

**PREPARATION FOR TRIAL BEFORE
THE HONORABLE W. DANIEL SCHNEIDER**

Gila Courtroom – 5th floor

1. Be on time for each court session. Trial engagements take precedence over any other business. If you have matters in other courtrooms, make other arrangements in advance for the handling of such matters. **Please check in with the Courtroom Deputy upon arrival.**
2. Court time may not be used for marking exhibits. This must be done in advance of the court session. Counsel are not to approach the Jury with exhibits. Exhibits should be handed directly to the Courtroom Deputy or Law Clerk for distribution to the Jury. **At the conclusion of the trial, counsel are to remain in the Courtroom to receive their exhibits. All exhibits MUST BE RETURNED to counsel.**
3. Please instruct your clients and witnesses that under no circumstances are they to attempt to communicate in any manner with any member of the jury prior to or during trial.
4. Stand when you address the Court. This includes the making of objections.
5. Stand a respectful distance from the jury at all times.
6. Do not argue your case or discuss law in your voir dire or opening statement. In your opening statement, you should present a concise summary of the ultimate facts to be proved. **Voir dire will generally be restricted to 30 minutes per side.**
7. Stand at the lectern when you question witnesses (counsel with a physical disability will be excused from this requirement). Do not face or otherwise appear to address yourself to the jurors when questioning a witness or listening to an answer.
8. If you intend to question a witness about a group of documents, avoid delay by having all the documents with you when you start the examination. If you must approach a witness for any reason, obtain permission of the Court first.
9. Commence your examination or cross-examination without unnecessary preliminary introductions.
10. When you object in the presence of the jury, make your objection short and to the point. “Speaking” objects are not allowed. Cite the Rule of Evidence or common designation for your objection (*e.g.* hearsay). Do not argue the objection. Do not make substantive motions (*e.g.* a motion for a mistrial or directed verdict) in the presence of the jury. Such matters may be raised at sidebar or, by request, at the first recess without waiving rights by such delayed motion.
11. Do not argue with the ruling of the Court in the presence of the jury and refrain from thanking the Court following a ruling.

12. Where a submission deadline falls on a weekend or a holiday, the deadline becomes the next working day.

13. Trial dates may be set on a trailing calendar or as a definite setting. Jury Selection, Jury Trial and Bench Trial days will begin at 9:00 a.m. Counsel are requested to be in the courtroom no later than 8:30 a.m. on the first day of any trial.

14. Each party will be responsible for securing the appearance of witnesses the party proposes to call.

15. Clients and witnesses are expected to be on time, and counsel should always have witnesses available to fill a full trial day (9:00 a.m. to 5:00 p.m.). If counsel anticipates any problem, the Court shall be notified as soon as possible.

16. All expert reports must have been exchanged in advance in accordance with Rule 26(a)(2) of the Federal Rules of Civil Procedure. When calling an expert witness, it is the responsibility of counsel to establish his/her qualifications to express an opinion under Rule 702. **Challenges pursuant to *Daubert* shall be made prior to the dispositive motions deadline as set forth in the Initial Pretrial Report.**

17. If a deposition is to be used in part, counsel shall mark the parts to be used for the Court and opposing counsel. Plaintiff will use a yellow marker and defendant a blue marker.

18. The purpose of voir dire is not to argue your case or introduce your client but to select an impartial jury. Therefore, while any issue is fair game for questions, the Court will not permit counsel to argue facts of the case of personalize their clients.

19. Trial briefs outlining the basic legal theories, anticipated evidence in support of such theories, and the legal basis of any anticipated evidentiary disputes are strongly encouraged and should be filed with the Clerk at least **five (5) working days** before trial.

20. Jury Lists and Questionnaires are available one (1) week prior to Jury Selection. Please contact the Jury Department at (505) 348-2070, in the Clerk's Office to order a set and to ascertain copy charges.

21. The jury panel will be drawn prior to jury selection. The Jury Department will randomly draw the juror's names for seating, and a list will be provided to counsel at jury selection along with a seating chart.

Questions regarding settings and/or other matters, may be directed to any one of my staff. If you have any special needs, please notify us so that we may try to accommodate you.

Melissa Lucero, Secretary (505) 348-2370

Valerie Chang, Law Clerk (505) 348-2373

Terri Beach, Law Clerk (505) 348-2372

Mark Kokesh, Courtroom Deputy (505) 348-2018

Other useful information may be obtained by visiting the Honorable W. Daniel Schneider's Chambers Page at www.nmcourt.fed.us.