

**FACT SHEET FOR
CIVIL AND CRIMINAL CASES
JUDGE KATHLEEN CARDONE**

CIVIL CASES

Contacting the Court

1. Who should be contacted with questions related to scheduling?

Please contact the Judge's law clerk at (915) 534-6740.

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

An attorney may address a procedural question that is not answered by the federal rules of procedure, local rules, or the Judge's Standing Orders to the law clerks at (915) 534-6740. Please do not call the judge's staff to inquire about substantive issues.

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

Yes. The fax number is (915) 534-6716.

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

Please call either a law clerk at (915) 534-6740 or the courtroom deputy at (915) 834-0517.

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?

After the TRO has been filed with the U.S. District Clerk's Office and the matter has been assigned to this Court's chambers, notify a law clerk or the courtroom deputy. Further, hand deliver a copy to chambers. Use every reasonable effort to provide notice to the adverse party that the TRO has been filed, and provide a copy of the TRO to the opposing party by fax or electronic (e-mail) delivery. Parties should comply with Federal Rule of Civil Procedure 65 and Local Rules.

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

Contact the law clerk or the courtroom deputy.

8. Is it permissible to contact the Court regarding the status of motions in a civil case?

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?

Yes, please contact a law clerk at (915) 534-6740 immediately upon resolution of a pending motion.

General Pretrial Procedures

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

Pursuant to the Court's Standing Order on Pretrial Deadlines, the parties are to file the Report of Parties' Planning Meeting within forty-five days of the appearance of the first defendant in the case (which includes a defendant's filing of a motion to dismiss) or within forty-five days of removal. Failure to submit the Report will result in the Court issuing a notice to show cause.

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

All requests for modification of the scheduling order must be made in the form of a motion to the Court.

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

At the time a lawsuit is filed, the case is assigned to this district judge and a magistrate judge. The parties should advise the district clerk of their respective positions concerning transferring the case to a magistrate judge for jury or nonjury trial by consent, pursuant to 28 U.S.C. § 636(c). Discovery matters are routinely referred to the magistrate judge. Otherwise, pursuant to Local Rule, Appendix C, various pretrial matters regarding civil cases filed by prisoners and reviews of administrative agency proceedings (social security appeals) are referred to a magistrate judge.

Procedures Specific to Civil Cases

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

No. Except in categories of proceedings exempted from initial disclosure under Federal Rule of Civil Procedure 26(a)(1)(B), the parties must, as soon as practicable and in any event at least twenty-one days before the Report of Parties' Planning Meeting is due under Rule 16(b), confer to consider all matters required by Rule 26(f). The parties' Rule 26(f) written report outlining their proposed discovery plan should be included in the Report of Parties' Planning Meeting.

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

Alternative dispute resolution is required in almost all civil cases. The deadline by which ADR is to be completed is set in the Court's Scheduling Order. Further, the Scheduling Order also sets the date by which the parties must schedule the alternative dispute resolution and provide the Court with notice of the name of the ADR provider and the scheduled date for the ADR.

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

The party removing the action from state court should ensure that all documents previously filed in state court are attached to the removal documents. A copy of the state court docket sheet should be included.

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

Unless requested by a party with a showing of special need, the Judge does not conduct a preliminary pretrial conference or intermediate status conferences. A status conference is conducted approximately eight (8) days prior to the date that trial is expected to begin as set out in the Court's Scheduling Order. Motions in limine and objections to exhibits will be heard and ruled upon at that time.

17. Does the Court typically have docket calls in civil cases? 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?

Yes. At the time of the issuance of the Scheduling Order, the Court also issues a Trial Preparation Order which sets out the requirements for pretrial submissions in civil cases.

Facilities and Technology

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

No. The Court uses a digital recording technology. All transcript requests should be made to the Electronic Court Recording Officer, Belinda Gamez at (915) 834-0521 or Belinda_Gamez@txwd.uscourts.gov.

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

Yes, there is Internet access, but arrangements must be made ahead of time. Attorneys must sign the Wi-Fi End User Agreement in order to access the Internet. All laptops being used in the courtroom are subject to inspection by the Court's IT Staff.

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

Blackboard and chart stand: Yes
Document Camera (ELMO): Yes
Pointmaker Annotation System: Yes
DVD/VCR: Yes
Audio System: Yes
Assisted Listening: Yes
Video Monitors (Jury Box, Counsel Tables, Audience): Yes
Computer Hookups (With prior approval of the Court): Yes
Audio and Video Conference: Yes

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

Yes. The Court uses Jury Evidence Recording System (JERS) which provides an efficient method of electronically capturing evidence as it is presented in court during trial. Upon completion of the trial presentations, the evidence is released in electronic form to the jury in the Jury Deliberation Room.

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

Please contact the courtroom deputy at (915) 834-0517 prior to the hearing or trial to discuss what equipment is 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 the courtroom deputy to arrange for use of your own equipment in the courtroom.

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 courtroom deputy.

Motions Practice

26. When, if ever, does the Court want a chambers' copy of a filing?

A chambers' copy is required only for emergency motions and motions exceeding twenty pages including exhibits, pursuant to the Court's Standing Order Regarding Chambers' Copy.

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?

No, but parties are encouraged to hyperlink citations in their briefs for Westlaw or Lexis access.

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

Ordinarily, the Court does not hold hearings on civil motions. However, should you believe a hearing is warranted, you should make such a request in the opening paragraph of your motion or response with an explanation as to why the hearing is necessary. The Court will notify you if a hearing will be held.

29. Does the Court allow telephone conferences for the resolution of motions or other matters?

No.

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?

Leave of Court is required for briefs longer than that permitted by local rule and standing order. Such leave is routinely granted, however.

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?

Yes, the Court may accept additional briefing, however, leave of Court is required.

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

Letter briefs should not be submitted.

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 to answer a complaint require an agreed motion and proposed order. *See* Federal Rule of Civil Procedure 6. Otherwise, discovery extensions may be stipulated to between the parties without any need for court approval.

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

As far in advance as possible, but if the Court cannot address the motion in time, it will usually continue the trial setting.

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

Do not combine a motion to dismiss and an answer in one document. Do not submit a response and a motion together in one document. Any request to modify the trial date must be made in writing to the judge before the deadline for completion of discovery. A motion in limine must be confined to matters actually in dispute. Please review the Court's Standing Orders on the Court's website.

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)?

Attorneys are required to wear standard business attire. For men, this includes a coat and tie. For women, it includes tailored suits and tailored dresses. Slacks are acceptable if part of a tailored pantsuit. Slacks or skirts with a blouse or sweater, but without a jacket, are not acceptable. Extremely short skirts are not acceptable. Further, see Local Rules AT-4 and AT-5.

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

From the lectern.

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

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?

You must make any request for a continuance in writing as early as possible, and you must confer with opposing counsel prior to filing the motion.

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?

Most likely yes.

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

Trials normally convene at 8:30 a.m. and adjourn around 5:00 p.m., recessing for lunch between 12:00 p.m. and 1:00 p.m.

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

The Court will consider requests for the use of juror questionnaires. The proposed questionnaire should be provided to the Court as soon as possible, but no later than sixty days before trial.

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

The Judge conducts the general voir dire. Attorneys may submit to the Court in advance of voir dire proposed questions for the Court to ask. Upon completion of the general voir dire, the Judge permits attorneys to ask follow-up questions of panelists who are called back to meet individually with the Court.

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

Counsel is usually afforded twenty to thirty minutes to make an opening statement.

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, except those offered solely for impeachment, that a party intends to offer at trial must be marked with gummed labels or tags that identify them by the exhibit number under which they will be offered at trial, and must be exchanged with opposing parties pursuant to the Court's Trial Preparation Order. Two copies of such exhibits must be furnished to the Court prior to the pre-trial status conference. To avoid bench conferences during a jury trial, the Court recommends that parties exchange any item that a party intends to use in the presence of the jury as a demonstrative aid, regardless whether the party intends to move for its admission into evidence.

Please Note: Exhibits are to be placed in three-ring binders. The binders should be labeled with the style of the case, case number, and whether the binder is "Plaintiff's Exhibit Notebook" or "Defendant's Exhibit Notebook." The first page in the binder should have the style of the case, case number, and "Plaintiff's/Defendant's Exhibit Notebook." The next page should be the exhibit index. Each exhibit should be tabbed for ease of locating that exhibit. Special exhibit labels are not necessary; you may use the standard "Plaintiff/Defendant Exhibit" labels. Provide two sets of exhibits for the judge and one set for use by witnesses on the witness stand.

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

The Court will accept the parties' agreement to use a deposition at trial even though the witness is available. Otherwise, parties must follow Federal Rule of Civil Procedure 32. 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 (3) business days before trial. Use of videotape depositions is permitted to the extent the parties agree on admissibility or edit to resolve objections.

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

Yes, see above for guidelines.

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?

Yes. Please contact the law clerk at (915) 534-6740.

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

Yes.

50. 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 trial, the courtroom deputy will approach counsel and return all physical exhibits to counsel. Counsel will be required to sign an Inventory of Exhibits. Counsel is responsible for maintaining exhibits in an unaltered and safe manner for appeal.

Court Appointments

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

The Court will appoint one as required, but the parties may make recommendations.

Miscellaneous

52. What are the Court's procedures for dismissal of cases for want of prosecution?

Failure to serve a defendant within 120 days will trigger a notice to show cause why the case or defendant should not be dismissed. Failure to move for default judgment or lack of activity for a prolonged, unjustified period will also trigger the notice to show cause.

53. What are the Court's requirements and procedures for voluntary dismissal of cases?

The court will sign voluntary dismissals so long as such dismissals resolve all issues.

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

Counsel for all parties and all pro se parties should cooperate fully in the discovery process and make all reasonable discovery available to the requesting party. Excessive discovery or resistance to reasonable discovery will not be tolerated. Throughout the discovery process, counsel must observe the standards of litigation set forth in Local Rule AT-4. Unnecessary discovery or unreasonable delay may subject the infracting party to sanctions and the payment of costs.

Repeated failure to comply with Court orders may also result in sanctions.

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

The Court expects attorneys to be prepared, provide competent assistance, and be knowledgeable of the Federal Rules of Civil Procedure and the Local Rules.

56. Any pet peeves?

Tardiness.

Failing to abide by deadlines set by the Court.

Not immediately notifying the Court that a motion is unopposed (or that portions of a motion are uncontested).

Failure to acknowledge/distinguish cases adverse to your position.

Unprofessional conduct/use of adjectives to debase or impugn opposing counsel or the adverse party.

Not immediately notifying the Court that the case has been settled.

CRIMINAL CASES

Contacting the Court

1. Who should be contacted regarding scheduling matters?

The courtroom deputy at (915) 834-0517.

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 procedure, local rules and standing orders, or the Judge's scheduling order to the courtroom deputy. Please do not call the Judge's staff to inquire about substantive issues.

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

Yes. The fax number is (915) 534-6716.

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

Please call either the courtroom deputy at (915) 834-0517 or a law clerk at (915) 534-6740.

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

After the motion has been filed with the Clerk's office, notify the courtroom deputy and hand deliver a copy to Chambers. Use every reasonable effort to provide notice to the adverse party that the motion has been filed, and provide a copy of the motion to the opposing party by fax or electronic (e-mail) delivery.

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

Contact the courtroom deputy at (915) 834-0517.

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 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?

Contact the courtroom deputy.

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

Contact the courtroom deputy.

General Pretrial Matters

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

The Court enters a general scheduling order and trial date immediately after the case has been assigned to Chambers.

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

The Court will approve, in most instances, an agreed modification. If it is not agreed to, the opposing party should file a response to any motion to modify.

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

The Court refers pleas of guilty and motions for appointment, withdrawal, or substitution of counsel.

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?

No, except on discovery matters. The Court enters a General Order regarding Discovery very early in the case. That Order requires various discovery disclosures to be made without the necessity of any written motion. No "routine" discovery motions should be filed, unless the General Order of Discovery has not been complied with.

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

All parties should comply with the General Order of Discovery. In addition, parties are encouraged to use the discovery checklist provided by Local Rule CR-16.

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

The checklist is self-explanatory and should be signed by counsel and filed. If there are questions, the parties can approach the Court.

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

The parties should file a motion, attach the checklist, and request a hearing.

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

To warrant an evidentiary hearing, the motion and opposition must be sufficiently definite, specific, detailed, and nonconjectural to enable the Court to conclude that there are contested issues of material fact going to the validity of the government's conduct that must be resolved before the motion can be decided. Unless the moving and responding papers establish disputed issues of material fact, a hearing may not be necessary. The mere desire to cross-examine an opposing witness is never enough to justify the need for an evidentiary hearing. Factual detail and citation to legal authority are required in the filings.

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

All parties should comply with the General Order regarding Discovery. In addition, parties are encouraged to also use the discovery checklist provided by Local Rule CR-16.

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

The Court seeks to determine the status of the case, if a plea hearing will be requested, a trial will be requested or if the parties seek a continuance of the docket call hearing.

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

All exhibits, except those offered solely for impeachment, that a party intends to offer at trial must be marked before trial with an exhibit number, and be exchanged with opposing parties at least three days before the date of the trial setting. Unless the Court advises the parties otherwise, however, they must not deliver trial exhibits, or the Court's copies of such exhibits, to the Court before the date the trial actually commences. To avoid bench conferences during a jury trial, the Court recommends that parties exchange any item that a party intends to use in the presence of the jury as a demonstrative aid, regardless of whether the party intends to move for its admission into evidence.

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

Objections to the Presentence Investigation Report or Guideline Worksheet shall be submitted to the Probation Officer. If the Probation Officer does not modify the PSIR or Guideline Worksheet and the objection remains unresolved, counsel shall file a Sentencing Memorandum outlining the unresolved objection, along with any authorities relied upon and sentencing recommendations for the Court's consideration. As part of the Sentencing Memorandum, counsel may submit exhibits/letters. The Sentencing Memorandum should be filed with the District Clerk's Office as least three days prior to any sentencing hearing. Counsel shall provide a copy of the Sentencing Memorandum to the Probation Officer and opposing counsel.

Facilities and Technology

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

No. The Court uses a digital recording technology. All transcript requests should be made to the Electronic Court Recording Officer, Belinda Gamez at (915) 834-0521.

23. Does the courtroom have Internet access? If so, must arrangements to use the Internet be made?

Yes, there is Internet access, but arrangements must be made ahead of time. Attorneys must sign the Wi-Fi End User Agreement in order to access the Internet. All laptops being used in the courtroom are subject to inspection.

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

Blackboard: Yes
Chart stand: Yes
Document Camera (ELMO): Yes
Pointmaker Annotation System: Yes
DVD/VCR: Yes
Audio System: Yes
Assisted Listening: Yes
Video Monitors (Jury Box, Counsel Tables, Audience): Yes
Computer Hookups (With prior approval of the Court): Yes
Audio and Video Conference: Yes

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

Yes. The Court uses Jury Evidence Recording System (JERS) which provides an efficient method of electronically capturing evidence as it is presented in court during trial. Upon completion of the trial presentations, the evidence is released in electronic form to the jury in the Jury Deliberation Room.

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

Please contact the courtroom deputy prior to the hearing or trial as to what equipment is 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 the courtroom deputy at (915) 834-0517 to arrange for use of your own equipment in the courtroom.

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 the courtroom deputy.

Motions Practice

29. When, if ever, does the Court want a chambers copy of a filing?

Chambers copies should be provided only for emergency motions.

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?

Yes, copies of cases should be attached to briefs or motions, and copies from electronic databases are acceptable with pertinent parts highlighted.

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

Yes, however see answers to questions 16 and 17.

32. 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, the Court does not generally allow telephone conferences to resolve motions or other matters.

33. 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?

Without leave of Court, any brief or memorandum less than thirty pages may be submitted.

34. 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. The party seeking to file additional briefing should file a motion seeking such leave.

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

Letter briefs should not be submitted.

36. 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.

Yes.

37. How far before trial does the Court rule on dispositive motions?

As far in advance as possible, but if the Court cannot address the motion, it will usually continue the trial setting.

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

Do not submit a response and a motion together in one document. Motions to Suppress should contain a background statement of uncontested facts. Any request that a trial date be modified must be made in writing. A motion in limine must be confined to matters actually in dispute.

Courtroom Decorum

39. 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)?

Attorneys are required to wear standard business attire. For men, this includes a coat and tie. For women, it includes tailored suits and tailored dresses. Slacks are acceptable if part of a tailored pantsuit. Slacks or skirts with a blouse or sweater, but without a jacket, are not acceptable. Extremely short skirts are not acceptable. Further, see Local Rules AT-4 and AT-5.

40. Does the Court prefer that counsel address the Court from counsel table or from the lectern?

From the lectern.

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

From the lectern.

Hearing and Trial Procedures

42. 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?

Any request that a trial date be modified must be made in writing. The party seeking the continuance must confer with the opposing side. If there is an agreement, the Court usually approves a continuance. If there is no agreement, the Court holds a hearing.

43. 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.

44. When does the Court typically begin and end trial days?

Trial will normally convene at 8:30 a.m. and adjourn around 5:00 p.m., recessing for lunch between 12:00 p.m. and 1:00 p.m.

45. Does the Court permit the use of juror questionnaires? If so, when should the proposed questionnaire be provided to the Court?

The Court will consider requests for the use of juror questionnaires. The proposed questionnaire should be provided to the Court as soon as possible, but no later than sixty days before trial.

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

The Judge conducts the general voir dire. Attorneys may submit written questions in advance. Upon completion of the general voir dire, the Judge permits attorneys to ask follow-up questions of panelists who are called back to meet individually with the Court.

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

Counsel are normally afforded twenty to thirty minutes to make an opening statement.

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

The Court will accept the parties' agreement to use a deposition at trial even though the witness is available. 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 (3) business days before trial. Use of videotape depositions is permitted to the extent the parties agree on admissibility or edit to resolve objections.

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

Yes, see above for guidelines.

50. 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. The parties should contact the law clerk at (915) 534-6740.

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

Yes.

52. 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 trial, the courtroom deputy will approach counsel and return all physical exhibits. Counsel will be required to sign an Inventory of Exhibits. Counsel is responsible for maintaining exhibits in an unaltered and safe manner for appeal.

Miscellaneous

53. When does the Court find that sanctions are appropriate?

Counsel for all parties and all pro se parties should cooperate fully in the discovery process and make all reasonable discovery available to the requesting party. Excessive discovery or resistance to reasonable discovery will not be tolerated. Throughout the discovery process, counsel must observe the standards of litigation set forth in Local Rule AT-4. Unnecessary discovery or unreasonable delay may subject the infracting party to sanctions and the payment of costs, as could repeated failure to comply with Court orders.

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

The Court expects attorneys to be prepared, provide competent assistance, and be knowledgeable of the Federal Rules of Criminal Procedure and the Local Rules.

Counsel should thoroughly confer with their clients BEFORE the arraignment regarding any plea. Plea agreements should be completely signed (and copies provided to the courtroom deputy) well in advance of the hearing.

55. Any pet peeves?

Tardiness

Failing to abide by Court deadlines.

Not immediately notifying the Court that a motion is unopposed (or that portions of a motion are uncontested).

Failure to acknowledge/distinguish cases adverse to your position.

Unprofessional conduct/use of adjectives to debase or impugn opposing counsel or the adverse party.

Not immediately notifying the Court that the case has been resolved.