

PREPARATION FOR CIVIL TRIALS

before the Hon. Martha Vázquez

GENERAL INSTRUCTIONS

- ◆ Trial will begin promptly at 9:00 a.m. Counsel must appear no later than 8:30 a.m. if counsel wishes to bring matters to the attention of the Court and out of the presence of the jury. Before raising preliminary matters with the Court, counsel must confer with opposing counsel.
- ◆ Trial will recess at 5:00 p.m. Counsel must be prepared to exceed this time if necessary to complete the trial as scheduled.
- ◆ Counsel must stand when addressing the Court, other counsel, a witness, or the jury. Do not refer to any party or attorney by their first name.
- ◆ Counsel must not argue with opposing counsel in the presence of the jury.
- ◆ During opening statements, counsel must not argue the facts or discuss the law. Present a concise summary of the facts. Do not describe in detail what particular witnesses will state. Unless the case is unusually complex, counsel will be limited to fifteen minutes for opening statements.
- ◆ Counsel must remain at the podium when questioning witnesses and must not turn his or her back to the Court, the jury, or a witness when speaking.
- ◆ Counsel must have all exhibits immediately available and in the proper order when questioning a witness. A copy of the exhibits should be on the witness stand when questioning a witness to avoid having to approach the witness with each exhibit.
- ◆ When an objection is made in the presence of the jury, counsel must state the rule and make no argument. If the Court needs argument, counsel will be instructed to approach the bench. Do not argue the Court's ruling in the presence of the jury.
- ◆ Counsel must not move for a mistrial in the presence of the jury.

VOIR DIRE & STATEMENT OF CASE

- ◆ Deadlines for the submission of topics for voir dire, the statement of the case, and any objections thereto are provided in the Pre-Trial Order.

- ◆ Except for a few preliminary questions by the Court, voir dire will be conducted by counsel. Any objections will be addressed by the Court on the morning of jury selection.
- ◆ The parties' joint statement of the case should contain a clear statement of the facts at issue, not simply a conclusory description of the legal issues.

WITNESSES

- ◆ Deadlines for the submission of witness lists and any objections thereto are provided in the Pre-Trial Order.
- ◆ The witness lists must include the name of the witness, his or her title and relevance to the case, and an estimate of time necessary for counsel to examine the witness.
- ◆ The witness list must also indicate whether a witness' testimony will be live or through deposition. Deadlines for objections to deposition testimony are provided in the Pre-Trial Order. The Court prefers live testimony over deposition testimony.
- ◆ If a deposition is used in part, counsel must highlight the appropriate sections—Plaintiff in yellow ink and Defendant in blue ink. The Court's copy should also be highlighted.
- ◆ Counsel is responsible for ensuring that a sufficient number of witnesses is scheduled for each day of trial, and that all witnesses are on time and remain near (but outside) the courtroom.

EXHIBITS

- ◆ Deadlines for the submission of exhibits, exhibit lists, and any objections thereto are provided in the Pre-Trial Order.
- ◆ The exhibit list must be in a table format, and counsel should submit both a disk and a hard copy of the exhibit list to the Court.
- ◆ Exhibits must be marked and identified as provided in Local Rule 25(a), *i.e.*, yellow labels for Plaintiff and blue labels for Defendant.
- ◆ Counsel must tab all exhibits in a three-ring binder when providing copies to the Court and the opposing party.
- ◆ Where possible, exhibits should be stipulated to in advance. If counsel have objections to any exhibits, such objections should be filed with the Court and state with specificity the bases of the objections. "Objection: Hearsay" or "Objection: Relevance" are insufficient forms of objections. Counsel must state the reasons why they believe a particular exhibit

is not relevant, for example. Counsel must submit one copy of all objected-to-exhibits (tabbed and marked) as an attachment to any objections to an exhibit.

- ◆ Charts, diagrams, etc. must be marked, indicating measurements, landmarks and other identifying factual material. Avoid having a witness draw a chart during the time used for interrogation.

EVIDENCE

- ◆ The parties must disclose the use of computer-generated evidence no later than 20 days prior to trial. Opposing counsel must raise authentication or hearsay objections no later than 10 days prior to trial.

JURY INSTRUCTIONS

- ◆ Deadlines for the submission of jury instructions and any objections thereto are provided in the Pre-Trial Order.
- ◆ Counsel may access the Court's Stock Instructions on the Court's webpage at <http://www.nmcourt.fed.us/dcdocs/>. A Stock Instruction Index accompanies the Stock Instructions and must be completed by counsel and submitted with the joint jury instructions. If counsel cannot access this information via the internet, copies can be obtained from the Clerk's Office in Santa Fe. The Court will automatically include its Stock Instructions unless there are objections or an alternative version has been provided by the parties.
- ◆ Counsel must submit all instructions and objections both in hard copy and by email to vazquezchambers@nmcourt.fed.us. The instructions should be in a format compatible with WordPerfect 8.0 or higher. Submit no more than one instruction per page. However, submit each complete set of instructions in one document, rather than placing each instruction in a separate computer file. The instructions should be carefully proofread for errors in spelling, grammar, punctuation, and citations.
- ◆ Counsel should discuss jury instructions in advance so that agreement can be reached on as many instructions as possible. If there are particular instructions on which counsel cannot agree, counsel must file objections. These objections should be detailed—counsel should state the bases for the objections, include relevant law that supports their respective positions, and submit a draft of the instructions to be considered by the Court. For example, if the parties disagree on what should be Joint Instruction No. 5, Plaintiff may label its choice as "Plaintiff's Instruction No. 5" and explain the reasons for the preferred instruction and the objections to Defendant's instruction. Defendant's instruction, labeled "Defendant's Instruction No. 5" would follow Plaintiff's instruction

and provide the same explanations. Each instruction must include citations to any Pattern Jury Instructions and/or case law.

FINDINGS OF FACT & CONCLUSIONS OF LAW

- ◆ Deadlines for the submission of findings of fact and conclusions of law are provided in the Pre-Trial Order.

MOTIONS IN LIMINE

- ◆ Deadlines for the submission of motions in limine are provided in the Pre-Trial Order.
- ◆ The Court will rule on the motions in limine prior to the commencement of trial if possible.

PRE-TRIAL CONFERENCE

- ◆ Counsel must be prepared to address the length of the trial (excluding jury selection), the number of witnesses, the number of exhibits, stipulations to any exhibits, and the anticipated motions in limine.

JURY SELECTION/TRIAL

- ◆ Jury selection takes place at the United States Courthouse in Santa Fe. If sufficient time is available, opening arguments and testimony may begin on the day of jury selection.

EQUIPMENT

- ◆ Counsel must make prior arrangements to have special equipment installed prior to trial. Any equipment needed on the day of jury selection in Albuquerque must be discussed with the Court in advance.