

## **EXECUTIVE SUMMARY**

### **Summary of the recommendation:**

These Standards for Final Pretrial Submissions and Orders are intended to provide a schedule that moves the case forward to trial, but does not impose unnecessary burdens or require pretrial submissions too early in the parties' final pretrial preparation, and to simplify what items should be prepared as the case in the final pretrial stage. They are based on five objectives:

First, the final pretrial conference should be held (a) after all dispositive motions have been decided and, (b) as Federal Rule of Civil Procedure 16(e) requires, as close to the actual trial date as possible, preferably no more than four to six weeks before trial.

Second, the final pretrial order should promote fairness by providing notice to each side of what the other side generally intends to do and therefore avoid the potential for unfair surprises at trial.

Third, it should provide for the orderly admission of evidence.

Fourth, it should give the court the information it needs to understand the issues and exercise control over the trial.

Fifth, consistent with these requirements, it should minimize the amount and need for final pretrial paperwork and the related costs and effort.

### **Summary of the issue the recommendation addresses:**

The procedures in some courts have been termed "pretrial by ordeal." The Standards are intended to provide guidance on how to move the case toward trial but without demanding exhaustive and/or unnecessary pretrial submissions, particularly too early in the life of a case before it is clear that the case has a realistic chance of going to trial.

### **How the proposed policy position addresses the issue:**

It lays out a set of orderly procedures and steps for the parties and the court to take in formulating a final pretrial order to govern the conduct of the trial.

### **Summary of minority views or opposition that have been identified:**

None.