



FACT SHEET FOR JUDGE ORLANDO L. GARCIA

CIVIL CASES

Contacting the Court

1. Who should be contacted regarding scheduling matters?
**Tyler Martin, Courtroom Deputy, (210) 472-6550 Ext. 5020 or
Tyler_Martin@txwd.uscourts.gov.**
2. May the court's law clerks be contacted directly? If so, under what circumstances? **No.
Exception: Only in an emergency when Courtroom Deputy, Tyler Martin, cannot
be reached.**
3. May the court be contacted by e-mail or fax? If so, what is the address or number?
**You may contact Tyler Martin, Courtroom Deputy, by email
Tyler_Martin@txwd.uscourts.gov.**
4. How does the court prefer attorneys to contact the court in an emergency?
**Call Tyler Martin, Courtroom Deputy, (210) 472-6550 Ext. 5020 or
Tyler_Martin@txwd.uscourts.gov.**
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?
File the motion, then contact Tyler Martin, Courtroom Deputy.
7. What procedures should be followed to request an expedited hearing in a civil case?
File a motion requesting an expedited hearing, then contact Tyler Martin, Courtroom Deputy.
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, unless there has been a change of circumstances; if that occurs contact Tyler Martin, Courtroom Deputy.
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?
Yes. Contact Tyler Martin, Courtroom Deputy.

General Pretrial Procedures

10. What is the court's procedure for issuance of scheduling orders in civil cases?
Parties are to file a Joint Proposed Scheduling Order. If a Joint Proposed Scheduling Order is not submitted, the Court will issue a scheduling order.
11. What is the court's procedure for requests for modification of scheduling orders?
Parties shall file a motion with a proposed order.
12. Are there matters that the court routinely refers to a magistrate judge in civil cases?
Standing order applies.

Pretrial Procedures Specific to Civil Cases

13. Does the court require that the parties in civil cases file their initial disclosures?
No, pursuant to the Federal Rules of Civil procedure 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?

Mediation is ordered in almost every case. The Court will usually not order mediation until after discovery, unless circumstances dictate otherwise. The Court will select a mediator if the parties cannot agree upon one.

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

No.

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

Yes, ten days to two weeks prior to 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?

Follow the local rules unless the Court orders otherwise.

Facilities and Technology

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

If Real Time is needed, or rough drafts are requested, contact Leticia Ornelas, Court Reporter at (210) 244-5039 or Leticia_Ornelas@txwd.uscourts.gov.

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

Yes; attorneys may use the internet during trial if necessary. For information on access contact Tyler Martin, Courtroom Deputy at (210) 472-6550 Ext. 5020 or Tyler_Martin@txwd.uscourts.gov.

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.

Our new courthouse has standard equipment in all courtrooms to include a document camera, monitors on all tables, monitors visible by each juror, electronic markup capability, a 65" HD monitor for the gallery, tabletop microphones on each table, wireless microphones, wireless internet, and an array of device input connection options.

Evidence Presentation:

The document camera (Wolfvision VZ8plus) allows the judge, attorneys, jury and witness to view exhibits simultaneously (such as: documents, photographs, objects, etc.).

Touch screen monitors (Planar touch panel controlled through a Crestron DGE-100 or DGE-200-C) at the lectern, judge's bench, lower bench, and witness stand facilitate annotation (marking up an image).

Input connections at each attorney table, lectern, and litigation support location include HDMI, and a 3.5mm (audio) connection for use when presenting evidence from a laptop or other personal device, as well as Crestron Air Media for wireless sharing through iOS, Android, and laptop wireless connection. If using the wired connections, attorneys must accommodate the connection type noted through the attaching device or adapter as necessary. The court highly recommends arriving early or scheduling a visit to ensure all technology is functional in the room prior to a given proceeding.

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

Contact Tyler Martin, Courtroom Deputy, prior to date needed.

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. Contact Tyler Martin, Courtroom Deputy, prior to date needed.

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 Tyler Martin, Courtroom Deputy, prior to date of hearing/trial.

Motions Practice

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

Only when specifically requested.

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?

Only if the case is from a different jurisdiction and the case would not be easily retrievable by the court, such as cases from other states. Yes. No.

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

No. The Court will set a hearing if it deems one is appropriate.

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

9:30 a.m.

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?

No.

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?

Typically, no. Submissions shall comply with Local Court Rule CV-7 absent leave of court.

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, motion and order for leave of court is required.

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 rules on dispositive motions as soon as possible.

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

Yes. To advance the case efficiently and minimize the cost of litigation, the Court will provide parties an opportunity to amend their pleadings before considering a Federal Rule of Civil Procedure 12(b)(6) Motion to Dismiss. **The following procedure must be followed before any party files a Motion to Dismiss under Rule 12(b)(6) in cases where all parties are represented by counsel:**

- (1) **Counsel shall confer with opposing counsel and provide written notice prior to filing a Rule 12(b)(6) Motion to Dismiss:**

To facilitate the efficient progression of litigation, counsel who anticipates filing a Motion to Dismiss under Rule 12(b)(6) must first confer with opposing counsel concerning the proposed deficiencies and the expected basis of the Motion. This conference shall include written (email or certified mail) notification of the Plaintiff's right to amend the pleading under these procedures, specifying the proposed deficiencies and the deadlines below.

- (2) **Following this notification, if the Plaintiff intends to amend the pleading, the Plaintiff shall file an Advisory of such intent with the Court within seven (7) days of receipt of the notification letter. The Amended Complaint must be filed within seven (7) days of the filing date of the Advisory.**
- (3) **If the Complaint is not so amended by the established deadline, the Defendant may file a Rule 12(b)(6) Motion to Dismiss. If the Defendant believes any Amended Complaint is still deficient, the conference process above shall be repeated with respect to the Amended Complaint(s).**

When a party files a Motion to Dismiss under Rule 12(b)(6), a **Certificate of Conference shall accompany the Motion expressly stating that the movant complied with this process and noting that the non-movant did not timely amend its pleading.**

The Court will strike any Rule 12(b)(6) Motion to Dismiss if it does not contain the required Certificate of Conference, which may preclude its re-filing given the time limits prescribed in Rule 12(a).

Under this practice, the Plaintiff has already been provided notice of the proposed deficiencies and the opportunity to amend the pleading prior to the filing of a Rule 12(b)(6) Motion to Dismiss. **Consequently, the Plaintiff will not be allowed an additional opportunity to amend the Complaint following the grant of a properly filed Rule 12(b)(6) Motion to Dismiss.** *See* Great Plains Trust Co. v. Morgan Stanley Dean Witter & Co., 313 F.3d 305, 329 (5th Cir. 2002); Herrmann Holdings Ltd. v. Lucent Techs. Inc., 302 F.3d 552, 567 (5th Cir. 2002).

If the Court denies the Motion to Dismiss and the case goes forward, the Plaintiff may seek leave of Court to amend the operative Complaint later if the circumstances warrant or require amendment.

Rule 12(a) prescribes time limits for the filing of an Answer and for the filing of motions under Rule 12. The requirements outlined above do not alter the time limits in Rule 12(a) unless the Court orders otherwise. For the avoidance of doubt, this process also applies to any Rule 12(b)(6) Motion to Dismiss any counterclaim or crossclaim.

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)?

Questions from the lectern. Request permission to approach a witness. No beverages allowed at counsel tables unless approved by court. Dress consistently with court decorum rules. Anyone addressing the court must stand.

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

The lectern.

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

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?
Motion and proposed order required. File motion as soon as possible. If motion is unopposed, the court will rule immediately; otherwise, the court may wait for the opposing party to respond.
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?
Depends on circumstances; contact Tyler Martin, Courtroom Deputy, if this occurs. Our goal is to get the dispositive motions ruled on prior to the deadline for filing pretrial materials.
42. When does the court typically begin and end trial days?
8:30 a.m. - 5:30 p.m. Two 15 min. breaks during the day. One hour for lunch. If the case runs behind schedule, the lunch break may be cut short and we may work past 5:30 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 very complicated cases. The proposed questionnaire should be submitted to the court as soon as possible.
44. Does the court allow attorneys to conduct their own voir dire in civil cases? If so, typically for how long?
No.
45. How much time are parties typically given for opening statements in civil cases?
15-20 minutes. Depends on the complexity of the case.
46. Does the court require the parties to exchange demonstratives prior to using them in trial? If so, when should they be exchanged?
Yes. Within 24 hours of being presented at trial.

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

**The parties should notify the court ahead of time of a circumstance such as this.
Contact Tyler Martin, Courtroom Deputy.**

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

Yes, page/line designations and excerpts must be submitted with pretrial materials.

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?

Other than what is submitted on CM/ECF, only if the court specifically requests. If such a request is made, the Court will advise regarding the format to be used.

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?

All exhibits are returned to the parties once the trial has ended. An exhibits receipt is signed by the appropriate party.

Court Appointments

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

These matters are typically referred to a United States Magistrate Judge.

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

The parties should file a motion explaining the need for a guardian ad litem and, if possible, providing the names and contact information for three persons that would be qualified to serve as ad litem. The court will appoint the guardian ad litem, if circumstances warrant.

Miscellaneous

54. What are the court's procedures for dismissal of cases for want of prosecution?
Show cause order is issued.
55. What are the court's requirements and procedures for voluntary dismissal of cases?
Motion and Order or Stipulation of Dismissal, pursuant to Fed. R. Civ. P. 41(a)(1).
56. When does the court find that sanctions are appropriate?
It depends on the circumstances.
57. Are there any other special practices or procedures for lawyers and parties appearing before the court in civil cases?
Law enforcement may not attend court in their uniform.
58. Any pet peeves?
Lawyers should not call chambers to request the status of motions. Motions without a certificate of conference or proposed order. Excessive discovery disputes. Trials/hearings unnecessarily delayed because of the parties' failure to confer with each other or the court.

CRIMINAL CASES

Contacting the Court

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No. Exception: Only in an emergency when Courtroom Deputy, Tyler Martin, cannot be reached.

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Tyler_Martin@txwd.uscourts.gov.**

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

File the motion, then contact Tyler Martin, Courtroom Deputy.

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

**File a motion requesting an expedited hearing, then contact Tyler Martin,
Courtroom Deputy.**

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?

Yes. Call Tyler Martin, 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?

Yes. Contact Tyler Martin, Courtroom Deputy.

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

Contact Tyler Martin, Courtroom Deputy. Be prepared to give an estimated time for the hearing.

General Pretrial Matters

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

Once all parties are represented by counsel, a scheduling order is issued by the Court.

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

Parties shall file a motion with a proposed order.

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

Rearraignment and plea.

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?

All discovery and dispositive motions. Preferably in the title of the motion, as well as a certificate of the conference held at the end of the motion.

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

Pretrial motions practice. See the Court's general discovery order entered in your criminal case regarding motions.

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.

Yes. Motions should contain specific and detailed factual allegations, and not general assertions. Refer to the applicable law.
18. Does the court have any specific requirements for discovery motions? If so, please describe them.

Yes. Please be specific as to the material you are seeking. Include a certificate of conference.
19. What does the court hope to accomplish at docket call settings in criminal cases?
We do not set docket calls.
20. When should exhibits and objections to them be exchanged and filed?

In most criminal cases the documents are exchanged through the discovery process. In the event there is an issue, the parties should bring it to the Court's attention. As the trial date approaches, documents to be used as exhibits must be designated and exchanged.
21. Does the court prefer that objections to the Presentence Investigation Report be filed or merely communicated to the Probation Officer?

Communicated in writing to the Probation Officer only.

Facilities and Technology

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

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

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Document presenter: **Yes**

Video equipment: **Yes**

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

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Evidence Presentation:

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26. What arrangements must be made to use the available equipment?
Contact Tyler Martin, Courtroom Deputy, prior to date needed.
27. 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. Contact Tyler Martin, Courtroom Deputy, prior to date needed.
28. 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 Tyler Martin, Courtroom Deputy, prior to date of hearing/trial.

Motions Practice

29. When (if ever) does the court want a courtesy copy of a filing?
Only when specifically requested.
30. 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?
Only if the case is from a different jurisdiction and the case would not be easily retrievable by the court, such as cases from other states. Yes. No.
31. Does the court typically have hearings on contested motions in criminal cases? If not, what circumstances would warrant a hearing?
Typically motions to suppress; the Court will set a hearing if deemed necessary.
32. What time of day are hearings in criminal cases generally held?
9:30 a.m.
33. 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?
No.

34. 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 allows 20 pages for motions, briefs and responses without leave of court, and 10 pages for replies without leave of court.

35. 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, motion and order for leave of court is required.

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

No.

37. Does the court permit the parties in criminal 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.

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

The Court rules on dispositive motions as soon as possible.

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

No.

Courtroom Decorum

40. 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)?

Questions from the lectern. Request permission to approach a witness. No beverages allowed at counsel tables unless approved by court. Dress consistently with court decorum rules. Anyone addressing the court must stand.

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

The lectern.

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

The lectern.

Hearing and Trial Procedures

43. 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?

Motion and proposed order required. File motion as soon as possible. If motion is unopposed, the court will rule immediately otherwise the court may wait for other side to respond.

44. 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?

Depends on circumstances, contact Tyler Martin, Courtroom Deputy, if this occurs. Our goal is to get the dispositive motions ruled on prior to trial.

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

8:30 a.m. - 5:30 p.m. Two 15 min. breaks during the day. One hour for lunch. If the case runs behind schedule, the lunch break may be cut short and we may work past 5:30 p.m.

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

Only in very complicated cases. The proposed questionnaire should be submitted to the court as soon as possible.

47. Does the court allow attorneys to conduct their own voir dire in criminal cases? If so, typically for how long?
No.
48. How much time are parties typically given for opening statements in criminal cases?
Typically 15-20 minutes. Depends on the complexity of the case.
49. Does the court permit the parties to use deposition testimony by agreement even if the witness is not unavailable?
The parties should notify the court ahead of time of a circumstance such as this. Contact Tyler Martin, Courtroom Deputy.
50. Must a party intending to present testimony by deposition provide excerpts to the court? If so, when?
Yes, when other pretrial materials are submitted.
51. 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?
Only if the court specifically requests. If such a request is made, the court will advise regarding the format to be used.
52. May the parties leave exhibits and equipment in the courtroom overnight?
Yes.
53. What is the court's practice on returning exhibits to the parties and requiring the parties to preserve them for appeal?
All exhibits are returned to the parties once the trial has ended. An exhibits receipt is signed by the appropriate party.

Miscellaneous

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

Depends on the circumstances.

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

It is defense counsel's responsibility to coordinate, prior to jury selection and/or trial, with the U.S. Marshals office or the Marshal's designee regarding the appropriate attire for a defendant to wear to court. It is unacceptable to this court for a defendant to appear in their jail clothing for jury selection and/or trial. Defense counsel is responsible for contacting family members or whomever they need to contact to assure this requirement is met.

56. Any pet peeves?

Lawyers should not call chambers to request the status of motion. Motions without a certificate of conference or proposed order. Excessive discovery disputes. Courtesy copies. Trials/hearings unnecessarily delayed because of the parties' failure to confer with each other or the court.