

PREPARATION FOR CRIMINAL JURY TRIAL
BEFORE THE HONORABLE M. CHRISTINA ARMIJO
UNITED STATES DISTRICT JUDGE

Revised and Effective as of December 15, 2003

TRIAL COUNSEL, your compliance with the following instructions is required:

I. GENERAL INSTRUCTIONS

- A. Throughout these instructions, the term “trial” refers to commencement of the trailing docket. Therefore, all dates operate off of the initial jury selection date or date upon which the trailing docket begins.
- B. Where a submission deadline falls on a weekend or holiday, the deadline becomes the next working day after the weekend or holiday, unless otherwise specified.
- C. **Counsel must seek leave of the Court in the form of a written motion to extend any pretrial deadline. Motions to extend deadlines shall also address the need, if any, to continue the pending trial date.**

II. TRIAL CONDUCT

- A. 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.
- B. Court time may not be used for marking exhibits. This must be done in advance of the court session.
- C. Under no circumstances are you to attempt to communicate in any manner with any member of the jury prior to or during trial. Your clients and witnesses should also be so instructed.
- D. Do not argue the case or discuss law in your opening statement. Your opening statement should present a concise summary of the ultimate facts to be proved. Do not describe in detail what particular witnesses will say.
- E. Stand at the lectern when you question witnesses. (Counsel with physical disabilities may be excused from this requirement.)
- F. 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.

- G. Commence your examination or cross-examination without unnecessary preliminary introductions.
- H. Refer to all parties and witnesses by their last names (e.g., Ms. Smith, Dr. Jones).
- I. When you object in the presence of the jury, make your objection short and to the point. “Speaking” objections will not be 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 any rights by such delayed motion.
- J. Do not argue with the ruling of the Court in the presence of the jury and refrain from thanking the Court following a ruling.
- K. The jury’s time is valuable. If you anticipate that oral argument will be required for an evidentiary ruling or to resolve some other issue during the trial, alert the Court as soon as possible so that the matter may be heard either before court or after court outside the presence of the jury.
- L. The Court will instruct the jury before closing arguments. You may refer to specific instructions in your closing argument.

III. PREPARATION FOR CRIMINAL TRIALS

- A. The Government will provide Defendant notice of potential Rule 404(b) or Rule 609(b) evidence not less than **FOURTEEN (14)** calendar days in advance of trial.
- B. **Motions in Limine:** Motions in limine shall be filed not less than **TEN (10)** working days before trial, and responses to motions in limine shall be filed no later than **FIVE (5)** working days before trial, or by the deadlines stated in the notice of jury selection and trial, whichever period is longer.
- C. **Witness Lists and Exhibit Lists:** It will facilitate an orderly and efficient trial for counsel to exchange witness and exhibit lists not less than **TEN (10)** working days prior to trial so that evidentiary problems can be anticipated and resolved correctly. Counsel are directed to provide the Court with copies of proposed witness lists, exhibit lists, and any written objections thereto, by no later **FIVE (5)** working days prior to trial. In the event this requirement poses a danger to potential witnesses, will result in a violation of a Defendant’s rights, or for other good cause, the parties should approach the Court to seek relief from this requirement prior to the deadline.

- D. Those exhibits to which the parties do not stipulate shall be identified in sufficient detail to allow the Court to anticipate significant evidentiary problems.
- E. Whether in opening statements or in questions to witnesses, Counsel shall request and obtain prior Court approval before introducing topics that may have a significant potential for unfair prejudice, such as comments on a defendant's silence, invocation of constitutional rights, or evidence that may fall under Rules 404(b), 608 or 609.
- F. Any exhibits not admitted at the beginning of trial may not be shown to the jury, nor may witnesses testify regarding the contents of such exhibits, unless and until they are admitted.
- G. Jury instructions shall be submitted to the Court in accordance with the section below entitled **PREPARATION OF JURY INSTRUCTIONS**.
- H. Until they become available on Judge Armijo's chamber's website, parties shall use the Standard Criminal Jury Instructions and Jury Instruction Checklist available on Senior Judge Parker's chambers website at www.nmcourt.fed.us for criminal trials before Judge Armijo.
- I. In the average case, each counsel will be permitted **ten (10) minutes** to voir dire the venire panel. **Do not argue the case or cite legal principles in your voir dire.**
- J. In addition to requested voir dire, the Court directs counsel to submit a joint statement of the case which briefly and objectively summarizes the nature of the case and the parties' contentions in one or two paragraphs, and which the Court may use to introduce potential jurors to the case during voir dire.
- K. Requested voir dire and proposed joint statements of the case shall be exchanged between counsel not less than **FIVE (5)** working days before the case is scheduled for jury selection. Copies of the parties' proposed voir dire, along with the joint statement of the case, and any objections or responses thereto, shall be provided to the Court not later than **THREE (3)** working days before the case is scheduled for jury selection, or by no later than the Call of the Calendar, whichever occurs earlier.

IV. CALL OF THE CALENDAR

- A. A call of the calendar may be scheduled a few working days before trial or as specified in the notice of jury selection and trial. The parties shall be prepared to discuss the following questions at the call of the calendar:
 - 1. Are you ready to proceed to trial?

2. What motions are pending, and what other matters, if any, require resolution before the commencement of the jury selection and trial?
 3. How long will it take to try the case?
 4. Do you have any scheduling conflicts?
- B. After hearing from counsel on the above matters, Judge Armijo will announce the date your trial will commence.
- C. It is a violation of these instructions to bring changes of plea or motions for continuances to the Court's attention for the first time at the Call of the Calendar. It is counsel's responsibility to advise the Court of such matters by the deadlines stated in the notice of jury selection and trial, which precede the Call of the Calendar.
- D. If trial counsel is unable to attend the call of the calendar personally, you may have substitute counsel participate with the understanding that he or she must be have decision-making authority and must be prepared to discuss and give information about the trial for which he or she is participating.

V. PREPARATION OF JURY INSTRUCTIONS

- A. Your proposed Jury Instructions are due not less than **FIVE (5)** working days before trial, or by the deadline specified in the notice jury selection and trial, whichever period is longer. Please prepare your proposed jury instructions in accordance with the directions provided below.
- B. Until they become available on Judge Armijo's chamber's website, parties shall use the set of criminal standard instructions available on Senior Judge Parker's chambers website at www.nmcourt.fed.us for criminal trials before Judge Armijo. These are primarily introductory instructions and instructions relating to burden of proof, credibility issues, duties of jurors, etc. **Please do not submit instructions that are identical to these standard instructions.**
- C. Counsel must meet and confer prior to the deadline for submission of instructions and make a good faith effort to agree on the submission of all non-standard instructions (e.g., elements of the alleged offense, special defenses, etc.) The parties must submit one set of non-standard instructions upon which they agree by the submission deadline. Requested non-standard instructions upon which the parties cannot agree must be submitted separately by each party by the submission deadline.
- D. The parties must submit an original "dirty" copy of all requested non-standard instructions to the Clerk for filing. The instructions submitted to the Clerk must contain citations and a certificate of service on opposing counsel.

- E. The parties must submit to Judge Armijo without filing:
 - 1. One "dirty" copy of the original agreed upon instructions and of any non-agreed upon instructions with citations that are filed with the Clerk.
 - 2. One "clean" copy of the agreed upon instructions and any non-agreed upon instructions with only the text of the instruction on the page—do not include a heading or citations.
 - 3. One 3 ½ inch computer disk containing both a "clean" and a "dirty" copy of all requested instructions in WordPerfect format.
- F. Parties must submit only one requested jury instruction per page. Instructions must be double-spaced.
- G. Carefully PROOFREAD each Instruction for errors in spelling, grammar, punctuation and citations. When a proposed instruction is based on a specific case, include both the page on which the source begins and the page on which the specific material appears.
- H. Submit a cover sheet on each set of Instructions.
- I. If your proposed Jury Instructions do not comply with the above, they may be refused.