

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

GENERAL ORDER REGARDING STANDING ORDERS

The Committee on Standing Orders has made several recommendations designed to eliminate duplication and conflict among governing rules in order to promote simplicity and uniformity of practice in this district. This order gives effect to these recommendations.

IT IS ORDERED that all existing non-case specific single-judge directives are hereby **VACATED**. The clerk shall remove these directives from the court's Internet site.

IT IS FURTHER ORDERED that all non-case specific single-judge directives subsequently entered by members of this court shall be captioned as one of following:

1. **Standing Orders.** A standing order is a non-case specific, generally applicable order entered by an individual judge to regulate court practice. Standing orders may neither duplicate nor conflict with Acts of Congress, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure nor the local court rules. *See* Fed.R.Civ.P. 83(b); *see also* Advisory Committee Notes (1995); *see also First National Bank, Henrietta v. Small Business Administration*, 429 F.2d 280, 284 (5th Cir. 1970). All standing orders must be captioned with the judge's initials and numbered in accordance with the federal and local rules to which they relate, e.g., Standing Order PB-16 would be Judge Brown's standing order on pretrial conferences in civil cases.
2. **Referral Orders.** A referral order is an order that refers a particular type of case or cases

to a magistrate judge for pretrial purposes. Referral of many different types of cases (e.g., habeas, prisoner, criminal pretrial, pro se) to magistrate judges has been standardized by General Orders 05-4 through 05-9.¹ A district judge may nonetheless assign a particular percentage or type of cases to magistrate judges for pretrial purposes by the entry of a referral order filed in the appropriate division. Referral orders will not be posted on the court's Internet site.

3. **Recusal Orders.** A recusal order is an order where a judge recuses himself from a particular class of cases. All recusal orders will be conveyed directly to the clerk's office so that the judge promulgating the recusal order can be notified of a potential recusal problem. Recusal orders will not be posted on the court's web site.

4. **Form Orders.** Form orders are orders that a particular judge typically, but not always, enters in a case, such as standard form protective orders, scheduling orders, discovery orders, and docket control orders. These are posted on the court's website for the convenience of the bar in seeing what type of typical orders are used in that court. They are case specific and are typically modified at an initial scheduling conference.

5. **Practice Pointers.** Judges may elect to post general information and preferences regarding court practice and procedure on the court's web site. These practice pointers cannot conflict with general orders or the federal and local rules. Although not rising to the level of an actual order, compliance with practice pointers is strongly encouraged, as it will help that particular judge's chambers handling of cases pending in that court.

¹The first five general orders automatically refer prisoner cases, Section 2254 habeas petitions, Social Security cases, pro se non-prisoner cases and criminal case guilty pleas to the magistrate judges; the last general order adopts uniform patent rules for the district.

It is **FURTHER ORDERED** that the following guidelines and procedures regarding promulgation of future standing orders are hereby adopted:

1. Judges are encouraged to convey preferences via case-specific orders as opposed to generally applicable standing orders.
2. All standing orders should be drafted with an eye toward the twin goals of the federal rules: to foster uniformity and promote simplicity in federal court practice.
3. Subsequently proposed standing orders shall be submitted to the Committee on Standing Orders prior to entry and posting on the court's intranet site. The Committee shall review these proposed orders so as to ensure that all standing orders are: (1) numbered in accordance with the federal and local rules; and (2) not duplicative of, or in conflict with, existing federal or local rules. The Committee will provide its comments to the judge within one week. Judges are encouraged to conform their standing orders in accordance with the Committee's recommendations.
4. All newly-promulgated standing orders, form orders and practice pointers will be posted, by judge, on the "Judge's Orders and Information" section of the court's website, located at www.txed.uscourts.gov.
5. Paragraph H of Appendix D to the local rules, the "Joint Final Pre-Trial Order," is amended as follows:²

H. LIST OF EXHIBITS

~~(Note: Each party shall set forth a separate list of numbered exhibits, separately identifying those exhibits which the party expects to offer and those which the party may offer if the need arises, including exhibits to be used solely for impeachment, with a description of each containing sufficient information to identify the exhibits.)~~

²Omitted language appears in ~~strikeout~~ text; new language appears in underlined text.

Counsel should fill out and submit to the Court the form exhibit list available on the court's website, located at www.txed.uscourts.gov, or at the clerk's office. The list shall also include exhibits to be used solely for impeachment.

In the past, counsel were often preparing two exhibit lists. This change makes it clear that only one list needs to be prepared and submitted to the Court.

It is hoped that this simplification and clarification of the use of standing orders will continue to enhance the Eastern District's reputation as a "user friendly" court that attempts to simplify, rather than complicate, the practice of law for the attorneys and parties who have matters before it.

SIGNED this 22nd day of February, 2005.

FOR THE COURT:

/s/

Thad Heartfield, Chief Judge