



SENIOR JUDGE GRAY H. MILLER

COURT PROCEDURES

**THE ATTACHED MUST BE SERVED
WITH THE SUMMONS AND COMPLAINT
OR REMOVAL PAPERS**

Your attention is directed to the Court Procedures and attachments, which are applicable to cases assigned to Judge Miller.

Plaintiff must serve these materials on all defendants with the summons and complaint. The Order for Conference also must be served on all defendants. A party removing a case to this court has the same obligations as a plaintiff filing an original complaint. A form of Certificate of Service In Removed Action is attached. Proof reflecting service of these materials must be filed with the Clerk.

In addition, parties may, at their option, proceed with civil cases before a Magistrate Judge. Attached is a Consent Form for use by parties that agree to consent to proceed before Magistrate Judge Christina A. Bryan. Please follow the instructions in the accompanying "Notice of the Right to Try a Civil Case Before a Magistrate Judge."

The accompanying procedures are to be used in conjunction with the Local Rules for the Southern District of Texas and not as a substitute for them, except where noted. The Local Rules of this District can be obtained on the District website at www.txs.uscourts.gov. The court requires strict compliance with these Local Rules.

SENIOR JUDGE GRAY H. MILLER

United States Courthouse
515 Rusk Avenue, Room 9136
Houston, Texas 77002
Telephone: (713) 250-5377

RUTH GUERRERO

Case Manager for Senior Judge Gray H. Miller
515 Rusk Avenue, Room 9010C
Houston, Texas 77002
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1. CONTACT WITH COURT PERSONNEL

- A. The court expects that parties will file documents through the District Court’s Case Management/Electronic Case Filing (“CM/ECF”) System. *See* Southern District Local Rule 5.1 and Administrative Procedures for CM/ECF. **Case-related telephone calls and email inquiries should be made only to the case manager.** Inquiries should **not** be made to the court’s law clerks. At the court’s discretion, law clerks may contact counsel; however, they will not discuss matters other than the subject of the call.
- B. Information about the status of documents, entry of orders, or docket entries should be obtained from the CM/ECF or Pacer Systems, or, if absolutely necessary, from the United States District Clerk’s Office at (713) 250-5500.
- C. The court’s caseload does not allow the case manager to respond to casual telephone inquiries about the status of motions or cases. All inquiries to the case manager should be by letter or delivered to Chambers, or by email.
- D. Correspondence with the court must be delivered or sent to the court’s Chambers:
- 1) Case-related correspondence should be addressed to:

Ruth Guerrero
Case Manager to Senior Judge Gray H. Miller
United States Courthouse
515 Rusk Avenue, Room 9010C
Houston, Texas 77002
Or by email:
cm4141@txs.uscourts.gov
 - 2) Letters should be used for minor procedural matters. **Do not** address substantive issues in letter or email form unless it relates to a discovery dispute (see § 6.C). All letters may be docketed at the court’s discretion.
 - 3) Copies of urgent documents (including letters) may be sent or hand-delivered to Chambers (*see* Emergencies, § 3 below), or may be emailed to the case manager and counsel prior to and in the same manner as the document is transmitted to the court.

2. COURTESY COPIES OF DOCUMENTS

- A. All letters to the court must be delivered or sent to Chambers, or transmitted by email.

- B. The parties **must** forward promptly to Chambers courtesy copies of (i) all documents that exceed ten (10) pages in length, including exhibits and attachments and (ii) documents pertaining to matters to be heard by the court within seven (7) days after the document is filed. Unless this rule is followed, the court will not consider any document filed within seven days of any court appearance. Parties at their option may forward to Chambers courtesy copies of other documents. **DO NOT EMAIL** copies of documents to Chambers unless specifically authorized to do so by the court.

3. EMERGENCIES

- A. Applications for restraining orders or for other immediate relief shall be filed electronically through the CM/ECF system and all related communications with the court must be through the case manager. Such 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, or an explanation of why such contact is not legally required. *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. Motions for extension of deadlines or cut-off dates in the Docket Control Order are **not** emergencies. (*See* Continuances, § 4.)

4. CONTINUANCES

- A. Pursuant to The Civil Justice Reform Act of 1990, 28 U.S.C. § 473(b)(3), and the Cost and Delay Reduction Plan adopted by the Court on October 24, 1991, "**all requests for extensions of deadlines for completion of discovery or for postponement of the trial [must] be signed by the attorney and the party making the request.**"
- B. Agreements or joint motions among counsel for continuance are not binding on the court. Motions for continuance will be granted only at the court's discretion.
- C. Vacation requests will be respected if they are made well in advance of a trial setting.
- D. A trial will **not** be continued because of the unavailability of a witness. Counsel are expected to anticipate such possibilities and should be prepared to present testimony by written deposition, videotaped deposition, or by stipulation.

5. APPEARANCES AND WITHDRAWALS OF COUNSEL

- A. An attorney who appears at a hearing or conference shall:
 - 1) be familiar with the case,
 - 2) have authority to bind the client, and
 - 3) be in charge for that appearance.

- B. Out-of-town counsel wishing to appear at a conference or hearing by telephone or video must submit a written request to the case manager at least **three business days** prior to the setting. The court will attempt to accommodate such requests.
- C. Counsel or a pro se litigant will notify the case manager **immediately in writing** of the parties' settlement of any matter set for trial or hearing before the court. Upon receipt of a notice that the entire case is settled, the court may enter a conditional order of dismissal.
- D. Failure to appear when notified of a setting may subject the attorney and/or his or her client to sanctions, including dismissal for want of prosecution and/or other appropriate order or judgment.
- E. Motions for admission *pro hac vice* shall include the attorney applicant's averment that he or she has familiarized him/herself with the Local Rules of the Southern District of Texas and these Procedures. Attorneys located in the Houston area will not be admitted *pro hac vice*.
- F. If an attorney who has made an appearance in a case desires to withdraw as counsel and this withdrawal will leave his or her client pro se, the attorney must serve a copy of the motion to withdraw on his client by certified mail, return receipt requested. The motion to withdraw must include the last known address and phone number of the client, as well as a certificate of service indicating that the motion was properly sent to the client.

6. MOTION PRACTICE

- A. **General Guidelines:** The court generally follows the written motion practice described in the Local Rules. However, if counsel believes an oral hearing would assist the court, a request for oral hearing may be made. The case manager will notify counsel if the court determines that an oral hearing would be beneficial.
 - 1) Counsel must make serious and timely efforts to confer with opposing counsel on all motions to try to reach agreements on the relief sought by movant.
 - 2) Every non-dispositive motion must contain a certificate of conference and a proposed order granting the relief requested. Failure to comply may result in the party's pleading being denied or stricken.
 - 3) All motions except motions pursuant to FED. R. CIV. P. 56 must be accompanied by a separate proposed order granting or denying the relief requested.

- 4) Opposed motions and responses generally will be considered by the court after the reply date, which is 28 days after filing. However, when circumstances dictate, the motion may be considered prior to the expiration of the full 28 days. The submission and reply dates may be extended by agreement of counsel except when the extension violates a court-imposed deadline. Counsel must immediately notify the court by letter or agreed order of such an agreement.
- 5) Reply briefs filed by movants will be considered if submitted before the court rules on the motion. Reply briefs should be submitted within seven (7) days after the non-movants' response to the motion is filed and should not exceed five (5) pages in length.
- 6) Any party wishing to make a discovery motion should arrange for a conference with the court before submission of any motion papers. *See* "Discovery and Scheduling Disputes" below.
- 7) Because most motions will be ruled on without an oral hearing, brief, clear motion papers are very important.
- 8) All pleadings or other documents filed under seal in a civil case must be identified as "SEALED" and by the title of the document. For example, a motion for summary judgment filed under seal must be docketed as "MOTION for Summary Judgment (SEALED)." No pleading may be filed for docketing simply as "SEALED DOCUMENT."

B. Submitted Motions – Need for Expedited Decision:

- 1) The court will rule on motions as soon as possible. Counsel of record and *pro se* parties will be furnished with copies of orders.
- 2) If a pending motion requires resolution on an expedited basis, please advise the court by letter. *See supra* Section 1.D.

C. Discovery and Scheduling Disputes/Pre-Motion Conferences: The court believes that most discovery and schedule-related disputes, especially those dealing with (i) scheduling, (ii) the number, length and form of oral and written questions, (iii) the responsiveness of answers to oral and written questions, and (iv) the mechanics of document productions, including protective orders and the proper method of raising claims of privilege, can be resolved by counsel without the intervention of the court.

- 1) Counsel are responsible for conferring in good faith to resolve discovery and scheduling disputes.

- 2) If counsel for the parties are unable to reach an agreement, a conference with the court MUST be sought by the party wishing to raise discovery and schedule-related matters with the court.
 - a. The party seeking the conference must submit a one-to-two page letter to the court with copies to all counsel of record and unrepresented parties, identifying the disputes and setting out the issues to be addressed. This is not a brief and is not intended for argument. Instead, it is in the nature of an agenda for the pre-motion conference.
 - b. The request must specify the date, time and place of the parties' prior out-of-court discovery conference and the names of all counsel participating therein. If counsel have been unable to confer because of the unavailability or unwillingness of certain counsel to do so, the statement shall recite the facts concerning attempts to confer.
 - c. Counsel for opposing parties shall submit before the conference, if feasible, a response to the movant's letter, within the same limits.
 - d. The letter and response shall be submitted to the case manager via email or fax.
 - e. The court will dispose of discovery disputes at the conference to the extent possible. If a written motion is necessary, the issues to be addressed and a briefing schedule will be set during the conference.
- 3) If relief is sought against a non-party to the litigation, the relief may be sought by motion.

D. **Young Lawyers:** The court is aware of a trend today in which fewer cases go to trial, and in which there are generally fewer speaking or "stand-up" opportunities in court, particularly for young lawyers (i.e. lawyers practicing for less than seven years). The court strongly encourages litigants to be mindful of opportunities for young lawyers to conduct hearings before the court, particularly for motions where the young lawyer drafted or contributed significantly to the underlying motion or response. In those instances where the court is inclined to rule on the papers, a representation that the argument would be handled by a young lawyer will weigh in favor of holding a hearing. The court understands that there may be circumstances where having a young lawyer handle a hearing might not be appropriate—such as where no young lawyers were involved in drafting the motion, or where the motion might be dispositive in a "bet-the-company" type case. Even so, the court believes it is crucial to provide substantive speaking opportunities to young lawyers, and that the benefits of doing so will accrue to young lawyers, to clients, and to the profession generally. Thus, the court encourages all lawyers practicing before it to keep this goal in mind.

- E. **Entry of Default and Motions for Default Judgment:** Parties seeking entry of default and default judgment must follow the procedures in Federal Rule of Civil Procedure 55, Local Rule 5.5, and the Servicemembers Civil Relief Act, 50 U.S.C. App. § 521. However, there is no need to file a request for a clerk's entry of default under Rule 55(a). Instead, incorporate such a request in the motion for default judgment under Rule 55(b)(2). If the court grants the motion for default judgment, it will enter the default as part of the default judgment process.

7. MEMORANDA OF LAW

- A. **Page Limits and Briefing Requirement:** The court requires concise, pertinent, and well organized memoranda of law. Without leave of court, any memorandum shall be limited to 25 pages. Reply briefs should not exceed five (5) pages in length. Any memorandum that has more than ten (10) pages of argument must contain the eight (8) items listed below. All memoranda of law must contain items 3, 4, 6, and 7 below.
- 1) A table of contents setting forth the page number of each section, including all headings designated in the body of the brief or memorandum.
 - 2) A table of citations of cases, statutes, rules, textbooks and other authorities, alphabetically arranged.
 - 3) A short statement of the nature and stage of the proceeding.
 - 4) A statement of the issues to be ruled upon by the court and, with respect to each issue, a short statement (supported by authority) of the legal standard or standard of review.
 - 5) A short summary of the argument.
 - 6) Succinct headings dividing the argument into separate points.
 - 7) A short conclusion stating the precise relief sought.
 - 8) Proposed orders (except on summary judgment motions).
- B. **Courtesy Copies:** A courtesy copy of the memorandum is to be delivered to chambers pursuant to the requirements stated in § 2. Do not email pleadings to Chambers unless specifically authorized to do so by the court.

C. **Copies of Authorities and Other Material Cited:**

- 1) Please append copies of cases and the relevant parts of authorities that are cited in a brief, memorandum or motion only if the authorities are not found in the United States Code, United States Supreme Court Reporter, Federal Reporters, Federal Rules Decisions, Federal Supplement, Southwestern Reporter Second or Third, Westlaw, or Vernon's Revised Statutes, and Codes Annotated.
- 2) Copies of supporting affidavits, deposition testimony excerpts, and other discovery referred to in the briefs should be separately filed in one or more appendices of no more than 40 pages. Citations to deposition or affidavit testimony must include the appropriate page or paragraph numbers. Citations to other materials with three or more pages must include some sort of pinpoint identification (section number, page number, Bates stamp number).

8. INITIAL PRETRIAL CONFERENCES, CASE MANAGEMENT PLANS, AND SCHEDULING/DOCKET CONTROL ORDERS

Please refer to Local Rule 16.1 and the court's Order for Conference. In addition:

A. **Joint Discovery/Case Management Plan:** A Joint Discovery/Case Management Plan (see attached form) must be filed at least three (3) business days before the due date in the Order for Conference.

B. **Scheduling/Docket Control Order:**

- 1) As a general rule, the Court does not hold a scheduling conference. Once all parties are before the Court, they should agree on a scheduling order/docket control order and file the proposed agreed Scheduling Order (*see* attached form) in CM/ECF. The following requirements apply when submitting the proposed agreed order:
 - a. The dispositive motion and all other pretrial motion deadlines must be the same date.
 - b. The discovery deadline should be before the motions deadline.
 - c. There must be three months between the motions deadline and docket call.
 - d. Docket call must be on the last Friday of the month.
 - e. The docket call will be either eleven, twelve, or thirteen months from the date the case was filed.

- 2) In the event the parties are unable to reach an agreement on the schedule before the due date, they should contact the court's case manager at cm4141@txs.uscourts.gov to schedule a hearing.
 - 3) The Scheduling/Docket Control Order will govern throughout the case. The deadlines shall not be modified except by leave or court upon a showing of good cause.
 - 4) If a change to an existing Scheduling/Docket Control Order is requested, the parties shall submit recommendations for adjusting all dates in the Scheduling/Docket Control Order that follow the date sought to be modified.
 - 5) Counsel shall include their email addresses in their filings.
- C. **Added Parties:** If new parties are joined after the Scheduling/Docket Control Order is entered, the party causing such joinder shall provide the new parties with the following:
- 1) Copies of all orders previously entered in the case.
 - 2) The operative Scheduling/Docket Control Order.
 - 3) These Court Procedures.

9. REQUIRED TRIAL MATERIALS

- A. **Joint Pretrial Order:** Joint Pretrial Orders (*see* attached form) must be signed by all counsel. All parties are responsible for complying with all requirements to prepare the Joint Pretrial Order.
- B. **Other Required Documents:** With the filing of the Joint Pretrial Order, each party also must file:
- A. **For All Trials and Evidentiary Hearings:**
 - a. **Exhibit List** (*see* attached form). Copies of any exhibits not previously produced shall be made available no later than the date the joint pretrial order is filed.
 - b. **Witness List** for live witnesses.
 - c. **Designation** of deposition excerpts for witnesses being called by deposition. A copy of each deposition excerpt must be provided to the court.

- d. **Objections**, if any, to an opponent's exhibits must be filed at least seven (7) days before trial with copies of disputed exhibit and authority. *See* S.D. TEX. LOCAL RULE 46. A party requiring authentication of an exhibit must notify the offering party in writing within seven (7) days after the exhibit is listed and made available. Failure to object in advance of the trial in writing concedes authenticity. *See* S.D. TEX. LOCAL RULE 44.1.
- 2) For **Jury Trials**, the parties must file a single, joint proposed jury charge, including all necessary instructions, definitions, and questions. Preliminary Instruction and Jury Charge templates are located on the court's website: <https://www.txs.uscourts.gov/page/judge-millers-procedures>.
- a. **Each** requested **instruction** must be numbered and presented with authority.
 - b. The parties shall include in the proposed jury charge all necessary instructions or definitions. The instructions shall, at a minimum, include (1) the *prima facie* elements of each cause of action and defense asserted, (2) legal definitions required by the jury, (3) items of damages, and (4) methods of calculation of damages. The court's templates (*see* attached forms) for the preliminary instructions and jury charge should be used by counsel as a starting point. Changes to the templates should be clearly delineated and should follow the Fifth Circuit Pattern Jury Instructions, as modified by case law or statutory amendments, whenever possible. Any deviations must be identified and accompanied with legal authorities for the proposed deviation.
 - c. Even if the parties, in good faith, cannot agree on all instructions, definitions, or questions, the parties should nonetheless submit a single, **unified charge**. Each disputed instruction, definition, or question should be set out in bold type, underlined or italicized, and identified as disputed. Each disputed item should be labeled to show which party is requesting the disputed language. Accompanying each instruction shall be all authority or related materials upon which each party relies.
 - d. The parties shall also submit the proposed charge electronically to the case manager in Microsoft Word or in Corel WordPerfect X3 or higher.
 - e. The parties shall submit a trial memorandum of law addressing the law governing the case and all contested issues.

- 3) For **Non-Jury Trials**, each party must file:
- a. **Proposed Findings of Fact** (electronically in Corel WordPerfect X3 or higher, or Microsoft Word). Counsel are strongly encouraged to include references to testimony and exhibits which support each proposed finding;
 - b. **Proposed Conclusions of Law** (electronically in Corel WordPerfect X3 or higher, or Microsoft Word). Each proposed conclusion of law will contain citation of legal authority supporting the conclusions; and
 - c. **Memorandum of Law**. The memorandum of law, proposed findings of fact and proposed conclusions of law should, at a minimum, address the following: (1) the *prima facie* elements of each cause of action and defense asserted, (2) legal definitions, (3) components of damages, and (4) methods of calculation of damages.
- C. **Standing Order in Limine:** This court uses a Standing Order in Limine, which addresses common evidentiary issues that occur during trial. (*See* attached document). This order applies automatically in every civil case. For issues not covered by the Standing Order in Limine, counsel may file a supplemental motion in limine limited to those issues.

10. TRIAL SETTINGS

- A. **Civil Cases:** The court sets trial dates at Docket Call in civil cases. Docket Call is a final pretrial conference. Parties should be prepared to answer questions on all pending motions. Pending motions may be ruled on at Docket Call. Trial may be set for any day after the Docket Call. If a case is not reached for trial when set, it is subject to trial during the next two weeks on 48 hours' telephone notice. A case not reached for trial will be reset as soon as possible.
- B. Unless an attorney has actually commenced trial in court, another trial setting will not cause the court to pass a trial setting in a case.
- C. Any lead counsel who has been actively engaged in the litigation of a matter may seek an automatic continuance of a trial setting for up to 120 days for the birth or adoption of a child.
- D. Information on Trial Settings. The case manager cannot definitively ascertain when a case will be reached or where a case is on the trial docket. Any predictions given by the case manager are only "educated guesses" and are NOT binding on the court.

11. EXHIBITS

- A. All exhibits must be **pre-marked** and exchanged among counsel at the time the Pretrial Order is filed, unless a later date is agreed to by counsel. Generally, in civil cases, exhibits that have not been disclosed to opposing counsel **prior** to trial will not be received in evidence. The offering party shall mark its name, the case number, and the exhibit number on each exhibit to be offered.
- B. A party requiring authentication of an opponent's exhibit must notify offering counsel in writing within seven (7) days after the exhibit is identified and made available for examination. Failure to do so is an admission of authenticity. *See* S.D. TEX. LOCAL RULE 44.1.
- C. Unless otherwise directed by the court, a party in a civil case may offer in evidence any exhibits listed in the final Joint Pretrial Order **unless** opposing counsel files specific **written objections** with supporting authority at least seven (7) days before trial. *See* S.D. TEX. LOCAL RULE 46. Exhibits will be offered and admitted into evidence as the first item of business at the pretrial conference unless opposing counsel has filed written objections. The court endeavors to rule on objections to exhibits outside the presence of the jury and will do so prior to opening statements, to the extent possible.
- D. The parties shall provide the court with an original and two complete sets of exhibits for use at trial.
- E. **Trial Procedure as to Exhibits**
- 1) Counsel may **not** pass exhibits to the jury during trial without obtaining permission in advance from the court.
 - 2) Admitted exhibits will go to the jury during its deliberations.
- F. **Disposition of Exhibits:** At the conclusion of trial, the attorneys shall withdraw all exhibits that were admitted into evidence and keep custody of the exhibits pending any appeal. The case manager will provide a form for the attorneys to certify that they have withdrawn the exhibits. Upon filing of any post-trial Notice of Appeal, all parties must immediately file in CM/ECF all admitted exhibits for certification and transmittal to the Fifth Circuit Court of Appeals or other court of review.

12. EQUIPMENT

- A. **Sound and Video Equipment:** The court has substantial projection, ELMO, sound and video equipment in the courtroom. Counsel are invited to use that equipment during trial. Counsel who seek to test the equipment prior to trial shall contact the case manager by email, letter or phone, so arrangements can be made to accommodate building security. Parties also may provide their own equipment, but special arrangements must be made with the case manager prior to trial.
- B. **Other:** Easels with writing pads are available for use in the courtroom upon request to the case manager prior to trial.

13. COURTROOM PROCEDURES

- A. **Hours:** The court's hours during trial will vary depending upon the type of case and the needs of the parties, counsel, witnesses, and the court. Court normally will convene at 9:00 a.m. and adjourn by 5:00 p.m., with a 12:15 p.m. to 1:30 p.m. lunch recess. The court generally does not try cases on Fridays, due to civil and criminal conferences, sentencings, and other matters scheduled for that time. These hours are subject to change.
- B. **Access at Other Times:**
- 1) Counsel needing access to the courtroom to set up equipment or exhibits before or after normal hours of court must arrange in advance with the case manager to have the courtroom open.
 - 2) Enter and leave the courtroom only by the front doors; do not use the court's entrance or the side entrances without permission.
- C. **Telephones:** Telephone messages for counsel generally will not be taken by the judge's staff, and counsel shall refrain from requesting use of telephones in Chambers. A public telephone is available in the clerk's office.
- D. **Filing of Documents:** Handing documents to the court or case manager does **not** constitute the filing of documents.
- 1) All original documents must be filed in the court clerk's office or electronically.
 - 2) Copies of documents filed within seven (7) days prior to and during trial should be submitted to the case manager **IN DUPLICATE**.

- E. **Attorney Conference Room:** Attorney conference rooms are available upon request to the judge's case manager. A key will be given to counsel for use throughout the trial. Counsel must clear the room of all materials and return the key to the judge's case manager at the conclusion of the trial.
- F. **Decorum:**
- 1) Counsel and parties will comply with S.D. TEX. LOCAL RULE 83.8 and Cr. L.R. 57.2 regarding courtroom behavior. These procedures are strictly enforced.
 - 2) Counsel shall stand when addressing the court. Counsel may use a lectern positioned appropriately to make oral argument. Counsel may question witnesses standing at the lectern or seated at counsel table.
 - 3) Counsel will ensure that they, all parties and all witnesses refrain from drinking (other than water), eating, chewing gum, or reading newspapers, books, etc. in the courtroom. All beepers, pagers, and cellular phones must be turned off in the courtroom.
- G. **Witnesses:**
- 1) Counsel are responsible for summoning witnesses into the courtroom and instructing them on courtroom decorum. Witnesses may be questioned by the attorney seated at counsel table or standing at the lectern.
 - 2) Counsel should bear in mind the court's hours and arrange for witnesses accordingly. The court will not recess to permit counsel to call a missing witness, unless he or she has been subpoenaed and has failed to appear.
 - 3) Counsel shall make every effort to elicit from the witnesses only information relevant to the issues in the case and to avoid cumulative testimony.
- H. **Seating Assignments:** In civil cases, the court does **not** designate seating at counsel tables. Seating is determined on a first-come, first-served basis on the first day of trial. In criminal cases, the Government is assigned the counsel table closest to the jury.
- I. **Jury Matters:**
- 1) While the jury is deliberating, counsel are to remain near the courtroom to be immediately available for jury notes or a verdict, unless given permission to leave by the court.

- 2) After the jury is excused, counsel may not contact jurors unless permitted to do so by the court. *See* S.D. TEX. LOCAL RULE 47.

14. VOIR DIRE

The court generally conducts a preliminary examination of the jury panel.

- A. Following the court's examination, each side in civil cases usually will be allowed to examine the panel briefly, provided that the proposed voir dire questions are submitted as part of the Joint Pretrial Order.
- B. The court will conduct most, if not all, of the examination of the panel in **criminal cases**, although the court makes a case-by-case determination.

15. DEPOSITIONS

- A. The court will accept the parties' agreement to use a deposition at trial even though the witness is available; otherwise follow FED. R. CIV. P. 32.
- B. Counsel will designate the portion of a deposition to be read by citing pages and lines in the Joint Pretrial Order. Objections to those portions (citing pages and lines) with supporting authority must be filed at least seven (7) days before the final pretrial conference. The court will attempt to rule on the objections before trial commences.
- C. Use of videotape depositions is permitted if counsel edit to resolve objections.

16. SETTLEMENTS AND ORDERS OF DISMISSAL

A. Motions resolved by the parties:

If the parties are able to resolve a pending motion without court intervention, they should advise the case manager **immediately**. The court will then deny the motion as moot.

B. Settlements:

- 1) **Upon the settlement of any case set for conference, hearing, or trial, counsel must immediately notify the case manager in writing, by letter, or by email (cm4141@txs.uscourts.gov).**
- 2) Upon receipt of parties' announcement of settlement, the court will enter a 30 or 60-day conditional order of dismissal, which permits a party to move to reopen the case if final settlement cannot be completed within the allotted time.

- 3) Upon settlement of a suit involving a minor plaintiff, counsel must jointly move for appointment of a guardian *ad litem* if there is a potential conflict of interests between the parent(s) and the minor.
 - a. If counsel cannot agree on a guardian *ad litem*, the court will make the appointment. Counsel may submit the names of qualified attorneys they propose for the appointment.
 - b. Contemporaneously with the motion for appointment, counsel must notify the case manager by letter requesting a settlement conference.
 - c. Prior to the settlement conference, counsel will furnish the court a copy of the proposed final judgment and any additional information which would be helpful to the court in approving the settlement. Any motion by the guardian *ad litem* requesting that funds be placed in the registry of the court must be filed prior to the conference and approved by the Finance Section of the Clerk's Office.
 - d. All counsel and parties plaintiff must attend the settlement conference unless excused by the court.

C. **Orders of Dismissal for Want of Prosecution:** Any defendant upon whom service has not been perfected within 90 days after the complaint is filed will be dismissed for want of prosecution in accordance with FED. R. CIV. P. 4(m).