



## FACT SHEET FOR CHIEF JUDGE FRED BIERY

### CIVIL CASES

#### Contacting the Court

1. Who should be contacted regarding scheduling matters?

**Courtroom Deputy at (210) 472-6550, ext. 5022.**

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

**Yes. Law Clerks may be contacted on an ex parte basis for all procedural questions and by telephone conference with all parties for substantive issues.**

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

**No.**

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

**Contact Courtroom Deputy at (210) 472-6550, ext. 5022.**

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?

**In addition to following the Federal Rules of Civil Procedure and Local Rules, if possible, counsel should alert chambers of the impending filing and notify the intake clerk of the immediacy of the matter.**

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

**Request the expedited hearing in the 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. Contact the docketing clerk.**

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?

**Notify the law clerk of civil settlement/resolutions.**

### **General Pretrial Procedures**

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

**Sixty days after the appearance of any defendant, the Court will issue its Order for Scheduling Recommendations.**

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

**A motion requesting the modifications should be filed prior to the expiration of the deadline(s) sought to be extended or modified.**

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

**Each matter is taken up on a case by case basis.**

### **Procedures Specific to Civil Cases**

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

**No.**

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?

**If the parties request mediation, the Court will automatically refer. The Court will defer to the parties' agreed choice. If the parties cannot agree, the Court will choose the mediator. Other cases are considered on a case by case basis prior to referral to mediation.**

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

**Counsel should ensure all state court records are provided to the Court.**

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

**Typically, the Court holds an initial pretrial status conference once the Scheduling Order has been entered. A pretrial conference is usually held in a jury trial case the Friday before trial.**

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?

**Yes. Court Reporter at (210) 472-6550, ext. 5036.**

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

**No.**

21. Please indicate which of the following are available in the courtroom:

Blackboard: **Yes**

Chart stand: **Yes**

Document presenter: **Yes**

Video equipment: **Yes**

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

**a. Floor Standing Projection Screen**

**b. 3500 Lumens projector, with VGA (Computer input) and RCA input connections**

**c. DVD/VCR Player, connected to Projector**

**d. Speakers for DVD/VCR & 1/4" cable for a laptop (24" long), connected to the Projector**

**e. ELMO Overhead/Document Cameras (for documents and small exhibits), connected to Projector**

**f. Speakers, with switch box for 1/4" (computer type and RCA connections (DVD/VCR)**

**g. Mobile cart for above equipment, with space for a laptop or documents**

**Any extension cables to run presentation from a remote location (i.e., counsel tables or other locations in the courtroom) are the responsibility of the parties.**

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

**Contact the Courtroom Deputy at (210) 472-6550, ext. 5022.**

24. 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, parties may bring their own equipment. Court security must determine if any restrictions. Contact Courtroom Deputy regarding restrictions and arrangements.**

25. 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. Contact the Court's Judicial Assistant.**

### **Motions Practice**

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

**Only if requested by the Court.**

27. 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?

**Court has no preference.**

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

**No. If the Judge believes it is necessary.**

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

**Before noon.**

30. 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 at the Court's direction.**

31. 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?

**Court has a standing 20 page limit. No motion for leave is needed except to exceed 20 pages.**

32. 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?

**Yes. No leave is required but the Court may rule any time after the reply is filed.**

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

**No.**

34. 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.

**No.**

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

**The Court will not set a trial date until dispositive motions have been ruled upon.**

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

**No.**

### **Courtroom Decorum**

37. 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)?

**Yes. No beverages; proper attire expected.**

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

**From the lectern.**

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

**From the lectern.**

### **Hearing and Trial Procedures**

40. 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.**

41. 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?

**Not applicable. See item 35.**

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

**8:30 a.m. to about 3:30 or 4:00 p.m.**

43. 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. Court will set the deadline if and when it allows its use.**

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

**Yes. Length is determined on a case by case basis.**

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

**Case by case basis.**

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

**Yes. Exchange should take place prior to the final pretrial conference so the Court may take up any objections at the conference.**

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

**Yes.**

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

**Case by case basis.**

49. 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?

**Yes. Must be in a WordPerfect format.**

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

**Yes.**

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

**At the conclusion of the trial, the exhibits will be returned to the parties. The parties will sign a receipt.**

### **Court Appointments**

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

**Appointments of counsel will be made by the United States Magistrate Judge at the initial appearance if the magistrate judge determines that defendant is eligible.**

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

**Case by case basis.**

### **Miscellaneous**

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

**Case by case basis. Usually a show cause will be entered prior to dismissal.**

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

**Follow Rule 41 of the Federal Rules of Civil Procedure.**

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

**Case by case basis.**

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

**No.**

58. Any pet peeves?

**Do not be late for any court proceedings.**

## CRIMINAL CASES

### Contacting the Court

1. Who should be contacted regarding scheduling matters?

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**Yes. Law Clerks may be contacted on an ex parte basis for all procedural questions and by telephone conference with all parties for substantive issues.**

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

**No.**

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

**Contact Courtroom Deputy at (210) 472-6550, ext. 5022.**

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

**In addition to following the Local Rules, if possible, counsel should alert chambers of the impending filing and notify the intake clerk of the immediacy of the matter.**

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

**File your motion to expedite the particular hearing.**

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?

**Contact the docketing clerk. If not available, contact the Courtroom Deputy.**

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?

**Notify the Courtroom Deputy.**

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

**Notify the Courtroom Deputy by written communication.**

### **General Pretrial Matters**

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

**The Courtroom Deputy will issue a scheduling order once defense counsel has entered an appearance for defendant or immediately after the arraignment.**

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

**A motion requesting the modifications should be filed prior to the expiration of the deadline(s) sought to be extended or modified.**

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

**All preliminary matters; waivers of arraignment, motions for bond, motions to travel, certain writs, motions to vacate. The in-take personnel of the U.S. Clerk's Office will be able to provide further information.**

### **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?

**Not necessarily, however it would be best for the Court. Counsel must confer with opposing counsel on motions for continuance or motions to expedite hearings. Same should be reflected in the body and title of the motion.**

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

**Pretrial motion practice.**

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

N/A

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

N/A

17. Does the court have any specific requirements for motions to suppress? If so, please describe them.

**Upon defense filing a motion to suppress, the motion will set be for hearing at the time of docket call, unless otherwise ordered by the Court.**

18. Does the court have any specific requirements for discovery motions? If so, please describe them.

**The Courtroom Deputy will issue a General Discovery Order and an Authentication of Exhibits Order after defendant's date of arraignment or upon defense counsel entering a notice of appearance.**

19. What does the court hope to accomplish at docket call settings in criminal cases?

**Status of case: is the defendant ready for trial or will the defendant be entering a plea of guilty. If guilty plea, the defendant will be rearraigned at that time. If parties are not ready for trial, oral or written motion must be made at that time, unless written motion has been previously filed.**

20. When should exhibits and objections to them be exchanged and filed?

**After docket call, if not earlier, and before jury selection and trial.**

21. Does the court prefer that objections to the Presentence Investigation Report be filed or merely communicated to the Probation Officer?

**Written objections should be sent to the Probation Officer.**

## **Facilities and Technology**

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### **Motions Practice**

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

**Only if requested by the Court.**

- l. 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?

**Court has no preference.**

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

**No. The Judge will determine if a hearing is necessary.**

- n. What time of day are hearings in criminal cases generally held?

**Usually at 8:30 a.m.**

- o. 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 at the Court's direction.**

- p. 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?

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**No.**

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

**As early as possible.**

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

**No.**

### **Courtroom Decorum**

- v. 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)?

**Yes. No beverages; proper attire expected.**

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

**From the lectern.**

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

**From the lectern.**

### **Hearing and Trial Procedures**

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

**The parties should file a motion for continuance as soon as it becomes apparent a continuance is required. It must state the reason for the continuance, whether or not it is unopposed and the length of time required.**

- z. 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?

**Yes.**

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

**8:30 a.m. to about 3:30 or 4:00 p.m.**

- bb. 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. Court will set the deadline if and when it allows its use.**

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

**Yes. Usually about 15-20 minutes. However, it would also depend on the case.**

- dd. How much time are parties typically given for opening statements in criminal cases?

**15-20 minutes and also depends on the case.**

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

**Yes.**

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

**Case by case basis.**

gg. 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?

**Yes. Must be in a WordPerfect format.**

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

**Yes.**

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

**At the conclusion of the trial, the exhibits will be returned to the parties. The parties will sign a receipt.**

### **Miscellaneous**

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

**Case by case basis.**

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

**No.**

ll. Any pet peeves?

**Do not be late for any court proceedings.**

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Keywords:  
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Creation Date: 8/25/2005 5:38:00 PM  
Change Number: 6  
Last Saved On: 10/12/2010 10:00:00 AM  
Last Saved By: Ronald G. Ottinger  
Total Editing Time: 24 Minutes  
Last Printed On: 10/12/2010 10:01:00 AM  
As of Last Complete Printing  
Number of Pages: 17  
Number of Words:3,817 (approx.)  
Number of Characters: 19,050 (approx.)