

**PRETRIAL INSTRUCTIONS FOR CRIMINAL CASES
BEFORE THE HONORABLE ROBERT C. BRACK
SENIOR UNITED STATES DISTRICT JUDGE**

GENERAL INSTRUCTIONS

I. CALL OF THE CALENDAR

- A. Judge Brack schedules a call of the calendar for all cases that may proceed to trial. At the call of the calendar, Judge Brack will set a firm trial date approximately one month out.
- B. Certain pretrial deadlines are tied to the call of the calendar. These deadlines are specific to the *first* call of the calendar set. **If counsel move to extend the call of the calendar, counsel must request *and receive an order approving the extension of any associated pretrial deadlines.***
- C. At the call of the calendar, counsel must be prepared to address any pending issues.

II. AUDIO-VISUAL EQUIPMENT

- A. Counsel shall notify the Court at least **14 days before trial** if they require audio-visual or other special equipment. Counsel must contact and receive training from the Court's IS department before trial regarding any technology needs. Counsel are responsible for operating the equipment as needed.

III. JURY INSTRUCTION DEADLINES

- A. Counsel shall meet and confer in advance of the deadline to agree on as many instructions as possible. Parties are expected to agree on stock instructions.
- B. Judge Brack has provided a [Praecipe](#) for counsel to complete when submitting Jury Instructions. Counsel need not submit the text of Judge Brack's stock instructions – simply indicate whether the parties accept the stock instructions or are proposing alternatives.
 - 1. For any instructions on which counsel submit a non-stock instruction or do not agree, counsel shall separately submit, *at the same time that they submit proposed instructions*, a memoranda explaining their objections, their proposed alternative instructions, and authority in support of their arguments/proposed instructions.
- C. No later than **21 days before trial**, counsel shall file the Praecipe and Memoranda on CM/ECF *and* submit an e-mail attaching the proposed set of instructions in Word format to brackchambers@nmd.uscourts.gov.

IV. WITNESSES AND EXHIBITS

- A. Parties shall notify the Court as soon as possible (but no later than **7 days before the call**

of the calendar) regarding matters that will require additional preparation time, such as the intent to introduce expert or co-conspirator testimony, so that the Court may allow sufficient time to address potential *Daubert* challenges or to hold *James* hearings.

- B. In submitting electronic exhibits to the Court, refer to the Court’s [Jury Evidence Recording System \(JERS\) guide](#) for instructions.
- C. Consistent with the Federal Rules of Criminal Procedure, deposition testimony may be introduced into evidence. If depositions are used in part, counsel shall mark the parts to be used (this does not apply to cross-examination or rebuttal).

V. PRETRIAL CONFERENCE

- A. The Court may schedule a pretrial conference to be held the morning of trial or 1-3 days in advance of trial. During this conference, counsel shall be prepared to address any unresolved issues prior to the commencement of trial. Counsel shall bring copies of all exhibits with them to the pretrial conference.

VI. PRETRIAL DEADLINES

- A. Again, please note that some of the pretrial deadlines are tied to the call of the calendar; some are tied to the trial. The term “trial” refers to the date set for commencement of the trailing docket. **Counsel must seek leave of the Court in the form of a written motion to extend any pretrial deadline.**
- B. When a submission deadline falls on a weekend or holiday, the deadline becomes the following working day.

Event	Deadline	Comment
Witness and Exhibit Lists	Expert/co-conspirator info due no later than 7 days before call of the calendar . All other witness/exhibit lists due no later than 7 days after call of calendar .	Complete lists of witnesses to be called at trial and a consolidated exhibit list must be filed by the deadline. Any objections to exhibits must be filed within 5 days .
Pretrial Motions, including Motions/Notices regarding Rule 404(b) or 609 Evidence, Motions in Limine, and <i>Daubert</i> / <i>James</i> motions.	2 business days before call of the calendar	Response briefs due within 5 days . Reply briefs for <i>Daubert</i> motions due within 5 days of response brief. No reply briefs for Motions in Limine will be entertained unless requested and allowed.
Jury Instructions (Praecepta and Memoranda in support)	21 days before trial	The parties must confer and submit proposed instructions and memoranda as detailed above.

Voir Dire Questions	14 days before trial	Any party wishing to participate in voir dire must file proposed voir dire questions.
Deposition testimony	14 days before trial	The parties must confer about any disputes and, if unable to resolve their differences, must notify the Court in writing within 5 days . The objecting party must identify the portions of the deposition to which they object.
Proposed Findings of Fact and Conclusions of Law	14 days before trial	In non-jury trials, parties shall file proposed findings of fact and conclusions of law with references to exhibits and proposed testimony.

VII. GENERAL GUIDELINES FOR TRIAL

- A. Trial will begin at 9:00a.m. Counsel shall be in the courtroom no later than 8:30a.m. and be prepared to discuss any pretrial matters, unless the Court sets an earlier time.
- B. A multi-day jury trial typically will recess around 5:00p.m. The Court will allow regular breaks.
- C. Stand when you speak and use the microphone at the podium. Do not refer to any party or attorney by first name. Address the Court only; do not address or argue with opposing counsel in the presence of the jury. If opposing counsel must confer, please request permission of the Court to do so privately and quietly.
- D. Witnesses must be on time, and counsel should have witnesses available to fill a full trial day.