

CIVIL AND CRIMINAL PRACTICES AND PROCEDURES

A. Commencement of Action and General Procedures

1. Initial Status Conference

The Initial Status Conference is held one month to six weeks after filing. Plaintiffs should be prepared to make allegations to support the requisite elements of their causes of action. Defendants should be prepared to discuss any defenses and counterclaims. Counsel should be prepared to argue any pending motions. Counsel should present any present or anticipated discovery disputes and state what counsel expects to receive in Rule 26(a) disclosures if such disclosures were not made prior to the initial conference. May be held over the telephone if all parties agree.

2. Initial Scheduling Order

The Scheduling Order sets the trial date, the final pretrial conference, the deadline for filing the final pretrial order, the deadline for filing dispositive motions, the discovery deadline, the deadline for joinder of parties, the deadline for amendment of pleadings, the deadline for designation of experts, and the deadline for requests for hearings on expert testimony and/or qualifications (i.e. Daubert and Markman).

Standard discovery time limits are usually set two weeks after dispositive motion deadline but parties may extend. After the Scheduling Order is signed, parties may extend by agreement any of the deadlines in the order except the trial date, the final pretrial conference, the deadline for filing the final pretrial order, the deadline for filing dispositive motions, and the deadline for Daubert and Markman hearings.

3. Policy Concerning Contact with Judge and Clerks

The judge does not allow any ex parte communications with her clerks or herself. Communications must be via written pleadings or telephone contact with the case manager.

4. Motions and Briefs

All motions and briefs must be filed electronically pursuant to Local Rule 5.1. All exhibits and cases must be hyperlinked.

5. Electronic Case Filing

Required. See Local Rule 5.1.

B. Pretrial Procedures - Civil

1. Motion Practice

Motion hearings are set as required. Expedited hearings are set for emergency motions. Memoranda of law is limited to 25 pages unless parties request otherwise and receive leave of Court to submit more pages. Citation form must conform to Bluebook form. One copy is required. Motions are considered on written submission unless parties request oral argument.

2. Settlement

Judge Jack requires clients to appear. It is her practice to refer all litigants before her to mediation. However, she will not order any party to mediate who does not wish to do so. Any party who feels its action is inappropriate for mediation should so inform the judge at the initial pretrial conference.

If a mediation order is entered at the initial pretrial conference and a party subject to that order subsequently decides that mediation is no longer appropriate, that party may unilaterally apply for the vacation of the mediation order as it applies to that party. The motion for unilateral vacation of the mediation order must simply state that the party no longer feels the action is appropriate for mediation. The judge's standard mediation order is a generic order which leaves the choice of the mediator and the place and time of mediation to the parties. Mediators are not to have any communication with the judge. The results of mediation are to be reported by one-line notice pleading which merely states either "The case has settled" or "The case has not settled."

3. Discovery Motions

The number of interrogatories or depositions is decided on a case-by-case basis. Judge Jack requires parties to hold pre-motion conferences in order to resolve disputes. Referrals are not made to magistrate judges.

Pursuant to Rule 5.4 of the Local Rules of the Southern District of Texas, discovery documents shall not be filed with the clerk. Further, it is Judge Jack's requirement that no written discovery motions be filed without prior telephonic permission. The judge allows counsel instant access to the court for resolution of discovery disputes.

Counsel are instructed to place a joint telephone call to the judge's case manager who will set a prompt hearing for the resolution of any discovery disputes, usually within an hour or two of being notified of the dispute. The case manager will then schedule a live or a telephonic discovery hearing, and counsel involved in the discovery dispute will place a conference call to the judge for a discovery hearing. Any party who unreasonably refuses to participate in the initial call to the judge's case manager or in the subsequent call to the court may be subject to sanctions.

Prior to the telephone conferences, parties may submit any relevant written material (i.e., responses to interrogatories) to the case manager so long as all opposing parties are notified in advance of the tender.

4. Pretrial Conference/Pretrial Orders

The district has a standard pretrial order form. Judge Jack's standard pretrial order form is the same as the district form. Judge Jack requires the following in pretrial orders: statement of the case, disputed factual issues, witness lists, stipulations, trial exhibits (parties must pre-mark and exchange proposed exhibits by the date set for the filing of the pre-trial order), jury instructions (parties should submit an agreed jury charge or specify areas of disagreement), proposed findings of fact and conclusions of law, and motions in limine. Other matters also required in the joint pretrial order are: jurisdiction, motions, settlement status, agreed and contested propositions of law, trial issues - length and logistics; and proposed voir dire.

C. Pretrial Procedures - Criminal

1. Bail Procedures

A magistrate judge makes bail determinations. Procedure for appeal is by motion. Magistrate bond hearing transcript must be included in any appeal.

2. Discovery Procedures

Jencks Act material should be disclosed pretrial.

3. Pleas

Pleas should be written but non-written pleas accepted. Nolo contendere or Alford pleas are not taken. Will accept recommendations of plea agreements that involve sentencing recommendations which do not bind the court.

D. Trial

1. Trial Date

Trial month for civil cases is set at initial conference. Civil cases are tried on trailing docket. Continuances are not granted in civil cases absent an emergency. Judge Jack's daily trial schedule is from 8:00 a.m. to 6:00 p.m. with a lunch break from 12:00 noon to 1:30 p.m. with mid-morning and mid-afternoon breaks.

2. Voir Dire

Attorneys conduct voir dire in civil cases - the judge will ask limited voir dire questions if requested by the parties. Both the judge and attorneys conduct voir dire in criminal cases. Peremptory challenges are made at the end of voir dire.

3. Decorum

Judge Jack requires witness examinations to be conducted at a lectern. Witnesses, jurors and opposing counsel should be addressed by last names only with appropriate titles. Counsel should ask permission to approach a witness. Appendix C to the Local Rules of Southern District of Texas should be referred to for any other procedures or pertinent information.

4. Opening Statement

Time limits are decided on a case-by-case basis. The time limit is set at the final pretrial conference. Pre-admitted exhibits can be used in opening statements. Opening statements may not be reserved.

5. Stipulations

Stipulations must be submitted in writing.

6. Marking Exhibits

Counsel must pre-mark exhibits. Objections in civil cases are taken up at the final pretrial conference. Establishing the distinction between evidentiary exhibits and illustrative aids is required.

7. Depositions

Depositions may be read or shown (in case of video) to the jury, but not admitted as a separate exhibit. All objections made during depositions are heard at final pretrial conference. All depositions must be reviewed by the parties prior to final pretrial conference so that unnecessary deposition testimony is excluded. Parties must tender the parts of deposition to be used at trial to opposing parties before final pretrial conference.

8. Use of Experts

Daubert challenge deadlines are set out in Scheduling Order.

9. Courtroom Technology

Video can be played on analog or digital format with the courtroom equipment. The court provided VCR plays both VHS and SVHS tapes. The court computer runs on a Windows operating system and will play most digital formats. S-Video, Composite Video and RCS inputs are available in the courtroom to plug in auxiliary equipment. Courtroom is equipped with overhead projector. (link to video of courtroom technology: <http://www.txs.uscourts.gov/technology/corpus.htm>).

10. Daily Transcripts

Parties are required to arrange for daily transcripts if they so desire.

11. Closing Arguments

Usually a conference is required before summation. A time limit is set on a case-by-case basis at the final pretrial conference. Closing statements are made before the jury is charged. Court's charge may be used during closing.

12. Jury Procedures

Jurors are permitted to take notes if the parties agree. Jurors are permitted to inspect exhibits at trial and inspect them in the jury room. Jurors are not permitted to ask questions, either orally or in writing, unless agreed by the parties. Oral instruction is given after closing statements. The written charge is sent to the jury room.

A computer is located in the jury deliberation room for viewing electronic evidence. The computer does not have access to the internet. Written instructions are provided for using the computer. If jurors need assistance using the equipment, a court clerk can assist only after agreed by the parties.

13. Sentencing Practices

Sentencing recommendations of the probation officer are sometimes divulged.

14. Miscellany

Judge Jack's courtroom is equipped with standard courtroom technology: evidence camera/document camera; projector and projection screen; monitors; annotation tools; color video printer; audio system; digital recording; VCR; PC with internet access; interpreter and hearing impaired system.

The judge endorses the use of technologies in her courtroom and encourages the use of the court provided equipment, but requires litigants to notify the case manager prior to the day of

setting. It is recommended that parties test connecting their own equipment to the court's system prior to their court setting. The case manager should be contacted to set up a time to test the equipment in the courtroom with the assistance of the court's systems department. Consideration of shared use of equipment should be taken.

Pre-trial disclosures: After discovery is complete, disclosure by the parties as to the equipment and software they will use in the courtroom at trial; exhibits to be used at trial; any digital alteration of documents, photos and videos (other than that occurred in the process of creating the file); and completed animations and their underlying files is required.

Discovery: The judge recommends the use of document depositories for cases involving high volumes of documents. Each party must transmit the digital files of its discovery materials to the storage site using file-naming conventions agreed by the parties. Only people with the password can search and download files as needed.

Digital Evidence: It is recommended when possible to provide the court with multiple formats when admitting digital evidence. If evidence is being displayed in a digital format, have an analog copy also available. When conducting digital presentations, provide the court with at least two hard copy printouts of the presentation.