Court Procedures
Hon. Angela V. Colmenero

These procedures apply to civil and criminal actions assigned to Judge Angela V. Colmenero.

When serving the summons and complaint or removal papers, Plaintiff must serve these procedures together with the Court's Order for Scheduling Conference and Disclosure of Interested Persons.

Direct inquiries regarding any case assigned to Judge Colmenero to:

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1. APPLICABILITY AND COMPLIANCE

a. **Cases applicable**. These procedures apply to all civil and criminal cases assigned to Judge Angela V. Colmenero except for the following category of cases:
- Prisoner civil rights;
- *Habeas corpus*;
- Administrative agency appeals; and
- Miscellaneous government cases, such as subpoena enforcement, forfeiture, and the like.

b. **Strict compliance**. The Court requires strict compliance with these procedures. Use them together with the Local Rules and the Federal Rules of Civil and Criminal Procedure, with preference to these procedures on any inconsistency.

Failure to follow these procedures and applicable rules may subject counsel and client or *pro se* parties to appropriate sanction or dismissal.

c. **Forms**. Visit the Court's website and review the available forms. Use these forms when applicable.

d. **Additional information**. Additional information, forms, and the Local Rules are available on the website of the Southern District of Texas.

e. **Service**. Plaintiff must formally serve these procedures with the summons and complaint and file proof of service.

f. **Additional requirements in removed cases**. Review Form 1 to see the information required in removed cases. The removing party must file the certificate of service and provide the additional information within ten days of removal. The Court may summarily remand for failure of compliance.

2. ELECTRONIC FILING AND SERVICE

a. **E-filing required**. All parties must file documents through the Case Management/Electronic Case Filing System pursuant to LR5.1 and CrLR49. All parties must obtain and follow the Administrative Procedures for Electronic Filing in Civil and Criminal Cases from the website of the Southern District of Texas.

b. **Service**. For parties represented by counsel with CM/ECF credentials, filing through the CM/ECF system constitutes sufficient service on other

parties. For other parties, provide formal service in compliance with applicable rules.

3. EMERGENCIES

a. ***Ex parte* applications in civil cases**. The Court does not entertain *ex parte* applications for restraining orders unless the initiating party satisfies the requirements of Rule 65(b).

b. **Filing and service**. File any application for restraining order or other immediate relief through the CM/ECF system. In addition to service required by rule, the initiating party must in good faith attempt immediate informal service on the opposing party by any available means, including forwarding the application to the last-known mail and email addresses.

c. **Communication**. Make all related communications through the Case Manager via telephone or email.

d. **Disposition**. The Case Manager will present the application to the Court after receiving written affirmation from the initiating party of contact with the opposing party and availability of all parties for a conference before the Court. Alternatively, the initiating party may provide written explanation that no legal requirement for such contact applies.

   The Court will order a conference or hearing as determined advisable. The Court will direct relief and discovery as determined advisable.

e. **Emergency motions**. File emergency motions on the CM/ECF system. Then send a copy by email directly to the Case Manager so that it quickly reaches the Court's attention.

   Motions for extension of deadlines are not emergencies.

4. CONSENT TO PROCEED BEFORE MAGISTRATE JUDGE IN CIVIL CASES

a. **Agreement required**. The parties by agreement may elect to proceed before the Magistrate Judge.

b. **Required form**. Use Form 2 to give consent to proceed before a Magistrate Judge. Follow the instructions. Do not alter the form.

5. INFORMAL COMMUNICATION WITH THE COURT

a. **Informal communication disfavored**. The Court disfavors informal communication about cases except as stated in these procedures.

Do not address substantive issues in informal communication. Address such issues only through written filings and in-person conferences and hearings.

Neither the Case Manager, the Law Clerks, nor other personnel provide legal advice or predict what the Court will do on a given matter.

b. **Case Manager as main point of contact**. Direct all information communications to the Court through the Case Manager. Unless stated otherwise below, use the following:
- Letters to initiate discovery and scheduling disputes under Section 13;
- Letters or email for other minor procedural questions; and
- Email or telephone for matters requiring prompt attention.

c. **Law Clerks**. A Law Clerk may contact counsel with a specific inquiry at the Court's direction. Do not initiate contact with the Law Clerks unless returning a message. Do not discuss matters beyond the indicated subject.

d. **Status inquiries**. Seek answers when possible from the District Court's website. Review information on the status of documents, entry of orders, and docket entries on the CM/ECF system prior to contacting the Court. Direct filing questions to the Office of the Clerk.

e. **Service and filing**. Prior to or with delivery of any letter or email to the Court, use the same means to provide a copy to all other parties. Do not file copies of letters or email on the CM/ECF system. The Court dockets or directs filing as determined advisable.

6. COURT COPIES

a. **When required**. Do not provide courtesy copies to the Court except for the following:
- Trial Exhibits to which objections have been lodged; and
- Trial Deposition excerpts when objections have been lodged. Highlight the objections and the questions/answers to which those objections are directed.

b. **Form**. Provide hard copies as well as electronic copies. When providing hard copies, organize exhibits and attachments by tab at the right margin. Use the smallest binders that comfortably hold the material.

Do not use binders larger than four inches. Divide into multiple binders when necessary.

Provide courtesy copies marked with the file-stamped CM/ECF system docket number unless submitted on an urgent basis.

c. **Delivery**. Electronic copies should be sent to the Court's case manager via email. Hard copies should be mailed or hand-delivered to the attention of the Case Manager with a transmittal letter specifying the content.

Do not file transmittal letter. Mail or email a copy of such letters without attachments to all other parties.

7. ATTORNEY APPEARANCES

a. **Notice of appearance**. All counsel who wish to receive CM/ECF notices must file a notice of appearance. Inclusion of names in the signature block of a pleading does not constitute notice of appearance.

b. **Attorney in charge**. Counsel of record designated as "in charge" must attend all settings or send a designated alternate.

c. **Appearance at hearing**. Any counsel or *pro se* party who appears at a hearing or conference must be:
- Fully familiar with the facts and the law applicable to the case;
- Prepared to argue any pending motion and to discuss any anticipated motion; and
- Authorized to bind the client to stipulations relating to the appearance.

d. **Failure to appear**. Failure to appear when notified of a setting may subject the attorney and/or the party to sanctions, including dismissal for want of prosecution or other appropriate order or judgment.

e. ***Pro hac vice* admissions**. Include the applicant's averment of familiarization with these procedures and the Local Rules with any application for *pro hac vice* admission.

f. **Conduct**. The guidelines for professional conduct set forth in the Local Rules are in Attachment 1. All counsel and *pro se* parties must always observe these guidelines. Any conduct that is out of compliance with these rules must be brought to the Court's attention immediately.

8. INITIAL SETTINGS AND FILINGS IN CIVIL CASES

Observe LR16.1. In addition:

a. **Initial Settings**. Review Form 3 to see the form of Order for Scheduling Conference and Disclosure of Interested Parties.

The Court promptly issues this order to:

- Establish the parties' Rule 26(f) meet-and-confer deadline;
- Establish the filing deadline for the Joint Discovery/Case Management Plan; and
- Set the date for the Rule 16 Scheduling Conference.

b. **Joint Discovery/Case Management Plan**. Review Form 4 to see the form of the Joint Discovery/Case Management Plan and Proposed Scheduling Order.

All parties must sign and counsel for Plaintiff must file a single, completed joint plan. Follow Rule 26(f) in all respects. Parties proceeding *pro se* or counsel with knowledge of the case and authority to address substantive and scheduling matters must attend the conference between the parties.

c. **Scheduling Conference**. The Court sets a Scheduling Conference between sixty and ninety days from filing of the case. Plaintiff may request a reasonable continuance if it has not perfected service.

Prepare to discuss all matters covered by Rules 16 and 26(f), the Joint Discovery/Case Management Plan, and the Scheduling Order. Prepare to argue any pending motions.

d. **Orders of dismissal for want of prosecution**. The Court may dismiss for want of prosecution any Defendant upon whom Plaintiff has not perfected service within ninety days after filing the complaint pursuant to Rule 4(m).

9. CONTINUANCES

a. **Approval required**. The Court will modify the Scheduling Order only upon a motion establishing good cause. Agreements on continuance of deadlines do not bind the Court but are given due consideration.

Requested changes must include recommended dates to adjust all deadlines following the first modification.

b. **Discovery deadlines**. Parties may agree to an extension of discovery deadlines without seeking approval when the extension does not affect the Scheduling Order or other deadlines set by the Court.

c. **Vacation requests**. The Court respects and seeks to accommodate vacation and family requests if made well in advance of a hearing or trial setting.

10. PROTECTIVE ORDERS AND FILINGS UNDER SEAL

a. **Protective Orders**. The parties must jointly confer in good faith regarding appropriate terms for a protective order and file either a joint or opposed motion for entry of a protective order with the proposed order as an exhibit. Upon entry of the protective order, the parties' confidentiality designations govern disclosure and use of documents produced during discovery.

b. **Motion required to seal**. A presumption exists as to public access to judicial records. The Court disfavors the filing of any pleading, brief, or supporting material under seal. Seek permission by motion establishing good cause as follows.

Under seal, file the at-issue pleading, brief, or other material. On the public record, separately file a motion to seal. Prepare and attach to the motion a redacted version of the material suitable to and proposed for filing on the public docket. In the alternative, establish cause why redaction is not possible.

Identify all under-seal filings on the CM/ECF system with an informative title and designation of "SEALED." For example, *Motion for Summary Judgment (SEALED)*. Absent permission, do not simply identify a document as *SEALED DOCUMENT* without explanation.

c. **Disposition**. The Court promptly considers such motions and directs filings under seal or on the public docket as appropriate.

11. INITIAL DISCLOSURES AND COMMENCEMENT OF DISCOVERY IN CIVIL CASES

a. **Initial Disclosures**. Commence initial disclosures immediately. Include production of copies of all documents responsive to the categories listed in Rule 26(a). Do not file initial disclosures.

b. **Commencement of discovery**. The parties may commence discovery by agreement once Plaintiff perfects service of the complaint on all Defendants. Absent agreement, the Court will determine when to commence discovery at the Scheduling Conference.

c. **Proportionality required**. Frame all interrogatories, document requests, and requests for admission to meet relevance and proportionality requirements of 26(b)(1).

d. **Objections**. State only specific objections. Observe the following:
   - Do not include a preamble to your responses to discovery;
   - Do not make general objections;
   - Do not make boilerplate objections;
   - Do not state any objection to the extent that it "might apply" and instead specify all objections exactly;
   - Do not state any response as subject to a stated objection without specifying the extent to which a party withholds information on that basis; and
   - Do not state that more information will or may follow later without specifying a reasonable deadline for completion.

e. **Electronically stored information**. Produce ESI in the native format kept by the producing party or in a common interchange format accessible by the opposing party.

   The Court initially limits production of ESI to the files of five custodians selected by the opposing party. Seek alternate limitations for more custodians only after reviewing the initial production and conferring in good faith.

f. **Supplementation**. Supplement disclosures and discovery responses as directed by Rule 26(e). The Court deals sternly with tactical supplemental delay until near or after the close of discovery, including the striking of evidence, witnesses, claims, and pleadings as appropriate.

12. DEPOSITIONS AND EXHIBITS IN CIVIL CASES

a. **Number of depositions**. Seek in good faith to agree to a reasonable limitation on the number of depositions. Consider relevance and proportionality under Rule 26(a)(1).

b. **Order of depositions**. The Court presumptively permits Plaintiff to notice and take the first deposition with reasonable dispatch. Absent other agreement, the parties will then alternate depositions to the extent practicable on reasonable notice with no undue delay.

c. **Time limits**. Not all depositions require the full time allotted under Rule 30(d)(1). Seek in good faith to establish reasonable, reciprocal time limits. The Court will not tolerate wasteful or harassing use of deposition time.

d. **Sequential numbering of exhibits**. Sequentially number each exhibit introduced at deposition without reference to party or deposition identity. Continue the sequence from deposition to deposition. For instance, if a deposition concludes at Exhibit 12, the next deposition commences at Exhibit 13.

   Do not mark any document as an exhibit more than once. Absent error or oversight, each exhibit should have only one number during the case. Use that number in later depositions and on trial exhibit lists.

13. DISCOVERY AND SCHEDULING DISPUTES

a. **Good faith required**. Make a serious attempt to resolve all discovery and scheduling disputes without intervention by the Court. This includes disputes to compel or quash any discovery or for protection. Seek reasonable compromise. The Court will not hesitate to shift costs or order other relief against a party or counsel acting unreasonably or in bad faith.

b. **Conference between lead counsel required**. Lead counsel must personally confer on all discovery and scheduling disputes as a final attempt at resolution prior to involving the Court.

c. **Initiating letter required**. Do not bring a motion on discovery or scheduling disputes without permission. To obtain permission, the party seeking relief must submit a letter not exceeding approximately two single-spaced pages. Identify the nature of the dispute, outline the

issues, and state the contested relief sought. Specify the conference between lead counsel and summarize the results.

The opposing counsel should promptly submit a responsive letter of similar length identifying any disagreement. Do not submit a reply letter.

d. **Disposition**. The Court may dispose of the dispute on the letters. When determined advisable, the Court will schedule a conference as soon as practicable. The Court disposes of disputes at conference to the extent possible and establishes the issues and briefing schedule of any written motion allowed.

The Court may refer discovery disputes to a Magistrate Judge.

e. **Disputes as to electronic data**. When the dispute includes discovery of electronic data, each party must have available at any conference a person with detailed knowledge of the computers and electronic databases in issue. The Court may rely on accurate responses from those individuals when ordering relief as to that aspect of any dispute.

f. **Disputes with nonparties**. An initiating letter is not required to seek discovery relief against a nonparty.

14. PRIVILEGE LOGS

a. **Misuse of privilege logs**. Privilege logs serve an important function to protect valid assertions of privilege. But the Court does not tolerate their misuse.

b. ***In camera* review available**. When a party believes an opponent has misused its privilege log, it may request that the Court make *in camera* inspection of not more than twenty documents.

Bring any request by letter not to exceed approximately three single-spaced pages. Lead counsel must confer in good faith to resolve the dispute prior to any letter. In the letter, identify the documents for review, state the grounds for challenge, specify the conference between lead counsel, and summarize the results. This letter establishes consent to *ex parte* contact between the Court and the party's opponent regarding the nature and verity of the asserted privilege.

Each party may freely submit only a single letter requesting *in camera* section. Submit any letter at least sixty days before the end of discovery

or promptly upon receipt of any later privilege log. Seek any further or related requests according to Section 15.

c. **Review by Magistrate Judge or Special Master**. When on review a party appears to have misused its privilege log, the Court favors referral to the Magistrate Judge to review an appropriate sample of documents. Order for complete review of all logged documents by appointment of Special Master may follow where necessary.

   The Court will not hesitate to shift costs in favor of the prevailing party in appropriate circumstances.

15. MOTION PRACTICE AND HEARINGS

The Court follows the procedures for motion practice in LR7, LR10, LR11, and CrLR12.

a. **Conference and certificate required**. Make serious, timely, good faith efforts to seek agreement on all disputed matters and requests for relief except dispositive motions.

   The Court will strike motions in civil cases—and may strike motions in criminal cases—that do not include a certificate of conference.

b. **Motions to dismiss or for judgment on the pleadings in civil cases**. Pleading deficiencies of a claim or counterclaim are often cured in whole or in part by a permissible amendment to the subject pleadings. Before filing a motion to dismiss for failure to state a claim or counterclaim under Rule 12(b)(6), or a motion for judgment on the pleadings on a claim or counterclaim under Rule 12(c), identify such issues to the opposing party and confer in good faith to resolve them.

   The Court will strike motions that do not include this in the certificate of conference.

c. **Motions on discovery and scheduling**. Do not bring a motion on discovery or scheduling disputes absent permission obtained under Section 13.c.

d. **Motions to seal**. The Court disfavors but will consider filings under seal. Proceed as directed under Section 10.

e. **Submission date and briefing deadlines in civil cases**. The Court follows the deadlines set forth in LR7.3. Opposed motions are submitted

to the Court twenty-one calendar days from filing. The Court may rule on the motion at that time.

Accordingly, file any response no later than twenty-one calendar days of the motion. There is no right to file a reply. The Court may consider a reply if it is filed prior to the Court ruling on the motion. Any reply must be filed no later than seven days after the response is filed. Do not file a sur-reply absent permission.

Promptly advise the Court by email of need for decision on an expedited basis or date certain. Provide reasons justifying the Court's prompt attention.

Advise by letter or email of any agreed extension of the submission date. Provide a proposed order for any agreed extension that maintains other deadlines set by the Court.

f. **Submission date and briefing deadline in criminal cases**. The Court proceeds according to CrLR12 and Rule 12 of the Federal Rules of Criminal Procedure.

g. **Proposed orders**. Use Form 5 to prepare draft proposed orders. Include a proposed order granting or denying the requested relief with all nondispositive motions and oppositions.

h. **Oral argument**. Adequate motion papers are important. The Court rules on most motions on the papers and sets oral argument when determined advisable. Counsel may jointly or individually advise by email of any request for oral argument together with the circumstances to justify it.

i. **Young lawyers**. Providing speaking or "stand-up" opportunities in federal court to associates or other young lawyers benefits young lawyers, clients, and the legal profession as a whole.

   On any request for oral argument, the Court weighs in favor a representation that the party will entrust argument to a young lawyer who has substantially drafted or contributed to the motion or response.

j. **Resolution by agreement**. Immediately advise by email of resolution of a pending motion prior to the Court's ruling. The Court will then deny the motion as moot or have the clerk terminate the motion.

16. BRIEFING REQUIREMENTS

The Court requires succinct, pertinent, well-organized motion papers. Observe the following requirements:

a. **Separate memorandum not allowed**. Do not file a separately designated Memorandum of Law. Include necessary factual support, legal argument, and requested relief in the motion itself. In other words, file a single pleading.

b. **Style**. Use American letter-size paper, a minimum of 12-point font, and a minimum of 1-inch margins with 1/2-inch margins for footnotes, page numbers, any headers or footers. Double space except for lengthy quotations, headings, and footnotes.

c. **Page limits**. Limit any motion or response to twenty-five pages. Limit any reply to ten pages. Do not file a sur-reply absent permission. If the Court asks for supplemental briefing, limit it to ten pages.

d. **Footnotes**. The Court disfavors footnotes, The Court disregards evidence or argument raised only in footnotes.

e. **Briefing requirements**. All motion or similar filings must contain:
   - A short summary of the argument;
   - A statement of the facts necessary to resolve the motion;
   - An argument devoted to relevant, persuasive legal authority;
   - A short conclusion stating the precise relief sought; and
   - Succinct headings dividing the motion into the above parts.

f. **Citations**. Provide pinpoint citation for all legal authority. Do the same for evidence. For instance, cite to page and line for depositions, to page and paragraph number for affidavits and pleadings, and to page and section number for contracts and similar materials. Use Bates numbers as the page reference where available.

g. **Supporting evidence**. Supply affidavits, deposition testimony excerpts, and supporting documents as separate exhibits to the filing. Provide a cover sheet to identify and separate each exhibit and identify them clearly on the CM/ECF docket entry when filing, e.g., "Exhibit A Declaration of John Doe."

h. **Copies of legal authority**. Supply all cases or other authority not readily available through Westlaw or Lexis-Nexis as an appendix to any filing. Provide a cover sheet to identify and separate each authority.

17. FINAL PRETRIAL CONFERENCE AND TRIAL SETTING

a. **Final pretrial conference**. The Court sets each civil case for a docket call in the Scheduling Order. Docket call may serve as the final pretrial conference. Prepare to address all objections to pretrial filings and to argue outstanding motions. The Court at docket call may set cases to a later date for the final pretrial conference.

   The Court sets each criminal case for a final pretrial conference in the Scheduling Order. Prepare to address all objections to pretrial filings and to argue outstanding motions.

b. **Trial setting**. The Court discusses civil trial settings with the parties at docket call. The Court sets the case on a trailing docket at the earliest time determined advisable.

   The Court establishes criminal trial settings in the Scheduling Order.

18. JOINT PRETRIAL ORDERS IN CIVIL CASES

a. **Form**. Use Form 6 to prepare a Joint Pretrial Order. Adapt this form within reason to accommodate the nature and complexity of the case.

b. **Same-day filings**. When filing the Joint Pretrial Order on the CM/ECF system, file the pretrial filings set out in Section 19 as exhibits.

c. **Responsibility**. All lead counsel must sign the Joint Pretrial Order. Primary responsibility rests with Plaintiff's counsel to ensure timely filing as established by rule unless otherwise set by Court order. On any failure by Plaintiff's counsel, Defendant's counsel must timely file Defendant's portions.

19. REQUIRED PRETRIAL FILINGS

a. **Required filings**. Unless otherwise set by Court order, on the date the Joint Pretrial Order is filed each party must file:
   - An exhibit list as per Section 20;
   - A witness list as per Section 21;
   - Designation of deposition excerpts as per Section 22;
   - Motions *in limine* as per Section 23;
   - Proposed topics and questions for voir dire as per Section 24;
   - In jury trials, a proposed joint jury charge as per Section 25; and
   - In bench trials, proposed findings of fact and conclusions of law as per Section 26.

20. TRIAL EXHIBIT LISTS

a. **Form**. Use Form 7 to prepare a trial exhibit list, which must be filed on the date the Joint Pretrial Order is filed. Exhibit lists may not be amended or supplemented after this date unless by agreement. Also refer to Section 12.

Each offering party must mark its own exhibits with the party's name, case number, and exhibit number. List only those exhibits intended in good faith for use during trial.

b. **Exchange**. Seek agreement on the form of exchange. Absent agreement, exchange well-organized USB drives or provide for similar electronic transfer or download. Exchange exhibits and meet in person to discuss any objections prior to filing the exhibit list.

In civil cases, exchange all exhibits no later than the date the Joint Pretrial Order is filed. In criminal cases, the Court sets the schedule for disclosure of exhibits.

c. **Court copies**. Follow Section 18 regarding submission of all exhibit lists.

Do not provide copies of all exhibits to the Court. Instead, provide only copies of exhibits to which objections are lodged no later than seven calendar days after the Joint Pretrial Order is filed.

d. **Objections**. The Court supersedes time limits set in LR44.1, LR46, and CrLR55.2.B and requires filing of any objections with authority no later than three business days after the date the Joint Pretrial Order is filed. Those objections must include any identification of exhibits requiring authentication. The Court typically allows telephone depositions on an expedited basis to authenticate exhibits and shift costs in this regard.

File any response to objections no later than six business days after the date the Joint Pretrial Order is filed. Objections must contain tailored discussion of the exhibit and issues. Boilerplate objections or responses will not be considered.

Provide copies to the Court of only those exhibits to which objections have been lodged no later than seven calendar days after the Joint Pretrial Order is filed.

e. **Disposition**. The Court seeks to pre-mark and pre-admit all exhibits before trial except those that are truly in dispute.

The Court rarely admits exhibits not disclosed as required.

f. **Publication to jury**. Exhibits listed without objection do not require further permission for publication to the jury. Do not show exhibits with unresolved objections to the jury. Do not pass exhibits to the jury absent permission.

g. **Deliberation**. The Court sends all admitted exhibits to the jury during deliberations. The burden is on the parties to assemble and ensure that the Case Manager has all the admitted exhibits—and only the admitted exhibits—for delivery to the jury. The parties must jointly prepare and provide written certification of completeness.

h. **Demonstrative exhibits**. Do not list demonstrative exhibits unless intended for admission into evidence.

Disclose demonstrative exhibits to all other parties by 9:00 p.m. of the evening prior to intended use. The Court resolves objections as a first order of business the following morning before seating the jury.

i. **Sensitive exhibits**. Identify at the final pretrial conference any concerns about sensitive, dangerous, or bulky exhibits.

A government agent must retain custody throughout trial of exhibits such as weapons, drugs, money, and the like. Replace with photographs where appropriate for jury deliberation.

j. **Control of exhibits after trial**. Refer to LR79.2 and CrLR55.2.C.

21. WITNESS LISTS

a. **Form**. Use Form 8 to prepare the trial witness list, which must be filed on the date the Joint Pretrial Order is filed. Witness lists may not be amended or supplemented after this date unless by agreement.

Each party must file a list of witnesses it intends in good faith to call in its case-in-chief. State for each witness:

- Full name, address, and identifying information;
- A concise summary of the expected testimonial topics;
- Whether the witness will testify live or by deposition; and
- Whether testimony is fact, expert, or record custodian.

b. **Court copies**. Follow Section 19 regarding submission of witness lists, Also, furnish a copy to the court reporter before trial.

c. **Objections**. File any objections with authority no later than three business days after the date the Joint Pretrial Order is filed. File any response to objections no later than six business days after the date the Joint Pretrial Order is filed.

d. **Disposition**. The Court endeavors to resolve objections to witnesses at the final pretrial conference.

e. **Order of witnesses**. In civil cases, by 8:00 p.m. two days in advance of the first day of trial, Plaintiff must notify all other parties as to the order of witnesses expected during the first two days of trial. Once trial commences, the parties must update one another at the end of each trial day on the order of witnesses expected during the next two trial days.

In criminal cases, prepare to discuss at the final pretrial conference whether the required notification above is appropriate or required modification.

22. DEPOSITION DESIGNATION IN CIVIL CASES

a. **Form**. Use Form 9 to prepare deposition designations, which must be filed on the date the Joint Pretrial Order is filed. Deposition designations may not be amended or supplemented after this date unless by agreement. Also refer to Section 12.

The Court presumptively limits designations to twenty-five minutes and counter-designations to fifteen minutes absent agreement or permission. Do not designate irrelevant or repetitive testimony, objections, or colloquy at depositions.

For bench trials, also offer the entire deposition marked as an exhibit.

Unavailability required. Jurors generally disfavor deposition designations. Follow Rule 32 to establish unavailability and use designations. The Court typically refuses even agreed requests as to party witnesses when the witness is available.

b. **Court copies**. Follow Section 19 regarding submission of all deposition designation.

During trial, seek to de-designate unnecessary or cumulative testimony. Provide revised designations to opposing counsel two days in advance of intended use.

c. **Objections and counter-designations**. Objections to any deposition designation shall be filed no later than three business days after the date the Joint Pretrial Order is filed. Responses to those objections shall be filed no later than six business days after the date the Joint Pretrial Order is filed. Boilerplate objections or responses will not be considered.

d. **Presentation to jury**. After the Court rules on objections, review and agree on the accuracy of any final synthesis or videotape edit well prior to reading or playing.

23. MOTIONS *IN LIMINE*

a. **Form**. File separate motions *in limine* with a matching proposed order on the same date the Joint Pretrial Order is filed. Tailor the motion to the case. Do not file boilerplate motions. Confer in good faith so that only disputed motions remain for the Court to resolve.

Do not bring motions *in limine* in bench trials. Do not raise or re-urge topics resolved under *Daubert* or summary judgment practice. Keep in mind that *limine* practice typically concerns only topics so unfairly prejudicial that the Court cannot cure resulting prejudice by instruction.

b. **Response**. File a response to any motion in limine that is contested no later than three business days after the date the Joint Pretrial Order is filed.

24. JURY SELECTION

a. **Juror questionnaire**. The Court provides completed questionnaires to the parties prior to jury selection. Do not make copies. Return all questionnaires on conclusion of jury selection.

Confer in good faith and propose topics and questions for examination of the panel that are specific to the case.

b. **Time of selection**. The Court seeks to commence jury selection as early in the day as possible.

Be prepared for opening statements to follow immediately after seating of the jury. Testimony will also commence if time permits.

c. **Examination**. The Court provides background information to the panel and conducts a preliminary examination. The Court may allow each side time to examine prospective jurors on matters specific to the case.

d. **Peremptory challenges**. Refer to 28 U.S.C. § 1870 for civil cases. Refer to Rule 24 of the Federal Rules of Criminal Procedure for criminal cases.

25. JURY INSTRUCTIONS

a. **Joint or unified proposed jury charge, civil cases**. Confer in good faith on the charge to the jury. Seek agreement and reasonable compromise in accord with the law.

File a joint proposed charge. File a unified proposed charge even when not agreed in full. Observe the following:

- Submit a complete joint charge with the proposed instructions in the order that you would like them read to the jury.
- Where the parties agree, say so in the heading of that proposed instruction. Where the parties disagree, each party should offer their own proposed instruction in order.
- Present each instruction, definition, and question with supporting legal authority.
- Use the Fifth Circuit Pattern Jury Instructions whenever possible; and
- Identify with legal support any deviations from the pattern instructions.

b. **Jury charge, criminal cases**. The Prosecution must file a proposed jury charge based on the Fifth Circuit Pattern Jury Instructions and supported modifications. The Defense must file objections or its own supported modifications. These must be filed three working days before the Final Pretrial Conference.

Each side must provide supporting legal authority for all requested instructions, definitions, and questions. If either side believes the case requires an instruction not included within the Fifth Circuit Pattern Jury Instructions, the parties must confer in good faith to propose agreed wording.

c. **Court copies**. In civil cases, counsel for Plaintiff must also submit a Word version by email to the Court's Case Manager. In criminal cases, counsel for Prosecution and Defense must each also submit a Word version by email.

d. **Charge conference**. The Court will modify the proposed jury charge in light of the evidence during trial and further consideration of applicable law. The Court establishes a final jury charge at a charge conference near the close of all evidence and prior to closing arguments.

26. BENCH TRIALS

a. **Required filings**. Each party must file proposed findings of fact and conclusions of law at the time the Joint Pretrial Order is filed.

b. **Proposed findings of fact**. Each party must specify all proposed findings it anticipates establishing at trial. To the extent possible, cite deposition testimony, expected witness testimony, exhibits, or other evidence to support each proposed finding. Specify stipulated or agreed facts.

c. **Proposed conclusions of law**. Each party must cite legal authority to support all proposed conclusions of law it seeks at trial. Specify agreed propositions of law.

d. **Post trial Supplementation**. Following trial and at the time directed by the Court, the parties shall file a joint proposed findings of fact and conclusions of law. Submit the proposed findings and conclusions as one document and in the order the parties believe makes the most sense. Use black font for all agreed findings and conclusions. Make it clear in the proposed findings that this means that the parties are agreed as to those. Where the parties disagree, use different color font. For example, if the parties do not agree on finding of fact number 7, plaintiff should submit their proposed number 7 in red and the defendant should submit their proposed number 7 in blue. Also, where the parties do not agree, provide citations to specific testimony and evidence from trial.

e. **Court copies**. In civil cases, counsel for Plaintiff must also submit a Word version by email to the Case Manager. In criminal cases, counsel for Prosecution and Defense must each submit a Word version by email.

27. COURTROOM PROCEDURES AND CONDUCT

a. **Decorum**. The guidelines for courteous and orderly behavior set forth in the Local Rules are in Attachment 2. Counsel must ensure all participants always observe these conventions.

For emphasis, the Court does not tolerate personal invective directed at any person. Address one another, all witnesses, the jury, and the Court with courtesy and respect. Do not interrupt.

b. **Hours**. Hours during trial vary depending on the type of case and the needs of the parties, counsel, witnesses, jurors, and the Court.

The Court typically convenes the jury at 9:00 a.m. and typically adjourns at 5:00 p.m. Expect to arrive earlier and stay later than the jury for trial conferences. Court recesses one hour for lunch and twenty minutes each morning and afternoon.

c. **Courtroom access**. Arrange in advance by email with the Case Manager for any necessary access before or after normal hours.

Enter and leave the courtroom only by the front, public doors. Do not use the Court's other doors absent permission.

d. **Seating**. The Court designates the table closest to the jury for Plaintiff or Prosecution.

The Case Manager will note the original seating position of all counsel on a chart for the Court's reference. Remain situated throughout trial or hearing. Seek permission before making any change.

e. **New documents offered**. File all original documents as soon as practicable. Handing documents to the Court or Case Manager does not constitute filing.

Have ready for the Court two copies of documents filed during or within seven days prior to trial or hearing.

f. **Witnesses**. Counsel must instruct witnesses in advance on courtroom decorum and duties under the Rule when invoked.

The parties are responsible to summon their respective witnesses when called. The Court will not recess to permit counsel to call a missing witness unless a witness fails to appear on subpoena.

Arrange in advance for any necessary interpreter. The Court will not recess to permit counsel to obtain an interpreter unless a scheduled interpreter fails to appear.

When questioning witnesses:

- Stand at the lectern or remain seated at the party's table;
- Look at and address the witness, not the jurors;
- Seek leave of Court to approach the witness; and
- Make every effort to avoid cumulative testimony and to elicit from witnesses only information relevant to the issues in the case.

g. **Food and beverages**. Counsel and staff may have water available at counsel table or at the lectern. Witnesses may have water available on the stand.

The Court permits no other food or beverage in the courtroom generally. Counsel must ensure that all spectators refrain from eating or drinking. Seek permission if necessary.

h. **Jury deliberations**. Counsel must remain immediately available within the courthouse during deliberations. Seek permission if necessary.

i. **Juror contact after trial**. Observe LR47 and CrLR24.1 or seek permission.

28. COURTROOM TECHNOLOGY AND SUPPORT

a. **Electronic devices**. Everyone must turn off all cellular telephones, pagers, or similar devices while in the courtroom. The Court rarely grants any exception.

Counsel and staff may have their laptops or similar computers before the bar and available solely for litigation purposes.

Counsel must make certain that their clients, witnesses, and spectators comply.

b. **Audio, visual, and display equipment**. The Court makes available upon advance request easels with writing pads, projection, document camera, sound, and video equipment.

Parties may provide their own equipment upon advance arrangement with the Case Manager and courthouse security.

c. **Equipment and use testing**. Consult with the Case Manager on technology needs or special arrangements well in advance of trial or hearing.

Arrange access to the courtroom to set up and test equipment. The Court will not recess to resolve technical difficulties arising from lack of preparation or testing.

d. **Court reporting**. Make prior arrangements with the Court Reporter for daily or real-time transcription if desired.

e. **Copying service**. The Court's staff will not make copies absent unusual circumstances.

f. **Trial supplies**. Parties may leave their exhibits, boxes, and other materials in the courtroom during any recess and overnight. Restore all supplies to good order at the end of each day.

g. **Attorney conference rooms**. Attorney conference rooms are available during trial and hearing. Make advance request to the Case Manager. Restore the room to good order and return the key at the conclusion of trial or hearing.

29. MEDIATION AND SETTLEMENTS IN CIVIL CASES

a. **Periodic updates**. The Court encourages good faith settlement discussions between parties at appropriate intervals.

b. **Notice of settlement discussions**. Notify the Court by letter or email whenever serious settlement discussions are underway. The Court will postpone consideration of pending motions until advised of success or impasse.

c. **Notice of settlement and conditional orders of dismissal**. Immediately notify the Court by email of settlement. The Court will enter an order providing a certain amount of time for the parties to file dismissal documents.

d. **Settlements involving minors**. Counsel must jointly move for a hearing to appoint a guardian *ad litem* and to approve settlement of any suit involving a minor when a potential conflict of interests exists between the parent(s) and the minor.

Seek agreement on a guardian *ad litem* to recommend. Absent agreement, individually submit the names of qualified attorneys for consideration. The Court will appoint one suggested or of its own choosing.

30. REVISIONS TO PROCEDURES AND FORMS

a. **Revisions**. The. Court adheres to these procedure and forms to answer common questions that arise during litigation, to reduce confusion as the Court's preferences, and to guide the proper and efficient resolution of the parties' disputes. The Court revises these materials as experience dictates and provides updated versions on its website.

b. **Suggestions welcome**. The Court appreciates suggestions for modifications. Raise any suggestions at hearings in open court or submit them by letter to the Case Manager with copy to other counsel.