

JUDGE FERNANDO RODRIGUEZ, JR.

United States Courthouse
600 East Harrison, #301
Brownsville, Texas 78520-7114
(956) 548-2755

Balvina Campos, Case Manager
United States District Clerk
600 East Harrison, Suite 101
Brownsville, Texas 78520-7114
Direct No.: (956) 548-2756
Balvina_Campos@txs.uscourts.gov
District Clerk's Office: (956) 548-2500

CIVIL PROCEDURES

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Last Updated: June 22, 2018

1. CONTACT WITH COURT PERSONNEL

- A. Case-related inquiries should be made by email only to the Case Manager, with a copy to all opposing counsel and *pro se* parties. Telephone inquiries are permitted only in an emergency. No inquiries may be made to Chambers.
- B. Information about the filing of documents, entry of orders, or docket entries should be obtained from the CM/ECF or Pacer Systems, or from the District Clerk's Office at 956.548.2500, for civil matters.
- C. At the Court's direction, law clerks may occasionally contact counsel; however, they will not discuss matters other than the subject of the call.
- D. Correspondence.
 - 1) Do not address substantive issues in letter form addressed to the Court because they may not be docketed or included in the appellate record.
 - 2) Case-related correspondence must be addressed to and e-filed with:

United States District Clerk
600 East Harrison Street, Suite 101
Brownsville, Texas 78520-7114
- E. Courtesy copies of urgent documents may be sent to Chambers (the Case Manager) simultaneously with the originals being filed with the Clerk of the Court.

2. EMERGENCIES

- A. Applications for restraining orders or other applications for immediate relief must be made through the Clerk's office:

U.S. District Clerk's Office
600 E. Harrison Street, Suite 101
Brownsville, Texas 78520
(956) 548-2500
 - 1) Applications shall be presented to the Court by the Case Manager following counsel's affirmation that the opposing party has been contacted and that both parties can be available for a conference before the Court.
 - 2) Ex parte applications for restraining orders will not be entertained by the Court unless the requirements of Fed. R. Civ. P. 65(b) have been satisfied.
- B. Counsel shall contact the Case Manager at (956) 548-2756 for matters requiring immediate attention.
- C. Motions for extension of deadlines in the Scheduling Order are not emergencies.
- D. In addition to any filing or electronic filing of emergency motions, counsel shall send a courtesy hard copy of emergency motions directly to the Case Manager so that they quickly reach the Court's attention.

3. ELECTRONIC FILINGS

- A. The Southern District of Texas requires the electronic filing of all pleadings. This reduces the burden on the Clerk's Office and increases the efficiency of the Court.
- B. Generally, all pleadings in this District must be filed through the Electronic Case Filing System (ECF). Electronic filings shall be in accordance with Administrative Procedures for Electronic Filing in Civil and Criminal Cases. Answers to frequently asked questions regarding electronic filing may be obtained at the District Clerk's Office.
- C. The parties shall submit a courtesy hard copy to the District Clerk's Office of all filings, including any attachments, that are 20 pages or longer. Stated differently, any single submission containing a motion, brief, and attachments that together contain a total of 20 pages or more must be filed both electronically and in courtesy hard copy directly to the District Clerk's Office. Both the courtesy hard copy and the electronic filing must be filed on the same day.
- D. Voluminous, double-sided or irregular documents:
 - 1) Leave of Court is required for the conventional filing of documents greater than 50 pages in length. Such documents should be filed electronically when possible.
 - 2) Leave of Court is required for the conventional filing of documents printed on both sides. Such documents should be filed electronically when possible.
 - 3) Leave of Court is required for the filing of over-sized or irregularly shaped documents which are not capable of being readily imaged by court personnel and equipment. Such documents should be filed electronically when possible.

4. CONTINUANCES

- A. It is the Court's intention to confer with counsel concerning trial scheduling at the Initial Pretrial Conference. Once a trial is scheduled, a continuance will only be granted in extraordinary circumstances. Joint motions for continuances are not binding on the Court. Trial will not be continued because of the unavailability of one or more witnesses. Counsel should anticipate such possibilities and be prepared to present testimony by written deposition, videotaped deposition, or by stipulation.

5. APPEARANCES

- A. The attorney designated on the pleadings as Attorney in Charge must attend the Initial Pretrial Conference, the Final Pretrial Conference, and Trial. For all other appearances, the attorney substituting must be familiar with the case and have authority to make decisions binding on the represented party.
- B. If out-of-town counsel desire to appear by telephone, a written request should be made to the Case Manager as far as reasonably possible in advance of the

conference. Email contact with the Case Manager is permitted. If permission to attend by phone is granted, counsel making such a request shall make all of the necessary arrangements and bear all related expenses. Counsel shall inform opposing counsel that they will be attending by phone to give them the same option. Counsel shall only use a land-based phone.

- C. Counsel will notify the Case Manager immediately of the resolution of any matter that is set for trial or hearing.

6. INITIAL PRETRIAL CONFERENCE AND SCHEDULING CONFERENCES

- A. At the inception of a case, the Court will issue an Order Setting Conference, setting the date and time for the Initial Pretrial Conference. See Appendix A for sample Order Setting Initial Pretrial Conference.
- B. At least 14 days before the Initial Pretrial Conference, counsel must file a Joint Discovery and Case Management Plan, including, *inter alia*, the identity and purpose of witnesses, sources and types of documents, and other information that facilitates a prompt, efficient, and cost effective preparation of the case. See Appendix B for sample Joint Discovery and Case Management Plan.
- C. At least 5 days before the Initial Pretrial Conference, counsel must file a joint Proposed Scheduling Order. See Appendix C for sample Proposed Scheduling Order. In the filing, the parties will indicate whether disagreement exists on any matter included in the Proposed Scheduling Order, noting each party's proposed deadline.

7. MOTION PRACTICE AND BRIEFS

- A. Unless otherwise indicated in the Scheduling Order, dispositive motions must be filed at least ninety days, and non-dispositive motions must be filed at least forty-five days, before the date set for Final Pretrial Conference. Motions to Sever and Motions for Separate Trial must be specific and must be filed at least thirty (30) days before jury selection.
- B. Unless the Court orders differently, counsel must respond to an opposed motion within twenty-one days from the date the motion is filed with the District Clerk's Office. Failure to file a timely response shall be taken as an indication that the opposing party agrees to the motion and the relief requested. If the movant files a reply, it must be filed within ten days after the filing of the response.
- C. Requests for oral argument are not necessary. The Case Manager will notify counsel should the Court determine that a motion hearing would be beneficial. All ripe pending motions will be addressed at the next status conference unless counsel are specifically notified to the contrary. If counsel anticipate the need to offer evidence and testimony, leave to do so must be obtained from the Court in advance.
- D. Briefs must be filed together with or incorporated within a motion, response or reply. Briefs and legal memoranda shall be limited to 20 pages, unless permitted by the Court to exceed this limit.

- 1) All briefs and memoranda exceeding five pages must contain an initial Statement of the Issues, which consists of a brief statement highlighting the issues before the Court, with the standard of review and supporting authority for each issue.
- 2) Any brief or memorandum with more than 10 pages of argument must also contain the following:
 - Table of Contents
 - Table of Authorities
 - Summary of the Argument
 - Relief Sought: a short recitation of the precise relief requested.
- 3) References to evidence in support of or in opposition to a motion must be specific, citing page and line numbers for depositions, or page and paragraph number for any other type of exhibit.

8. DOCKET CALL AND TRIAL

- A. The Court's Scheduling Order will establish the deadline for the plaintiff(s) to file the Joint Pretrial Order. *See* Appendix D for sample Joint Pretrial Order.
- B. Final Pretrial Conferences will be held on a monthly basis on designated days. Counsel should be prepared to discuss all matters related to the trial – e.g., jury selection, 404(b) matters, motions to suppress, and motions *in limine*.
- C. Jury Selection will be held once a month on a designated schedule. Typically, the Court will pick twelve (12) jurors and two (2) alternates.
- D. During trial, the Court's hours will vary depending upon the type of case and the needs of the parties, counsel, witnesses, jurors, and the Court. The Court will normally convene trial at 9:00 a.m. and adjourn at 5:30 p.m., recessing for lunch between 12:00 p.m. and 1:30 p.m.
- E. The table nearer to the jury box is to be used by the plaintiff(s), with the table sitting farther from the jury box reserved for the defendant(s). Once counsel have determined their seating arrangement, the Case Manager will note their position on a chart for the Court and there will be no change once trial has begun, except at the Court's direction.
- F. Counsel are responsible for summoning witnesses into the courtroom and instructing them on courtroom decorum. If "the Rule" has been invoked, counsel are also responsible for instructing their witnesses as to their duties thereunder. Witnesses shall be questioned while the attorney is standing at the podium unless otherwise instructed by the Court.
- G. The Court will accept the parties' agreement to use deposition testimony at trial even when the witness is available. Otherwise, parties must follow Fed. R. Civ. P. 32. A party may use videotaped depositions if counsel edit them to incorporate the Court's rulings on objections.

H. Jury Trials.

- 1) The Court will conduct the examination of the panel. Following this initial examination, the Court will consider counsel's request to question individual venire members outside the presence of the venire.
- 2) While the jury is deliberating, unless given permission by the Court, counsel should remain in or near the courtroom to be available for jury notes or a verdict.
- 3) Once the trial has ended, counsel are permitted to contact jurors at their discretion. The Court, however, will instruct the jurors that they may elect not to answer questions or discuss the case.

I. Trial Exhibits.

- 1) Prior to the Final Pretrial Conference, the offering party will mark each exhibit to be offered with the party's identity, case number, and exhibit number. Counsel for each party is required to provide the Court with a copy of that party's exhibits in a properly tabbed and indexed notebook.
- 2) As the first order of business, the Court will admit all exhibits offered without objection or for which objections have been overruled. All counsel are expected to agree to admissibility when possible so that the jury is not burdened with witnesses called to prove up mere formalities in situations in which all counsel are aware that there is no question concerning authenticity.
- 3) The government agent will retain custody of all sensitive exhibits (such as weapons, drugs, and money) throughout the proceedings. Photographs may be introduced in place of the real item when the jury retires for deliberations.
- 4) Counsel will not pass exhibits to the jury during trial without first obtaining permission from the Court. All admitted exhibits will go to the jury during its deliberations. It is the duty of counsel to make sure all the admitted exhibits and only the admitted exhibits are in the possession of the Case Manager for delivery to the jury. It is also the duty of the offering party to make sure the Court has available the means for the jury to access all exhibits.

J. Disposition of Exhibits Following Trial:

- 1) Exhibits that are not easily stored in a file folder (such as posters, parts, or models) must be withdrawn after the completion of the trial and substituted with reduced reproductions or photographs.
- 2) If there is no appeal, exhibits will be removed by the offering party within thirty (30) days after disposition of the case.

- 3) When there is an appeal, exhibits returned by the Court of Appeals will be removed by the offering party within fourteen (14) days after written notice from the Clerk of the Court.
- 4) Exhibits not removed will be disposed of by the Clerk of the Court, and the expenses incurred will be taxed against the offering party.

K. Equipment

- 1) The courtroom includes easels with writing pads and drawing boards, as well as a DVD/VCR. A Document Camera is available for projecting documents, including pictures, which are letter-sized or smaller. Counsel must provide any other equipment necessary to facilitate opening/closing arguments and presentation of the case (e.g., PowerPoint). Counsel must inform the Case Manager/Court Reporter prior to trial so arrangements can be made to accommodate building security.
- 2) Real-time reporting is not provided by the Court Reporter. Any requests for a transcript or portions thereof should be arranged directly with the Court Reporter.

9. SETTLEMENTS

- A. Upon the settlement of any case, counsel must immediately notify the Case Manager by email.
- B. Upon receipt of the parties' announcement of a settlement, the Court will enter an Order vacating all settings, mooted all pending motions, and allowing the parties 21 days to submit appropriate dismissal documents.
- C. Settlement in Cases involving Minor Plaintiffs
 - 1) If there is a potential conflict of interest between the parent(s)/guardian(s) and the minor, counsel will jointly move for appointment of an attorney ad litem prior to any mediation or other Alternative Dispute Resolution procedure.
 - 2) If there is no conflict of interest between the parent(s)/guardian(s) and the minor, and the suit is settled, counsel will jointly move for appointment of an attorney ad litem to represent the minor at the settlement hearing.
 - 3) If counsel cannot agree on an attorney ad litem, each counsel will submit the names of three (3) proposed attorneys ad litem, and the Court may appoint one, or alternatively appoint one of its own choosing.
 - 4) All parties and attorneys must appear for the settlement hearing, unless excused by the Court.

10. DECORUM

- A. Counsel and parties will comply with the Texas Disciplinary Rules of Professional Conduct, the Texas Lawyer's Creed and the Local Rules adopted by the Southern District of Texas regarding courtroom behavior described in Appendix E.
- B. No electronic devices are allowed in the courtroom. If counsel anticipates a need for any electronic item, arrangements should be made in advance with the Case Manager.

[APPENDICES]

Order Setting Initial Pretrial Conference

1. Counsel shall appear for an Initial Pretrial Conference:

_____, 201____, at _____.m.
Before the Honorable Fernando Rodriguez, Jr.
United States District Judge
Third Floor-Courtroom No. 6
United States Courthouse
600 E. Harrison Street, #301
Brownsville, TX 78520

2. The Plaintiff(s) filing this suit, or the party removing this suit from state court, **SHALL SERVE THE OPPOSING PARTY OR PARTIES** with copies of this ORDER SETTING INITIAL PRETRIAL CONFERENCE.
3. The plaintiff must serve the defendant within 90 days of filing the complaint. The plaintiff's failure to file proof of service within that time may result in dismissal by the court on its own initiative. *See* Fed. R. Civ. P. 4(m).
4. Within 15 days of receiving this order, counsel must file a list of all entities that are financially interested in this litigation, including parent, subsidiary, and affiliated corporations as well as all known attorneys of record. When a group description is effective disclosure, an individual listing is not necessary. Underline the names of corporations with publicly traded securities. Counsel must promptly amend the list when parties are added or additional interested parties are identified.
5. By the Initial Pretrial Conference, counsel will have interviewed their clients and read all readily available relevant documents.
6. By the Initial Pretrial Conference, counsel must have discussed the possible effectiveness of Alternative Dispute Resolution with their clients and each other. At the Initial Pretrial Conference, the court will consider whether a method of Alternative Dispute Resolution is suited to this case.
7. At the Initial Pretrial Conference, the Court will enter a Scheduling Order and may rule on motions pending or made at the conference.

APPENDIX "A"

8. Failure to comply with this Order Setting Initial Pretrial Conference may result in sanctions, including dismissal of the action and assessment of expenses.

Fernando Rodriguez, Jr.
United States District Judge

**JOINT DISCOVERY/CASE MANAGEMENT PLAN
UNDER FEDERAL RULE OF CIVIL PROCEDURE 26(f)**

Please restate each instruction before furnishing the information.

1. State where and when the conference of the parties required by Federal Rule of Civil Procedure 26(f) was held and identify the counsel who participated for each party.
2. List the cases related to this one that are pending in any state or federal court with the case number and court.
3. Specify the allegation of federal jurisdiction.
4. List anticipated additional parties that should be included, when they can be added, and by whom they are wanted.
5. List anticipated interventions, if any.
6. Describe class-action issues, if any.
7. State whether each party represents that it has made the initial disclosures required by Federal Rule of Civil Procedure 26(a). If not, describe the arrangements that have been made to complete the disclosures.
8. Describe the proposed agreed discovery plan, including:
 - A. Responses to all the matters raised in Federal Rule of Civil Procedure 26(f).
 - B. When and to whom the plaintiff anticipates it may send interrogatories.
 - C. When and to whom the defendant anticipates it may send interrogatories.
 - D. Of whom and by when the plaintiff anticipates taking oral depositions.
 - E. Of whom and by when the defendant anticipates taking oral depositions.
 - F. When the plaintiff (or the party with the burden of proof on an issue) will be able to designate experts and provide the reports required by Federal Rule of Civil Procedure 26(a)(2)(B) and when the opposing party will be able to designate responsive experts and provide their reports.
 - G. List expert depositions the plaintiff (or the party with the burden of proof on an issue) anticipates taking and their anticipated completion date. *See* Federal Rule of Civil Procedure 26(a)(2)(B).
 - H. List expert depositions the opposing party anticipates taking and their anticipated completion date. *See* Federal Rule of Civil Procedure 26(a)(2)(B).

APPENDIX "B"

9. If the parties are not agreed on a part of the discovery plan, describe the separate views and proposals of each party.
10. Specify the discovery beyond initial disclosures that has been undertaken to date.
11. State the date the planned discovery can reasonably be completed.
12. Describe what each party has done or agreed to do to bring about a prompt resolution, as well as the possibilities for a prompt settlement or resolution of the case that were discussed in your Federal Rule of Civil Procedure 26(f) conference.
13. From the attorneys' discussion with the client, state the Alternative Dispute Resolution techniques that are reasonably suitable and state when such a technique may be effectively used in this case.
14. Magistrate judges may now hear jury and non-jury trials. Indicate each party's respective position on a trial before a magistrate judge.
15. State whether a jury demand has been made and if it was made on time.
16. Specify the number of hours it will take to present the evidence in this case.
17. List pending motions that could be ruled on at the Initial Pretrial Conference.
18. List other motions pending.
19. Indicate other matters peculiar to this case, including discovery, that deserve the special attention of the Court at the Initial Pretrial Conference.
20. List the names, bar numbers, addresses and telephone numbers of all counsel.

Scheduling Order

1. Trial: Estimated time to try: ____ days. ☐ Bench ☐ Jury
2. New parties must be joined by: _____
Furnish a copy of this scheduling order to new parties.
3. The plaintiff's experts will be named with a report furnished by: _____
4. The defendant's experts must be named with a report furnished by: _____
5. Discovery must be completed by: _____

*Counsel may agree to continue discovery beyond the deadline, but there will be no intervention by the Court.
Absent exceptional circumstances, no continuance will be granted because of information acquired in post-deadline discovery.*

6. Dispositive Motions will be filed by: _____
- Response due by: _____
- Non-Dispositive Motions will be filed by: _____

***** The Court will provide the following dates. *****

7. Joint pretrial order is due: _____
The plaintiff is responsible for filing the pretrial order on time.
8. Final Pretrial Conference is set for 1:30 p.m. on: _____
9. Jury Selection is set for 9:00 a.m. on: _____

The case will remain on standby until tried.

Signed this the _____ day of _____, 20____.

Fernando Rodriguez, Jr.
United States District Judge

REQUIRED CONTENTS OF THE JOINT PRETRIAL ORDER

1. **Appearance of Counsel.** List each party, its counsel, and counsel's address and telephone number in separate paragraphs.
2. **Statement of the Case.** Give a brief statement of the case, one that the Court can read to the jury panel for an introduction of the facts and parties; include names, dates, and places.
3. **Jurisdiction.** Briefly specify the basis for the Court's jurisdiction of the subject matter and the parties. If there is an unresolved jurisdictional question, state it.
4. **Motions.** List pending motions.
5. **Contentions of the Parties.** State concisely in separate paragraphs each party's claims.
6. **Admissions of Fact.** List all facts that require no proof.
7. **Contested Issues of Fact.** List all material facts in bona fide controversy.
8. **Agreed Propositions of Law.** List the legal propositions that are not in dispute.
9. **Contested Propositions of Law.** State briefly the unresolved questions of law, with authorities to support each.
10. **Exhibits.**
 - A. On a form similar to the one provided by the Clerk of Court, each party will attach four lists of all exhibits expected to be offered and will make the exhibits available for examination by opposing counsel. *See sample at Appendix D-1.* All documentary exhibits must be exchanged before trial, except for rebuttal exhibits or those whose use cannot be anticipated.
 - B. A party requiring authentication of an exhibit must notify the offering counsel in writing within five days after the exhibit is listed and made available; failure to object in writing in advance of the trial concedes authenticity.
 - C. Within reason, other objections to admissibility of exhibits must be made at least three business days before trial; the Court will be notified in writing of disputes, with copies of the disputed exhibit and authority.
 - D. Parties must mark their exhibits to include the date and case number on each.

APPENDIX "D"

E. At the trial, the first step will be the offer and receipt in evidence of exhibits.

11. **Witnesses.**

- A. On a form similar to the one provided by the Clerk of Court, each party will attach four lists with the names and addresses of witnesses who may be called with a brief statement of the nature of their testimony. *See sample at Appendix D-2.*
- B. If other witnesses to be called at the trial become known, their names, addresses, and subject of their testimony will be reported to opposing counsel in writing as soon as they are known; this does not apply to rebuttal or impeachment witnesses.

12. **Settlements.** State that all settlement efforts have been exhausted, and the case will have to be tried.

13. **Trial.** State estimated length of trial and logistical problems, including availability of witnesses, out-of-state people, bulky exhibits, and documentation.

14. **Attachments.** Each party must file as a separate document (captioned, signed by counsel, and with service certified) these required attachments in duplicate.

- A. For a Jury Trial:
 - (1) Proposed questions for the voir dire examination.
 - (2) Proposed charge, including instructions, definitions, and special interrogatories, with authority.
- B. For a Non-Jury Trial:
 - (1) Proposed findings of fact with agreed and contested ones separated.
 - (2) Conclusions of law with authority.

Approved:

Attorney-in-Charge, Plaintiff

Date: _____

Attorney-in-Charge, Defendant

Date: _____

UNITED STATES DISTRICT COURT		SOUTHERN DISTRICT OF TEXAS			
v.		BROWNSVILLE DIVISION			
		CIVIL ACTION No. B-			
		EXHIBIT LIST			
LIST OF: TYPE OF HEARING:					
JUDGE: FERNANDO RODRIGUEZ, JR.		CLERK: BALVINA CAMPOS		REPORTER: SHEILA PERALES	
No.	DESCRIPTION	OFR	OBJ	ADM	DATE
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UNITED STATES DISTRICT COURT		SOUTHERN DISTRICT OF TEXAS	
v.		BROWNSVILLE DIVISION	
		CIVIL ACTION No. B-	
		WITNESS LIST	
LIST OF: TYPE OF HEARING:			
JUDGE: FERNANDO RODRIGUEZ, JR.	CLERK: BALVINA CAMPOS	REPORTER: SHEILA PERALES	
No.	NAME OF WITNESS		
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Courtroom Etiquette

All individuals who appear in court must observe these and other conventions of courteous, orderly behavior.

- A. Be punctual.
- B. Remain in attendance until excused. All persons sitting before the bar shall remain there during each session and return after each recess. Parties and counsel must remain in attendance during jury deliberations; absence waives the right to attend the return of the verdict.
- C. Dress with dignity.
- D. Address others only by their titles, if applicable, and/or surnames, including lawyers, witnesses, and court personnel.
- E. Unless instructed otherwise, stand when the Court speaks to you; stand when you speak to the Court. Speak only to the Court, except for questioning witnesses and, in opening and closing, addressing the jury. Do not argue with each other.
- F. Avoid approaching the bench. Counsel should anticipate the necessity for rulings and discuss them when the jury is not seated. When a bench conference is unavoidable, get permission first.
- G. Hand to the Case Manager, not the judge or reporter, all documents or items tendered for examination by the judge.
- H. Stand when the judge or jury enters or leaves the courtroom.
- I. Contact with the law clerks is *ex parte* contact with the Court. Contact must be through the Case Manager.
- J. Assist in the summoning of witnesses from outside the courtroom. Furnish the Case Manager, marshal, and court reporter with a list of witnesses showing the order in which they are likely to be called.

- K. Question witnesses while standing at the lectern unless instructed otherwise by the Court. When it is necessary to question a witness about an exhibit, ask permission to approach the witness.
- L. Conduct no experiment or demonstration without permission.
- M. Do not participate in a trial as an attorney if you expect you may be called as a witness without prior permission of the Court.
- N. Avoid disparaging remarks and acrimony toward counsel and discourage ill will between the litigants. Counsel must abstain from unnecessary references to opposing counsel, especially peculiarities.
- O. Make no side-bar remarks.
- P. Counsel are responsible for advising their clients, witnesses, and associate counsel about proper courtroom behavior and about pertinent rulings of the Court such as rulings on motions in limine.
- Q. Request the use of easels, light boxes, and other equipment well in advance so that they may be set up while the Court is not in session.