



FACT SHEET FOR JUDGE HARRY LEE HUDSPETH

CIVIL CASES

Contacting the Court

1. Who should be contacted regarding scheduling matters?

The office of the District Clerk in the District and Division where the case is pending.

2. May the court's law clerks be contacted directly? If so, under what circumstances?

An attorney may address a procedural question that cannot be answered by the Federal Rules of Civil Procedure, Local Rules, or the Judge's Scheduling Order to either the Judicial Assistant or the Law Clerk(s). Please do not call the Judge's staff seeking information about trial status or asking when the Court will rule on a given matter.

The Judge's chambers are located in Austin; however, the Judge's Courtroom for hearings and trials will be in the Division where the case is pending.

3. May the court be contacted by e-mail or fax? If so, what is the address or number?

Yes by fax. The number is (512) 916-5831.

4. How does the court prefer attorneys to contact the court in an emergency?

Please call either Alexis Montgomery, Judicial Assistant at (512) 916-5837, or the divisional office of the District Clerk.

5. May parties contact the court during depositions?

No.

6. What procedures should be followed if a party expects to be filing a motion for a temporary restraining order or other expedited relief?

Do not contact the Court about a motion before it is filed. When a motion is filed, contact the Courtroom Deputy Clerk in the Division of filing.

7. What procedures should be followed to request an expedited hearing in a civil case?

Any such request should be made by written motion.

8. Is it permissible to contact the court regarding the status of motions in a civil case? If so, should the law clerk or the courtroom deputy be contacted?

No.

9. Should the parties notify the courtroom deputy, the law clerk, or another person if a contested motion in a civil case has been resolved?

The Courtroom Deputy Clerk in the relevant Division.

General Pretrial Procedures

10. What is the court's procedure for issuance of scheduling orders in civil cases?

After the appearance of any defendant, the Court will issue its own Scheduling Order.

11. What is the court's procedure for requests for modification of scheduling orders?

File the requests in the form of a written motion.

12. Are there matters that the court routinely refers to a magistrate judge in civil cases?

Yes. The Court will refer all discovery motions pursuant to 28 U.S.C. § 636(b)(1)(B).

Procedures Specific to Civil Cases

13. Does the court require that the parties in civil cases file their initial disclosures?

No, pursuant to the Rules, the parties are to exchange them.

14. What are the court's procedures for referring civil cases to alternative dispute resolution? Under what circumstances does the court order mediation, when during the case is it ordered, and how is the mediator chosen?

The parties may agree to Alternative Dispute Resolution, but the Court will rarely order them to do so.

15. Does the court have any specific requirements for removed cases?

All removals are carefully scrutinized to verify the existence of jurisdiction.

16. Does the court typically have pretrial conferences in civil cases? If so, when during the case?

No.

17. Does the court typically have docket calls in civil cases? If so, when during the case?

No.

18. Does the court have any requirements for pretrial submissions in civil cases in lieu of or in addition to those in the local rules?

No.

Facilities and Technology

19. Does the court reporter use Real Time? If so, who should be contacted to obtain rough transcripts?

No general answer is possible; court reporters are not assigned to Senior Judges. The Courtroom Deputy Clerk where the proceeding is scheduled makes arrangements for a court reporter.

20. Does the courtroom have Internet access? If so, must arrangements to use the Internet access be made ahead of time?

No general answer is possible; senior judges are not assigned to a specific courtroom. Contact the Courtroom Deputy Clerk for details.

21. Is any additional technology available? If so, please describe.

See answer to No. 20 above.

22. What arrangements must be made to use the available equipment?

Contact the Courtroom Deputy in the Division where court is held.

23. May parties bring their own equipment? If so, are there any restrictions on what equipment may be brought and who should be contacted to arrange for the delivery of such equipment?

Yes, but pre-arrangements must be made through courthouse personnel.

24. Is it possible to have time in the courtroom to familiarize oneself with the layout and available technology? If so, who should be contacted to schedule the time?

Yes, but arrangements must be made through courthouse personnel.

Motions Practice

25. When (if ever) does the court want a courtesy copy of a filing?

NEVER.

26. Does the court prefer copies of cases attached to briefs or motions? If so, are copies from electronic databases acceptable? Does the court prefer pertinent provisions of the cases to be highlighted?

Do not provide copies of cases to the Court.

27. Does the court typically have hearings on contested motions in civil cases? If not, what circumstances would warrant a hearing?

Typically no. Evidentiary hearings or oral arguments may be scheduled in exceptional cases.

28. What time of day are hearings in civil cases generally held?

Times are contingent on the Court's trial schedule

29. Does the court allow telephone conferences for the resolution of motions or other matters? If so, who arranges them and when are they typically scheduled?

Only in exceptional circumstances.

30. Does the court depart from the page limits contained in the local rules? If so, by standing order or is a motion for leave of court and order required?

Motions and responses are limited to 10 pages; replies to 5 pages; no surreplies. Motions for leave to exceed page limits must be accompanied by the proposed motion or response.

31. Does the court accept briefing on motions beyond the motion, response, and reply? If so, is a motion for leave of court and order required?

No surreplies.

32. Does the court accept letter briefs in civil cases? If so, are there circumstances in which the court prefers letter briefs?

No.

33. Does the court permit the parties in civil cases to agree to extensions of time by stipulation filed with the court, rather than by motion and order, where the extension will not affect other pretrial dates? E.g., an extension to answer the complaint or to respond to written discovery.

Extensions of time to answer require Court approval. The Court is not involved in counsel's agreements regarding discovery.

34. How far before trial does the court rule on dispositive motions?

In plenty of time.

35. Does the court have any particular rules regarding filing, hearing, or granting motions that have not been addressed above?

Yes. Do not combine a motion to dismiss and an answer in one document. Do not combine several motions together in one document. Do not submit a response and a motion together in one document. Motions to dismiss and motions for summary judgment should contain a background statement of uncontested facts. They do not require tables of contents or authorities. Motions in limine are not looked upon with favor and are rarely granted.

The Court expects the parties to adhere strictly to the Federal Rules of Civil Procedure and the Local Rules of the Western District.

Courtroom Decorum

36. Does the court have special rules governing courtroom decorum (*e.g.*, addressing opposing counsel; approaching the witness; talking or passing notes at the counsel table; beverages allowed at the counsel table; attire)?

See Local Rule AT-5.

37. Does the court prefer that counsel address the court from counsel table or from the lectern?

All presentations in the courtroom are from the lectern.

38. Does the court prefer that counsel address witnesses from counsel table or from the lectern?

All presentations in the courtroom are from the lectern.

Hearing and Trial Procedures

39. What is the court's general procedure for continuing civil trials? How early does the court want the request made and how early will the court rule on such a request?

A motion to continue should be filed at the earliest date possible and should show good cause for the continuance. The Court will rule as soon as practicable.

40. Will the court grant a motion to continue the trial date if it is unable to rule on a pending dispositive motion before the parties must begin final trial preparation?

Possible, but exceedingly rare.

41. When does the court typically begin and end trial days?

Trial days are normally 8:30 a.m. to 5:30 p.m.

42. Does the court permit the use of jury questionnaires? If so, when should the proposed questionnaire be provided to the court?

Only in rare and exceptional circumstances. The Court will set the deadline if and when it allows its use.

43. Does the court allow attorneys to conduct their own voir dire in civil cases? If so, typically for how long?

The Court conducts the voir dire examination, which may be supplemented by additional questions from the attorneys.

44. How much time are parties typically given for opening statements in civil cases?

Typically 15-20 minutes a side.

45. Does the court require the parties to exchange demonstratives prior to using them in trial? If so, when should they be exchanged?

All exhibits, including demonstrative exhibits, should be displayed and disclosed to opposing party prior to jury selection.

46. Does the court permit the parties to use deposition testimony by agreement even if the witness is not unavailable?

Yes.

47. Must a party intending to present testimony by deposition provide excerpts to the court? If so, when?

Before trial, counsel must provide the Courtroom Deputy with a copy of all depositions to be used as exhibits at trial. Counsel will designate the portion of any deposition to be read by citing pages and lines. Objections to those portions (citing pages and lines) with supporting authority must be filed at least three business days before trial. Use of videotape depositions is permitted to the extent the parties agree on admissibility or edit to resolve objections.

48. May the parties provide the court with electronic versions of proposed jury instructions, verdict forms, or proposed findings of fact and conclusions of law? If so, what format should be used?

No.

49. May the parties leave exhibits and equipment in the courtroom overnight?

Generally the parties may leave exhibits and equipment overnight in the courtroom, but there are occasions when other proceedings are scheduled and materials must be moved to one side to accommodate those parties. Address any special requests to the Court.

50. What is the court's practice on returning exhibits to the parties and requiring the parties to preserve them for appeal?

Exhibits admitted in evidence are in the custody of the District Clerk. Counsel desiring to withdraw exhibits require Court permission.

Court Appointments

51. What are the court's procedures and requirements for court appointments for indigents?

The Court will follow 28 U.S.C. § 1915(e)(1).

52. What are the court's procedures and requirements for appointment of guardians ad litem?

When an ad litem is required, the Court will select and appoint one after consulting with both parties.

Miscellaneous

53. What are the court's procedures for dismissal of cases for want of prosecution?

The Court will issue an order to show cause why the case should not be dismissed.

54. What are the court's requirements and procedures for voluntary dismissal of cases?

Either a motion to dismiss and order (Rule 41(a)(2)) or a stipulation of dismissal (Rule 41(a)(1)(A)(ii)) may be used. Do not use both.

55. When does the court find that sanctions are appropriate?

Case by case basis.

56. Are there any other special practices or procedures for lawyers and parties appearing before the court in civil cases?

Do not commit the unforgivable sin: Do not run out of witnesses before time to recess court arrives.

57. Any pet peeves?

Yes: Calling chambers to request status of motions; providing unnecessary courtesy copies; delaying trials and hearings unnecessarily because the parties have failed to confer with each other or the Court; not following the page limit rules; using the incorrect initials of the Judge at the end of the case number; filing documents with the Court containing misspelled words; being late for court proceedings; mailing items to the Judge's Chambers with the incorrect address.

CRIMINAL CASES

Contacting the Court

1. Who should be contacted regarding scheduling matters?

The division office of the District Clerk in which the case is pending.

2. May the court's law clerks be contacted directly? If so, under what circumstances?

No. Our law clerks are not involved in criminal cases.

3. May the court be contacted by e-mail or fax? If so, what is the address or number?

Yes by fax to (512) 916-5831.

4. How does the court prefer attorneys to contact the court in an emergency?

Contact the Courtroom Deputy Clerk in the appropriate District and Division.

5. What procedures should be followed if a party expects to be filing a motion for expedited relief?

Motions not filed are not recognized. After filing, contact the Courtroom Deputy Clerk.

6. What procedures should be followed to request an expedited hearing in a criminal case?

Any such request should be made by motion, with a follow-up telephone call to the Courtroom Deputy Clerk after filing.

7. Is it permissible to contact the court regarding the status of motions in a criminal case? If so, should the law clerk or the courtroom deputy be contacted?

No.

8. Should the parties notify the courtroom deputy, the law clerk, or another person if a contested motion in a criminal case has been resolved?

The Courtroom Deputy or Judicial Assistant should be notified by telephone with a confirming fax, upon request.

9. How should attorneys advise the court when a criminal case requires an evidentiary sentencing hearing?

Inform the Courtroom Deputy Clerk of the request; the Court will decide whether to allow it.

General Pretrial Matters

10. What is the court's procedure for issuance of scheduling orders in criminal cases?

The Courtroom Deputy will send a written notice of the trial date to all parties.

11. What is the court's procedure for requests for modification of scheduling orders?

All motions for continuance should be filed in writing.

12. Are there matters that the court routinely refers to a magistrate judge in criminal cases?

Generally speaking, only motions to review bond conditions and motions for leave to appeal *in forma pauperis*.

Procedures Specific to Criminal Cases

13. Must counsel in criminal cases confer on all motions before filing them? If so, must counsel reflect the result of their conference in the body or title of the motion?

Only in requests for pretrial discovery.

14. Does the court prefer use of the pretrial checklist or pretrial motion practice?

The Court does not use a pretrial checklist.

15. If the parties use the pretrial checklist, how should they make a record of what was agreed to?

See answer to No. 14 above.

16. If the parties use the pretrial checklist, how should they get a hearing on contested matters?

See answer to No. 14 above.