

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

IN RE: ALL CRIMINAL TRIALS BEFORE
DISTRICT JUDGE MARGARET I. STRICKLAND

STANDING ORDER: DEADLINES AND PROCEDURES FOR CRIMINAL TRIALS

The following procedures shall be followed in all criminal trials unless otherwise ordered by the Court.

A. Call of the Calendar

Trial counsel must plan to appear on behalf of client. If unable to appear, please advise the Court no less than 24 hours before the Call of the Calendar and arrange for substitute counsel.

Please be prepared to address (1) the number of days needed for trial and (2) availability of counsel, client, and witnesses.

B. Motions to Continue

All motions to continue trial shall be filed *no later than 24 hours prior to the Call of the Calendar* and state the grounds for the motion in accordance with 18 U.S.C. § 3161(h)(7) and *United States v. Toombs*, 574 F.3d 1262 (10th Cir. 2009). **Motions to Continue filed after the Court's deadline or without stating the necessary legal grounds will be summarily denied.**

Counsel shall specify the number of motions to continue that have been filed in the underlying case and shall specify the facts and circumstances giving rise to a continuance of trial setting.

If the case is a multiple defendant case, counsel must state in the motion each defendant's position on the motion, and preferably file a joint motion to continue.

Counsel shall provide chambers with a proposed Order. See sample Order on Judge Strickland's webpage under "Procedures → Sample Proposed Orders."

May 4, 2022

C. Pretrial Deadlines

Counsel must seek leave of the Court in the form of a written motion to extend any pretrial deadline. Where a submission deadline falls on a Saturday, Sunday, or a holiday, the deadline becomes the next business day. **These deadlines will be enforced with appropriate measures, including a finding of waiver.**

(1) **Disclosure of any opinion evidence and Rule 404(b) evidence to opposing party**

- (a) Deadline: 21 days before trial
- (b) The opinion notice “must describe the witness’s opinions, the bases and reasons for those opinions, and the witness’s qualifications.” Fed. R. Crim. P. 16(a)(1)(G). Vague statements describing the topic of testimony are insufficient.
- (c) Rule 404(b) notice must “articulate . . . the permitted purpose for which the prosecutor intends to offer the evidence and the reasoning that supports the purpose.” Fed. R. Evid. 404(b)(3)(B).
- (d) Counsel must also file a list briefly outlining (1) each opinion; (2) the witness who will offer the opinion; and (3) the date and manner in which the opinion was disclosed to opposing counsel.

(2) **Motions regarding opinion testimony, including under *Daubert* and Fed. R. Evid. 702**

- (a) Deadline: 14 days before trial (unless otherwise set earlier by the Court)

(3) **Motions in Limine**

- (a) Deadline: 21 days before trial
- (b) Responses are due 10 days before trial. Replies to motions in limine will not be entertained unless specifically requested and allowed.

(4) **Jury Instructions**

- (a) Deadline: 14 days before trial
- (b) Please refer to detailed requirements for jury instructions set out on Judge Strickland’s [webpage](#).

(5) **Witness Lists**

- (a) Deadline: 14 days before trial

- (b) Counsel shall furnish a complete list of witnesses, in the order to be called, to opposing counsel and file it with the Court. This list shall indicate any witness who will give expert testimony.

(6) Exhibit Lists

- (a) Deadline: 14 days before trial (JERS deadline: 7 days before trial)
- (b) Counsel shall file a proposed exhibit list(s)—a joint stipulated list (if possible) and separate lists if there are disputes. See detailed instructions below.

(7) Deposition Testimony

- (a) Deadline: 14 days before trial
- (b) See additional details below.

(8) Notice to Court of Need to Use Courtroom Technology

- (a) Deadline: 14 days before trial
- (b) See additional details below.

(9) Objections to Witness Lists, Exhibit Lists, and Deposition Testimony

- (a) Deadline: 7 days before trial
- (b) The parties must confer about any disputes and, if unable to resolve any differences, must notify the Court in writing.
- (c) Exhibits. Counsel shall file a complete list of all objections to the exhibits offered, specifying the Rule(s) of Evidence or other legal authority upon which an objection is based. This includes objections based on foundation and authentication. ***Failure to file objections by this deadline constitutes waiver of the objection.***
- (d) ***Objections will be heard at the pretrial conference. Parties must bring any witnesses needed for foundation/authenticity objections to the pretrial conference.*** If for some reason a witness is not available, please notify the Court as soon as possible; another time will be set to handle objections.

D. Motions in Limine

Pretrial motions in limine rulings can save time and avoid interruption at trial; however, “most objections will prove to be dependent on trial context.” *United States v. Mejia-Alarcon*, 995 F.2d 982, 988 (10th Cir. 1993).

Litigants may not raise non-evidentiary matters in limine. *Louzon v. Ford Motor Co.*, 718 F.3d 556, 561–62 (6th Cir. 2013).

A ruling on a motion in limine is “essentially an advisory opinion” and may be changed at trial. *United States v. Luce*, 713 F.2d 1236, 1239 (6th Cir. 1983) (citing *United States v. Oakes*, 565 F.2d 170, 171–72 (1st Cir. 1977); *Rouse v. United States*, 359 F.2d 1014 (D.C. Cir. 1966)).

E. Exhibits

- (1) Exhibit Lists: The parties shall **jointly** file a consolidated list of all stipulated exhibits. Each offering party must file a **separate** list of all contested exhibits. The Court encourages the parties to resolve disputes over the authenticity and foundation of exhibits as soon as possible.
- (2) Exhibit Binders: The parties shall deliver to Chambers two identical copies of a binder containing the stipulated exhibits. Additionally, each side must deliver to Chambers two identical copies of a binder containing its contested exhibits. All exhibits must be marked and shall be **labeled consecutively by number** (and by party, for contested exhibits). The binders must have dividers or tabs for each exhibit.
 - (a) For example, if there are 50 stipulated exhibits, 20 contested Government exhibits, and 20 contested Defendant exhibits, the first set of binders shall contain stipulated exhibits numbered 1 to 50. The second set of binders shall contain the Government’s contested exhibits numbered 51 through 70 and Defendant’s contested exhibits numbered 71 through 90.
- (3) Electronic Format: Exhibits must also be submitted in electronic format. Refer to the [Attorney Guide to JERS](#) for instructions on how to submit electronically formatted trial exhibits to the Court at **least 7 days before trial**.
- (4) These instructions are to be followed to the extent feasible. The Court understands that in criminal cases, exhibits often need to be admitted during trial, and such is acceptable.

F. Witnesses

- (1) Clients and witnesses are expected to be on time, and counsel should always have witnesses available to fill a full trial day.
- (2) Cumulative expert testimony will not be permitted.

G. Deposition Testimony

- (1) Consistent with the Federal Rules of Criminal Procedure, deposition testimony may be introduced into evidence.
- (2) The parties shall file designations, and counter-designations, of deposition testimony that they intend to use at trial. The designations must state the pages and lines of the deposition to be used.
- (3) If a deposition is used in part, counsel shall highlight the parts to be used, for opposing counsel and the Court. This does not apply to cross-examination or rebuttal.

H. Guidelines for Trial

- (1) The Court will schedule a pretrial conference to be held 1–3 days prior to trial. During this conference, counsel shall be prepared to address any unresolved issues prior to the commencement of trial. Counsel are to bring copies of all exhibits with them to the pretrial conference.
- (2) Counsel shall be in the courtroom no later than 8:15 a.m. and be prepared to discuss any matter that should be addressed outside the presence of the jury. Be on time for each Court session. Trial engagements take precedence over any other business. If you have matters in other courts, make other arrangements in advance for the handling of such matters.
- (3) Defense counsel is responsible for bringing appropriate courtroom clothes for detained defendants. Counsel shall arrange with the United States Marshals to have the clothes at the courthouse in time for Defendant(s) to be dressed and in court by the set start time.
- (4) A multi-day jury trial generally will recess at about 5:00 p.m. The Court generally

will recess each morning and afternoon for a 15-minute comfort break and a 60-minute lunch break for attorneys (75-minutes for the jury).

- (5) Stand when you speak. Do not refer to any party or attorney by their first name. Always address the Court only; do not address or argue with opposing counsel in the presence of the jury. If counsel must confer with one another, please request permission of the Court for a moment to do so privately and quietly.
- (6) Speaking objections are not allowed. You may ask to approach the bench to discuss an objection.
- (7) Parties should notify the Court at least **two** weeks in advance of trial if they require audio-visual or other special equipment. If parties are unfamiliar with the operation of courtroom technology, they shall make arrangements with my Court Room Deputy, Jessica Chavez at (575) 528-1683, to schedule a time to test and run the equipment. Parties are responsible for operating any of this equipment. Please bring physical copies of all exhibits to ensure their compatibility with the Court's equipment.

IT IS SO ORDERED.



MARGARET STRICKLAND
UNITED STATES DISTRICT JUDGE