

Honorable David Cohen
First Floor – Courtroom 1C – Oakland County Courthouse
Telephone: (248) 858-5280

Procedural Guidelines for Practice in Judge Cohen's Courtroom

In order to better serve the attorneys and litigants appearing in Judge Cohen's courtroom, the Court has adopted the following protocols. Please advise your clients and staff so there are no misunderstandings.

Background

Honorable David M. Cohen was appointed to the Oakland County Circuit Court bench in February of 2022, re-elected in November of 2022, where he presides in the general civil and criminal division. Judge Cohen served as a managing administrative law judge with the Detroit office of the Michigan Office of Administrative Hearings and Rules, providing supervision to 21 administrative law judges in the areas of unemployment and MERC. Previously, Judge Cohen served as an administrative law judge in the field of general adjudication. Prior to his role as an administrative law judge, Judge Cohen was an attorney at The Bernstein Law Firm, where he practiced personal injury, ADA disability rights, and administrative legal matters. Judge Cohen served as an alternate hearing officer for the Michigan Attorney Discipline Board and as a member of the Michigan Bar Journal Publication Committee. Judge Cohen earned his Juris Doctor and Bachelor of Arts degrees from Wayne State University.

eFiling

All civil cases, criminal cases, and appeals are to be electronically filed through the MiFile system. If your case is an eFiling case, please become aware of, and comply with, the eFiling requirements.

Scheduling Orders

The Case Management Office issues an initial scheduling order for all cases approximately 75 days after the complaint is filed.

Discovery

Discovery motions are routinely referred to the Court's OCBA discovery mediator.

General Motion Practice

Except with leave by the Court or as otherwise described herein, motions are scheduled pursuant to the local court rules and are heard every Wednesday beginning at 9:00 a.m. via

Zoom videoconferencing until further notice. The moving party sets the hearing date for all motions other than motions for summary disposition. The hearing date must be at least seven days after the motion is filed. All responsive pleadings must be received in chambers by noon the Monday before motion call. Any response received after noon will not be considered. All motions must be filed in compliance with the Court's scheduling order. The Court does not allow oral argument on all motions. Only the moving party may adjourn a motion and must immediately notify chambers when a motion is being adjourned. No judge's copies are required by Judge Cohen.

When appearing via Zoom for a motion hearing, please ensure that your screen name includes your FULL name and the case number for which you are appearing. Please join the Zoom meeting approximately 10 minutes prior to your motion's assigned time-slot. Judge Cohen's Zoom Meeting ID is 248 858 5280; no password required. Parties scheduled for a motion hearing will receive detailed Zoom instructions via MiFile the day prior to the motion hearing.

Motions for Summary Disposition

Effective immediately, to accommodate the large volume of dispositive motion filings without having to adjourn scheduling orders, the court will assign a dispositive motion hearing date at the parties' early scheduling conference. Parties with orders containing a dispositive motion filing deadline will have to contact the court's judicial staff attorney, at hunt-elizondok@oakgov.com to schedule a hearing date prior to filing the motion. The email must contain the name and nature of the motion and any applicable scheduling order. The Court will issue a scheduling order setting the hearing date and briefing schedule. The moving party must notify the Court of any withdrawal of a motion for summary disposition. The moving party must praecipe its motion for summary disposition for the date set by the Court. The Court hears motions for summary disposition on Wednesdays. All briefs must comply with MCR 2.119(A)(2). No judge's copies are required by Judge Cohen.

Motions for Reconsideration; Motions for Resentencing

Generally, the Court declines oral argument for motions for reconsideration and motions for resentencing. Unless the Court orders otherwise, no response or oral argument is permitted on a motion for reconsideration.

Emergency Motions

For an "emergency motion" to be considered, a written motion setting forth "good cause" must be submitted. Oral requests for an emergency motion will not be considered. The moving party shall e-file the written motion and then email the Judicial Staff Attorney a copy of the motion at hunt-elizondok@oakgov.com. The Court, in its discretion, will determine whether the motion constitutes an "emergency" and dispense with the motion accordingly.

Appeals

The Court adheres to the appellate rules set forth in MCR 7.100, *et seq.* On applications for leave to appeal, the Court generally declines oral argument. Once received in Efiling, the Court will issue a separate, independent scheduling order setting the briefing deadlines and hearing date for the appeal. The appellant then must praecipe the appellate oral argument for the date and time set by the Court.

Temporary Restraining Orders and Preliminary Injunctions

The Court strictly adheres to MCR 3.310 and will only grant ex parte relief in accordance with the court rules. The Court may accelerate the briefing schedule for motions for a temporary restraining order or a preliminary injunction if good cause is shown.

Civil Conferences

Early Scheduling Conferences

The Court holds early scheduling conferences as set forth in the parties' scheduling order. These conferences are conducted via Zoom videoconference until further notice. Clients need not attend early scheduling conferences.

Settlement and Final Pre-Trial Conferences

The Court holds settlement and final pre-trial conferences after case evaluation. **These conferences are held via Zoom video conference with trial attorneys present in the virtual courtroom.** The Court routinely becomes involved in settlement negotiations in a case with a jury trial. If the Court is unable to settle the case, it may order the parties to facilitation.

Criminal Matters

The Court hears arraignments, pre-trial conferences, and pleas, for defendants on bond on Mondays at 9:00 a.m. via Zoom videoconferencing until further notice. The Court hears

sentencing at 10:00 a.m. and violations of probation at 11:00 a.m. for defendants on bond via Zoom videoconferencing until further notice. The Court hears arraignments, pre-trial conferences, pleas, sentencing, and violations of probation for defendants in custody on Mondays at 1:00 p.m. via Zoom videoconferencing. The judge takes the bench promptly at the times stated above. If you expect to be more than 15 minutes late, you must call chambers immediately to inform the staff. The Court will accept arraignments by mail with the Court's prior permission. The Court will accept pleas made pursuant to *People v Cobbs* at arraignment or the pre-trial conference. It is within the Court's discretion to accept pleas made pursuant to *People v Cobbs* on the day of trial.

Trials

Adjournments

Requests to adjourn a FIRM trial date must be made by motion and will be granted only for good cause.

Schedule

In general, the Court conducts trial on the following days: Tuesdays from 8:30 a.m. to 4:30 p.m., Wednesdays from 1:00 p.m. to 4:30 p.m. (may resume in the morning after motion call), Thursdays from 8:30 a.m. to 4:30 p.m., and Fridays from 8:30 a.m. to 4:30 p.m. Jury selection does not occur on Wednesdays. There is generally no trial on Mondays because that is the judge's criminal call day. This schedule is subject to change depending on the Court's schedule.

Exhibits, Motions in Limine, and Other Pre-trial Issues

The parties are required to exchange and stipulate to exhibits in advance of trial. Exhibits must be marked by counsel prior to trial and a complete set must be submitted to the Court on the first day of trial. Plaintiff is to mark its exhibits with numbers. Defendant is to mark its exhibits with letters.

If the parties are unable to stipulate to all exhibits or if the parties intend to file any motions in limine or have any other issues to bring to the Court's attention prior to trial, they must file and have heard 30 days prior to the final pretrial or settlement conference. All such disputes are to be resolved before the morning of trial.

Jury Trials

The parties are required to exchange and stipulate to pre-trial jury instructions in advance of trial. If the parties are unable to stipulate to all pre-trial jury instructions or have any other issues to bring to the Court's attention prior to trial, they must contact the Court 14 days prior to trial to obtain a hearing date. All such disputes are to be resolved before the morning of trial. In civil trials, the parties must submit nine sets of stipulated pre-trial jury instructions to the Court on the first day of trial. In criminal trials, the parties must submit fourteen sets of stipulated pre-trial jury instructions to the Court on the first day of trial. Jury instructions are to be submitted on plain paper without citation of authority or identification of the proponent. Note taking by jurors and questions by jurors are *not* allowed.

The Court conducts basic voir dire, but allows counsel to principally conduct voir dire. The jury will be charged after closing arguments and will be allowed to take the exhibits and jury instructions into deliberations.

Bench Trials

Parties are directed to e-file and serve trial briefs pursuant to MCR 2.401(D) outlining any and all issues involved in this action two weeks before the scheduled trial date.

Public Access to Remote Proceedings Conducted via Zoom

Members of the public who wish to view proceedings conducted via Zoom are highly encouraged to view recordings of Judge Cohen's Zoom proceedings which are posted to the Oakland County Circuit Court website for 24-hours following a remote proceeding. Recordings can be found by clicking the "Video" link on the Circuit Court home page. Viewers of court recordings are prohibited from recording or otherwise copying court proceedings.

ZOOM Videoconferencing

Members of the public who wish to observe a live Zoom proceeding may do so anonymously by joining the Zoom meeting using the screen name "Public." Public viewers must mute themselves and turn off their video. Viewers are prohibited from recording or otherwise copying court proceedings.

Public viewers will be placed in a Zoom "waiting room" until Judge Cohen's Clerk admits them into the virtual courtroom.

To Join a Zoom Proceeding

For Desktop PCs and Laptops: Launch Zoom or go to the Zoom website (zoom.us). Click on "Join a Meeting." Join using Meeting ID 248 858 5280 or use the following direct link: <https://miscao.zoom.us/my/davidcohen>.

For Tablets and Smartphones (Apple and Android): Launch the Zoom app and join using Meeting ID 248 858 5280.

For Audio-only via Telephone: Call (646) 876 9923 or (669) 900 6833 and join the conference using Meeting ID 248 858 5280.