

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO  
HONORABLE LOURDES A. MARTÍNEZ**

**TOP TEN LIST OF DOs AND DON'Ts**

1. **Read the FEDERAL RULES OF CIVIL PROCEDURE, and always refer to the LOCAL RULES OF CIVIL PROCEDURE** (<http://www.nmcourt.fed.us/web/DCDOCS/dcindex.html>) **for any modifications or clarifications of the FEDERAL RULES.**
  - a. **Do NOT call chambers to ask how to practice in federal court.**
  - b. **Do NOT call chambers to ask for an explanation of the rules of procedure or to ask which rule governs your particular issue.**
  - c. **DO check the Judge's web site for information on timeliness and procedures for e-mailing proposed orders, trial materials, etc.**  
(<http://www.nmcourt.fed.us/web/DCDOCS/dcindex.html>).
  - d. **DO call chambers if you are going to be late for a hearing.**
  - e. **DO call chambers if you are going to be at a different phone number than is listed in the docket of the case (for telephonic hearings).**

**Recommended Reference Book: 2009 FEDERAL CIVIL RULES HANDBOOK (Baicker-McKee, Janssen, and Corr), published annually by Thomson-West and annotated for every federal court in the country.**

2. **Do NOT file any motion that fails to state whether concurrence of opposing counsel has been granted or refused.**
  - a. **Stating that concurrence was sought but no response to the inquiry was received prior to filing the motion is insufficient—unless you have made a genuine effort to obtain a response, given opposing counsel sufficient time to respond, and explained your efforts in your motion.**
  - b. **Do NOT seek concurrence of opposing counsel just prior to filing your motion; give opposing counsel sufficient time to respond.**
  - c. **DO notify the Court if a previously opposed motion becomes “unopposed” so that the Court does not continue to work on the motion for naught.**
  - d. **DO file your *Notice of Completion of Briefing* so that the judge handling the motion knows that it is ready for ruling and has not been resolved.**
  - e. **Do NOT file motions for extension of time after your submission is already due.**
3. **Do NOT file multiple motions in one document, and do NOT file a response to a motion in the same document as your own cross-motion.**

- a. **DO submit, in the case of responses to motions, a separate response addressing each motion to which a response is made.**
  - b. **DO include, in all submissions on motions, a caption title that clearly identifies the matter raised and, in the case of a response to a motion, a clear identification of the motion, including the docket number and the filing date of the motion to which the response is made.**
  - c. **If an opposing party submits a compound motion in one document (*e.g.*, a response or reply to a motion AND a cross-motion) OR multiple motions (*e.g.*, a motion to compel AND a motion for summary judgment), DO respond to each motion separately. Indicate each motion to which you are responding by reference to the its docket number and page number(s). DO raise your own cross-motion(s) in separate documents.**
  - d. **DO NOT filed a proposed order for an opposed motion.**
  - e. **DO submit proposed orders with all unopposed motions in Word Perfect format by e-mail to [Improposedtext@nmcourt.fed.us](mailto:Improposedtext@nmcourt.fed.us).**
4. **Do NOT raise new issues in your reply brief. If you do, the Court will either:**
- a. **refuse to consider the new issues (*preferred option*); OR**
  - b. **allow opposing counsel an opportunity to respond.**
5. **When you get a *Notice of Deficiency* regarding a motion, do NOT refile the motion until you file a *Notice of Withdrawal of Deficient Motion* (Doc. # \_\_\_\_). Otherwise the Court must rule on both the deficient motion and the new motion.**
6. **DO notify the court when you settle a case or resolve disputed motions or issues.**
- a. **DO notify both judges (presiding and referral) if a case settles.**
  - b. **If a case settles and Judge Martínez is the referral judge, an order for closing documents—usually due within thirty days of the settlement or notification of settlement—will be filed, and all of her settings will be vacated.**

**Do NOT assume that the trial, pre-trial conference, or any other setting made by the presiding judge is vacated unless you receive direct notification from the presiding judge.**

- c. **If you resolve fully or partially a *Motion to Compel*, notify the referral judge by either:**
  1. **filing a reply brief explaining precisely what is still at issue; OR**

2. notifying chambers in writing that the issues have been resolved completely.

7. Submit concise Settlement Statements.

- a. These are NOT intended to be motions for summary judgment.
- b. The Court will NOT read your trial notebook or research your issues.
- c. The purpose of the *Settlement Statement* is to tell the Court what your case is about, what your damages are, why you think your damages are reasonable, how you arrived at your damage calculations, why your client is not responsible for plaintiff's damages, the strengths and weaknesses of your case, and what your settlement offers and counteroffers have been.
- d. Do NOT fax your settlement statements - - they must be mailed or e-mailed within the deadline imposed by the Court's order.

8. Attorneys who are new to federal-court practice and who primarily practice in state court need to be prepared to work their cases in federal court quickly and diligently.

- a. Each case in federal court is set on a case management track, and referral judges manage these cases in accordance with certain deadlines.
- b. Cases move quickly in federal court.
- c. Attorneys are expected to be prepared, to know and understand the FEDERAL RULES OF CIVIL PROCEDURE, and to prosecute and defend their cases within the case management deadlines.

9. Prisoner Cases (§ 1983 and habeas corpus cases):

- a. Do NOT take on one of these cases unless you are prepared to learn this specialized area of law quickly, thoroughly, and accurately.
- b. Do NOT rely on the Judge's law clerks to do your work for you.
  - 1. You must understand the prisoner's claims, respond to each claim, and provide complete legal authority for your request to dismiss each claim.
  - 2. Do NOT use "buzz words" and legalese to respond to the prisoner's claims—you must thoroughly research each claim.
  - 3. Do NOT assume that because the opposing party is a *pro se* prisoner, you do not have to work the case as thoroughly as you would a case involving a party

represented by counsel.

4. If a second briefing schedule is set, it is usually because the first round of briefing was deficient—*take the HINT!*

10. **DO** make a good-faith, diligent effort to work out disputes with your opposing counsel before bringing them to the court's attention.

- a. **DO** agree to provide documents that you know will be ordered disclosed without the need for court intervention.
- b. **DO** have your clients sign releases for opposing counsel to obtain medical or educational records, if these matters are at issue in the case, pursuant to D.N.M.LR-Civ. 26.3(d).
- c. **DO** respect your opposing counsel.
- d. **DO** follow the Golden Rule and treat opposing counsel the way you *want* him or her to treat you, **NOT** the way that he or she *is* treating you.
- e. **DO** remember that practicing law is very difficult—why make it harder by being difficult?