opportunities for Junior Lawyers

3.9.16

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If you are aware of additional orders or initiatives, please email
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Judge William Alsup, Northern District of California

SUPPLEMENTAL ORDER TO ORDER SETTING INITIAL CASE
MANAGEMENT CONFERENCE IN CIVIL CASES BEFORE JUDGE WILLIAM
ALSUP (January 11, 2016)

<http://www.cand.uscourts.gov/whaorders>

SETTING MOTIONS FOR HEARING

6. Counsel need not request a motion hearing date and may notice non-discovery motions for any Thursday (excepting holidays) at 8:00 a.m. The Court sometimes rules on the papers, issuing a written order and vacating the hearing. If a written request for oral argument is filed before a ruling, stating that a lawyer of four or fewer years out of law school will conduct the oral argument or at least the lion's share, then the Court will hear oral argument, believing that young lawyers need more opportunities for

appearances than they usually receive.

GUIDELINES FOR TRIAL AND FINAL PRETRIAL CONFERENCE IN CIVIL JURY CASES BEFORE THE HONORABLE WILLIAM ALSUP

www.cand.uscourts.gov/filelibrary/192/JuryTrials1.pdf

29. Counsel shall stand when making objections and shall not make speaking objections. The one-lawyer-per-witness rule is usually followed but will be relaxed to allow young lawyers a chance to perform. Side bar conferences are discouraged.

39. The Court strongly encourages lead counsel to permit young lawyers to examine witnesses at trial and to have an important role. It is the way one generation will teach the next to try cases and to maintain our district's reputation for excellence in trial practice.

JUDGE WILLIAM ALSUP'S NOTICE RE OPPORTUNITIES FOR YOUNG ATTORNEYS (sent out to parties one week prior to every civil motion hearing)

Counsel will please keep in mind the need to provide arguments and courtroom experience to the next generation of practitioners. The Court will particularly welcome any lawyer with four or fewer years of experience to argue the upcoming motion.

Judge Gregg J. Costa, Southern District of Texas

COURT PRACTICES AND PROCEDURES

http://www.txs.uscourts.gov/sites/txs/files/costa_procedures.pdf

4. Young Lawyers. The Court is aware of a trend today in which fewer cases go to trial, and in which there are generally fewer speaking or "stand-up" opportunities in court, particularly for young lawyers (i.e., lawyers practicing for less than seven years). The Court strongly encourages litigants to be mindful of opportunities for young lawyers to conduct hearings before the Court, particularly for motions where the young lawyer drafted or contributed significantly to the underlying motion or response. In those instances where the Court is inclined to rule on the papers, a representation that the argument would be handled by a young lawyer will weigh in favor of holding a hearing. The Court understands that there may be circumstances where having a young lawyer handle a hearing might not be appropriate—such as where no young lawyers were involved in drafting the motion, or where the motion might be dispositive in a "bet-the-company" type case. Even so, the Court believes it is crucial to provide substantive speaking opportunities to young lawyers, and that the benefits of doing so will accrue to young lawyers, to clients, and to the

profession generally. Thus, the Court encourages all lawyers practicing before it to keep this goal in mind.

Judge Edward J. Davila, Northern District of California

STANDING ORDER FOR CIVIL CASES

<http://www.cand.uscourts.gov/ejdorders>

III(H). Opportunities for Junior Lawyers

The Court strongly encourages parties to permit less experienced lawyers to actively participate in the proceedings by presenting argument at motion hearings or examining witnesses at trial

Judge James Donato, Northern District of California

STANDING ORDER FOR CIVIL CASES BEFORE JUDGE JAMES DONATO

<http://www.cand.uscourts.gov/jdorders>

13. The Court has a strong commitment to supporting the development of our next generation of trial lawyers. The Court encourages parties and senior attorneys to allow younger practitioners the opportunity to argue in court. The Court will extend motion argument time for those lawyers. The parties should advise the Court prior to the hearing if a lawyer of 5 or fewer years of experience will be arguing the cause.

Judge Yvonne Gonzales Rogers, Northern District of California

STANDING ORDER IN CIVIL CASES

<http://www.cand.uscourts.gov/filelibrary/867/ygrStanding%20Order%20In%20Civil%20Cases%20updated%20August%2019%202013.pdf>

2d. Before appearing for a matter before this Court, all parties shall check the Court's calendar at www.cand.uscourts.gov or the posting in the Clerk's Office to confirm that their matter is still on calendar. Frequently, the Court will issue a written order and vacate the hearing unless oral argument appears to be necessary. Where argument is allowed, the Court will attempt to advise counsel in advance of the issues to be addressed. In addition, if a written request for oral argument is filed, before issuance of a ruling, stating that a lawyer four or fewer years out of law school will conduct all or most of the oral argument, the Court will entertain oral

argument on the principle that young lawyers need more opportunities for appearances than they typically receive.

Judge Paul S. Grewal, Northern District of California

Case-Specific Order, GSI Technology Inc. v. United Memories, Inc., Case No. 5:13-cv-01081-PSG, ORDER RE: ORAL ARGUMENT (March 9, 2016)

In a technology community like ours that prizes youth—at times unfairly—there is one place where youth and inexperience seemingly comes with a cost: the courtroom. In intellectual property case after intellectual property case in this courthouse, legions of senior lawyers with decades of trial experience regularly appear. Nothing surprises about this. When trade secret or patent claims call for millions in damages and substantial injunctive relief, who else should a company call but a seasoned trial hand? But in even the brief tenure of the undersigned, a curious trend has emerged: the seasoned trial hand appears for far more than trial itself. What once might have been left to a less experienced associate is now also claimed by senior counsel. Motion to compel discovery? Can't risk losing that. Motion to exclude expert testimony? Can't risk losing that, either. Motion to exclude Exhibit 20356 as prejudicial under Fed. R. Evid. 403? Same thing.

All of this raises a question: who will try the technology cases of the future, when so few opportunities to develop courtroom skills appear? It is difficult to imagine handing entire intellectual property trials to a generation that never had the chance to develop those skills in more limited settings. Senior lawyer and their clients may shoulder some of the blame, but surely courts and judges like this one must accept a large part of the responsibility. Perhaps this explains the growing and commendable effort by leaders on the bench to promote courtroom opportunities for less experienced lawyers, especially in intellectual property disputes.¹

This case offers this member of the bench a chance to start doing his small part. In a jury trial lasting several weeks, the court was privileged to witness some of the finest senior trial counsel anywhere present each opening statement, each direct and cross-examination and each closing argument. The court intends no criticism of any party's staffing decisions. But with no fewer than six post-trial motions set for argument next week, surely an opportunity can be made to give those associates that contributed mightily to this difficult case a chance to step out of the shadows and into the light. To that end, the court expects that each party will allow associates to present its arguments on at least two of the six motions to be heard. If any party elects not to do this, the court will take its positions on all six motions on the papers and without oral argument.

¹ See, e.g., CHIP's Next Gen Committee, Judicial Orders Providing/Encouraging Opportunities for Junior Lawyers, available at <http://chipsnetwork.org/wp-content/uploads/2016/02/Judicial-Orders-re-Next-Gen-2.4.16.pdf>.

Judge Andrew J. Guilford, Central District of California

Scheduling Order Specifying Procedures

<http://court.cacd.uscourts.gov/Cacd/JudgeReq.nsf/2cd08a1a6600da0e88256db0006f7efc/5359419014eb2dae882579f5006b0824?OpenDocument>

6.12 Other Possible Trial Procedures. The Court is open to creative trial procedures, such as imposing time limits, allowing short statements introducing each witness's testimony before examination, allowing questions from the jury, and giving the jury a full set of instructions before the presentation of evidence. The Court reminds parties that trial estimates affect juries. The Court strongly encourages the parties to give young associate lawyers the chance to examine witnesses and fully participate in trial (and throughout the litigation!).

Judge Lucy H. Koh, Northern District of California

GUIDELINES FOR FINAL PRETRIAL CONFERENCE IN JURY TRIALS BEFORE DISTRICT JUDGE LUCY H. KOH

<http://www.cand.uscourts.gov/lhkorders>

G. Opportunities for Junior Lawyers

The Court strongly encourages parties to permit less experienced lawyers to examine witnesses at trial and to have an important role at trial. Counsel should be prepared to discuss such opportunities at the Pretrial Conference.

GUIDELINES FOR FINAL PRETRIAL CONFERENCE IN BENCH TRIALS BEFORE DISTRICT JUDGE LUCY H. KOH

<http://www.cand.uscourts.gov/lhkorders>

G. Opportunities for Junior Lawyers

The Court strongly encourages parties to permit less experienced lawyers to examine witnesses at trial and to have an important role at trial. Counsel should be prepared to discuss such opportunities at the Pretrial

Conference.

Judge Barbara M. G. Lynn, Northern District of Texas

Judge Lynn makes the following part of her standard patent scheduling order:

11. The Court is aware of a trend today in which fewer cases go to trial, and in which there are generally fewer speaking or “stand-up” opportunities in court, particularly for young lawyers (i.e., lawyers practicing for less than seven years). The Court strongly encourages litigants to be mindful of opportunities for young lawyers to conduct hearings before the Court, particularly for motions where the young lawyer drafted or contributed significantly to the underlying motion or response. In those instances where the Court is inclined to rule on the papers, a representation that the argument would be handled by a young lawyer will weigh in favor of holding a hearing. The Court understands that there may be circumstances where having a young lawyer handle a hearing might not be appropriate – such as where no young lawyers were involved in drafting the motion, or where the motion might be dispositive in a “bet-the-company” type case. Even so, the Court believes it is crucial to provide substantive speaking opportunities to young lawyers, and that the benefits of doing so will accrue to young lawyers, to clients, and to the profession generally. Thus, the Court encourages all lawyers practicing before it to keep this goal in mind.

Judge Leigh Martin May, Northern District of Georgia

<http://www.gand.uscourts.gov/sites/default/files/CVStandingOrderLMM.pdf>

STANDING ORDER REGARDING CIVIL LITIGATION

III(m). Requests for Oral Argument on Motions

In accordance with Local Rule 7.1(E), motions are usually decided without oral argument, but the Court will consider any request for hearing. If oral argument is requested, the party or parties should specify the particular reasons argument may be helpful to the Court and what issues will be the focus of the proposed argument. Moreover, the Court shall grant a request for oral argument on a contested substantive motion if the request states that a lawyer of less than five years out of law school will conduct the oral argument (or at least a large majority), it being the Court’s belief that new lawyers need more opportunities for Court appearances than they usually receive.

Judge Gary H. Miller, Southern District of Texas

COURT PROCEDURES

<http://www.txs.uscourts.gov/page/judge-millers-procedures>

4. Young Lawyers: The court is aware of a trend today in which fewer cases go to trial, and in which there are generally fewer speaking or "stand-up" opportunities in court, particularly for young lawyers (i.e. lawyers practicing for less than seven years). The court strongly encourages litigants to be mindful of opportunities for young lawyers to conduct hearings before the court, particularly for motions where the young lawyer drafted or contributed significantly to the underlying motion or response. In those instances where the court is inclined to rule on the papers, a representation that the argument would be handled by a young lawyer will weigh in favor of holding a hearing. The court understands that there may be circumstances where having a young lawyer handle a hearing might not be appropriate—such as where no young lawyers were involved in drafting the motion, or where the motion might be dispositive in a "bet-the-company" type case. Even so, the court believes it is crucial to provide substantive speaking opportunities to young lawyers, and that the benefits of doing so will accrue to young lawyers, to clients, and to the profession generally. Thus, the court encourages all lawyers practicing before it to keep this goal in mind.

Judge K. Nicole Mitchell, Eastern District of Texas

(Recent Order)

The Court is aware that in today's practice of law, fewer cases go to trial and there are generally fewer speaking opportunities in court, particularly for young lawyers (i.e., lawyers practicing for less than seven years). The Court strongly encourages the parties to be mindful of opportunities for young lawyers to argue in front of the Court, particularly for motions where the young lawyer drafted or contributed significantly to the underlying motion or response.

With that in mind, the Court has currently set the *Markman* hearing in this case for the morning of January 12, 2016. To the extent that any party planned to submit any of the disputed terms on the papers alone, the Court will grant additional time to argue those terms, if they are argued by an attorney with seven or fewer years of experience.

Judge Kimberly J. Mueller, Eastern District of California

STANDING ORDERS

<http://www.caed.uscourts.gov/caednew/index.cfm/judges/all-judges/5020/standing-orders/>

CIVIL LAW AND MOTION

Young Attorneys: The court values the importance of training young attorneys. If a written request for oral argument is filed before a hearing, stating an attorney of four or fewer years out of law school will argue the oral argument, then the court will hold the hearing. Otherwise, the court may find it appropriate in some actions to submit a motion without oral argument.

TRIALS

Given the value the court places on training young attorneys, the court encourages lead counsel to permit a young attorney to examine witnesses at trial and to have a role in the trial.

Judge Dennis F. Saylor, District of Massachusetts

STANDING ORDER RE: COURTROOM OPPORTUNITIES FOR RELATIVELY INEXPERIENCED ATTORNEYS

http://www.mad.uscourts.gov/boston/pdf/saylor/StandingOrderReCourtroomOppor_Bostonupdate.pdf

Courtroom opportunities for relatively inexperienced attorneys, particularly those who practice at larger firms, have declined precipitously across the nation in recent years. That decline is due to a variety of factors, but has been exacerbated by the proliferation of rules and orders requiring the appearance of “lead” counsel in many court proceedings.

In an effort to counter that trend, the undersigned District Judge, as a matter of policy, strongly encourages the participation of relatively inexperienced attorneys in all court proceedings. Such attorneys may handle not only relatively routine matters (such as scheduling conferences or discovery motions), but may also handle, where appropriate, more complex matters (such as motions for summary judgment or the examination of witnesses at trial). The following cautions, however, shall apply.

First, even relatively inexperienced attorneys will be held to the highest professional standards with regard to any matter as to which experience is largely irrelevant. In particular, all attorneys appearing in court are expected to be appropriately prepared, regardless of experience. For example, any attorney who is arguing a motion for summary judgment is

expected to be thoroughly familiar with the factual record and the applicable law.

Second, all attorneys appearing in court should have a degree of authority commensurate with the proceeding that they are assigned to handle. For example, an attorney appearing at a scheduling conference ordinarily should have the authority to propose and agree to a discovery schedule and any other matters reasonably likely to arise at the conference.

Third, relatively inexperienced attorneys who seek to participate in evidentiary hearings of substantial complexity, such as examining a witness at trial, should be accompanied and supervised by a more experienced attorney, unless leave of Court is granted otherwise.

Counsel are encouraged to seek additional guidance from the Court in particular cases concerning the scope or application of this policy.

Judge Jon S. Tigar, Northern District of California

STANDING ORDER FOR CIVIL JURY TRIALS BEFORE DISTRICT JUDGE
JON S. TIGAR

<http://www.cand.uscourts.gov/jstorders>

12. Opportunities for Junior Lawyers The Court strongly encourages the parties to permit junior lawyers to examine witnesses at trial and to have an important role at trial.

STANDING ORDER FOR CIVIL BENCH TRIALS BEFORE DISTRICT JUDGE
JON S. TIGAR

13. Opportunities for Junior Lawyers The Court strongly encourages the parties to permit junior lawyers to examine witnesses at trial and to have an important role at trial.