

**United States Bankruptcy Court  
District of New Mexico**

Federal Building and United States Courthouse  
421 Gold Avenue SW, Third Floor  
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**NORMAN H. MEYER, JR.**  
Clerk of Court  
505-348-2450

March 5, 2003

**Notice to Practitioners #03-03**

**For Judge Starzynski's Cases: New Form of  
Order Arising Out of the Final Pre-Trial Conference**

Judge Starzynski has a new form of order arising out of the final pre-trial conference. A copy of the new form of order is on page 2 of this notice.

The primary differences between the old form and the new form of order are that

(a) with respect to the three sets of exhibits delivered to chambers usually one to three days before the final hearing, the party must also deliver a set to each of the opposing parties no later than the same day. In other words, it will not work to deliver the sets to chambers on a Tuesday for a Thursday trial and then sometime Tuesday afternoon or evening put a set in the mail to opposing counsel;

(b) parties do not have to be listed as witnesses, to take into account that an attorney may forget to list his or her own client as a witness, and because people will not ordinarily be surprised if a party testifies. In the event that the non-listing poses a potential hardship, the parties should of course confer with each other to resolve the problem, and then, if necessary, seek relief beforehand from the court; and

(c) Judge Starzynski reserves the right to use sanctions as a method of compelling compliance with the order. It still remains the case that in the Court's discretion, documents which will constitute the party's exhibits at trial that are not timely delivered (usually about ten to eleven days before trial) to the other parties may not be used at trial.

The effective date for the use of this form of order in lieu of the previous form is the date of this notice. This form is available in WordPerfect, MS Word, and pdf format on the court's website [www.nmcourt.fed.us/web/BCDOCS/bcindex.html](http://www.nmcourt.fed.us/web/BCDOCS/bcindex.html) (See General Information, then Forms).

NORMAN H. MEYER, JR., Clerk of Court

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

Debtor.

Case No. xx-xx-xxxx Sx

Plaintiff(s),

v.

Adversary No. 03-xxxx S

Defendant(s).

**ORDER RESULTING FROM FINAL PRETRIAL CONFERENCE**

This matter came before the Court for a final pretrial conference on \_\_\_\_\_, 2003. Counsel for the parties are listed in the service section below.

Discovery

Discovery is complete (or, has been extended to \_\_\_\_\_).

Trial

IT IS ORDERED that trial of this matter has been set for \_\_\_\_ on \_\_\_\_\_, with \_\_ days reserved for trial. Trial will be conducted by the Honorable James S. Starzynski in the Bankruptcy Courtroom, Second Floor, Federal Building and United States Courthouse, 421 Gold Avenue SW, Albuquerque, New Mexico (or other location).

Exhibits

IT IS ORDERED that the parties exchange the exhibits they intend to use at trial by \_\_\_\_\_. By 4:30 p.m. on \_\_\_\_\_, parties shall submit three (3) sets of exhibits to the Court's chambers, for the use of the Court, the Court's staff attorney and the witness. No later than the same date the parties shall have delivered a set of the exhibits to counsel for each party and to any unrepresented party. Parties must also submit a list by \_\_\_\_\_, signed off on by all parties, of exhibits that the parties stipulate are admissible. By stipulating to the admission of an exhibit, a party is not waiving his or her right to argue relevance, weight, or materiality of the exhibit, including the right to argue that the exhibit in question should be treated as if it had not been admitted. (The purpose of this ruling is to minimize trial time spent authenticating exhibits for admission.) All exhibits will be offered and received in evidence as the first item of business at the trial. Exhibits not listed will generally not be allowed, except for rebuttal exhibits which could not be anticipated.

Witnesses

IT IS ORDERED that the parties exchange lists of witnesses they intend to or may call by \_\_\_\_\_. By \_\_\_\_\_, the parties shall submit this list to the Court's chambers. Witnesses not listed will generally not be allowed, except for rebuttal witnesses the need for whose testimony could not be reasonably anticipated. The failure to list an individual party (as used in 11 U.S.C. § 101 to mean a human being) will not preclude that party from being called as a witness, although neither this order nor listing a witness on a witness list shall be deemed to have compelled the witness to appear for trial.

Remedies for Noncompliance

IT IS ORDERED that failure of a party or counsel to comply with the provisions of this order may result, in the discretion of the Court, in the imposition of sanctions or corrective measures in addition to those described above.

Honorable James S. Starzynski  
United States Bankruptcy Judge

Submitted by:

\_\_\_\_\_  
xxxxxxx  
Counsel for xxxx  
Address  
Phone

Approved by:

\_\_\_\_\_  
xxxxxxx  
Counsel for xxxx  
Address  
Phone