

## Pretrial Matters and Trial Instructions

This document contains information on the following matters:

- I. Pretrial Matters and Deadlines
- II. General Trial Instructions
- III. Exhibits
- IV. Jury Trials
- V. Exhibit/Witness List Form

### I. Pretrial Matters and Deadlines

**Counsel must seek leave of the Court in the form of a written motion to extend any pretrial deadline.** The following pretrial deadlines will be included in the pretrial order:

Event	Deadline	Comment
Pretrial motions, including Daubert motions	Due shortly after discovery ends.	The pretrial motion deadline is set in the Court's Scheduling Order.
Motions in limine	42 days before trial	Response brief is due one week after motion; no reply brief considered unless requested and allowed. Motions in limine filed after the deadline may be summarily denied.
Consolidated exhibit list	21 days before trial	The parties must confer over all trial exhibits and stipulate when possible.
Witness lists	21 days before trial	Each list must indicate whether the witness is testifying by deposition or in person. If a deposition will be used in part, counsel shall mark the parts to be used.
Jury instructions	21 days before trial	The parties must confer about proposed jury instructions (see Section IV below). <b>Parties shall file written objections to jury instructions four working days after jury instructions are filed.</b>
Contested exhibit list	14 days before trial	For any exhibits on which a stipulation could not be reached, the offering party must file a separate contested exhibit list. The contested exhibit list identifies exhibits that the parties have stipulated are admissible and/or that the parties have stipulated to be authentic, but to which there are other objections.
Objections to use of deposition testimony	14 days before trial	The objecting party must identify those portions of the requested deposition testimony to which they object. The

		parties must confer about any disputes and, if unable to resolve their differences, must notify the Court in writing no later than seven days before trial.
Voir dire question	14 days before trial	Any party wishing to participate in voir dire must file proposed voir dire questions.
Statement of the case	14 days before trial	The parties must confer and submit an agreed statement of the case to the Court that will be read to the jury panel during jury selection.
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.

## II. General Trial Instructions

- 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.
- B. All expert reports must have been exchanged in advance in accordance with Fed. R. Civ. P. 26(a)(2). As in other areas, cumulative expert testimony will not be permitted.
- C. Each party is typically permitted 15 minutes for voir dire. Do not argue the case or cite legal principles in your voir dire.
- D. Each party is responsible for securing the appearance of witnesses the party has listed.
- E. Counsel should always have witnesses available to fill a full trial day.
- F. Counsel should question witnesses from the podium and approach the witness stand or jury box only with the Court's permission.
- G. If a jury is present, speaking objections are prohibited. Counsel should simply state the objection and the basis for the objection without argument, i.e., "Objection. Hearsay," or "Objection. Leading."
- H. Opposing counsel should not respond to objections unless the Court specifically requests a response.
- I. Please stand when the jury enters or leaves the courtroom; stand also when stating objections or addressing the Court unless otherwise directed.

### **III. Exhibits**

- A. The Court strongly encourages counsel to stipulate to the admissibility of exhibits wherever possible, particularly regarding their authenticity.
- B. When filing exhibit lists with the Court, use Judge Martinez's Exhibit/Witness List Form. (See Exhibit/Witness List Form at Section V of this document.)
- C. Exhibits shall be marked and identified (Plaintiff's by numbers and Defendant's by letters).
- D. In submitting electronic exhibits to the Court, refer to the Court's [Jury Evidence Recording System \(JERS\) guide](#) for instructions.

### **IV. Jury Trials**

- A. Parties 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 and avoid submitting separate requests for the same stock instructions. (See Stock Jury Instructions Form at Section VI of this document.)
- B. Proposed instructions shall be numbered and annotated. Submit no more than one instruction per page. Proposed instructions should include both requested instructions and the proposed verdict forms.
- C. Counsel shall submit proposed jury instructions both via CM/ECF and via email (in Word format) to [martinezproposedtext@nmd.uscourts.gov](mailto:martinezproposedtext@nmd.uscourts.gov).

### Witness/Exhibit List Form

<b>Case Name:</b>		<b>Case No.</b>
<b>Plaintiff's Attorney:</b>	<b>Defendant's Attorney:</b>	<b>Trial Dates:</b>
<b>Presiding Judge: Damian Martinez</b>	<b>Court Reporter:</b>	<b>Courtroom Deputy: Becky Wilson</b>

Pl. No.	Def. No.	Witness	Date Offered	Obj.	Adm.	Description of Exhibit