FACT SHEET FOR
SENIOR JUDGE DAVID ALAN EZRA

CIVIL CASES

Contacting the Court

1. Who should be contacted regarding scheduling matters?

   Contact Priscilla Springs, Courtroom Deputy, at (210) 472-6550 ext 5016, or priscilla_springs@txwd.uscourts.gov.

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

   An attorney may address a procedural question that cannot be answered by the Federal Rules of Civil Procedure, Local Rules, or the Judge's Scheduling Order to the Courtroom Deputy. If the Courtroom Deputy is unable to answer your question you may be transferred to a Law Clerk. Please do not call the Judge's staff to inquire about substantive issues.

   The Judge's chambers are in San Antonio; however, the Judge's Courtroom for hearings and trials will be in the Division where the case was filed.

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

   Contact Priscilla Springs, Courtroom Deputy, at (210) 472-6550 ext 5016, or priscilla_springs@txwd.uscourts.gov.

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

   Please first call Priscilla Springs, Courtroom Deputy, at (210) 472-6550 ext 5016. If unable to reach Courtroom deputy and immediate assistance is required, you may contact Chambers at (210) 472-5870.

5. May parties contact the court during depositions?

No.

6. What procedures should be followed if a party expects to be filing a motion for a temporary restraining order or other expedited relief?

A courtesy call should be made to Priscilla Springs, Courtroom Deputy, at (210) 472-6550 ext 5016 and notice should be given to the opposing party of the fact of filing or notice of any hearing set. Parties should comply with Federal Rule of Civil Procedure 65 and the Local Rules.

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

Any such request should be made by motion.

8. Is it permissible to contact the court regarding the status of motions in a civil case? If so, should the law clerk or the courtroom deputy be contacted?

Yes, you may contact Priscilla Springs, Courtroom Deputy, at (210) 472-6550 ext 5016.

9. Should the parties notify the courtroom deputy, the law clerk, or another person if a contested motion in a civil case has been resolved?

Please contact either Priscilla Springs, Courtroom Deputy, at (210) 472-6550 ext 5016 or Chambers Staff at (210) 472-5870.

General Pretrial Procedures

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

The Court will send the parties an order requiring them to confer and submit a proposed scheduling order to the Court. Failure to submit a proposed scheduling order within the Court's thirty (30) day deadline will result in the Court issuing its own order.

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

Any such request should be made by motion.

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

Discovery matters are routinely referred to a Magistrate Judge assigned to the case. The Court may refer various other civil matters to a Magistrate Judge on a case by case basis. Otherwise, pursuant to Local Rule, Appendix C, various pretrial matters

regarding civil cases filed by prisoners and reviews of administrative agency proceedings (social security appeals) are assigned to a Magistrate Judge.

Procedures Specific to Civil Cases

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

Pursuant to the Rules, the parties are to exchange them, but NOT file them with the Court.

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

All of Local Rule CV-88 applies.

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

The party removing the action from state court should ensure that all documents previously filed in state court are attached to the removal documents. A copy of the state court docket sheet should be included. Parties must re-urge any motion that was filed in state court.

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

A final pretrial conference will usually be conducted approximately one week prior to the date that the trial is expected to begin. Motions in limine and objections to exhibits will heard and ruled upon at that time.

17. Does the court typically have docket calls in civil cases? If so, when during the case?

No.

18. Does the court have any requirements for pretrial submissions in civil cases in lieu of or in addition to those in the local rules?

Pursuant to Local Rule 16(e), the Court expects the parties to submit the following <u>two weeks</u> prior to the scheduled pretrial conference or trial if a pretrial conference is not set:

(1) A list of questions the party desires the court to ask prospective jurors.

(2) A statement of the party's claims or defenses to be used by the court in conducting voir dire. The statement shall be no longer than one-half page with type double-spaced.

(3) A list of stipulated facts.

(4) An appropriate identification of each exhibit as specified in this rule (except those to be used for impeachment only), separately identifying those that the party expects to offer and those that the party may offer if the need arises.

(5) The name and, if not previously provided, the address and telephone number of each witness (except those to be used for impeachment only), separately identifying those whom the party expects to present and those whom the party may call if the need arises.

(6) The name of those witnesses whose testimony is expected to be presented by means of a deposition and designation by reference to page and line of the testimony to be offered (except those to be used for impeachment only) and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony.

(7) In non-jury trials, Proposed Findings of Fact and Conclusions of Law.

(8) Any motions in limine.

(9) An estimate of the probable length of trial.

Additionally, the parties should meet, confer, and submit a <u>joint</u> proposed set of jury instructions and verdict forms <u>two weeks</u> before the scheduled pretrial conference or trial if a pretrial conference is not set. Any instruction that counsel cannot agree upon should be submitted separately with appropriate citations to controlling authority supporting those instructions. All submissions should be submitted simultaneously.

<u>One week</u> before the scheduled pretrial conference or trial if a pretrial conference is not set, the parties must submit their objections to any witness, deposition testimony, exhibit, or motion in limine. Objections not so disclosed, other than objections under Federal Rules of Evidence 402 and 403 shall be deemed waived unless excused by the court for good cause shown.

Counsel are also required to confer regarding any charts or demonstrative exhibits to be presented at trial.

<u>Facilities and Technology</u>

19. Does the court reporter use Real Time?

Contact should be made with court reporter Angela Hailey @ (210) 244-5048 or Angela_Hailey@txwd.uscourts.gov.

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

Yes. Authorization to use the wireless internet must be completed in the U.S. Clerk's Office located on the ground floor.

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

Projector with HDMI and VGA cable hookup; Document projector (ELMO); DVD player; screen; computer speakers.

Please contact Priscilla Springs, Courtroom Deputy, at (210) 472-6550 ext 5016, or priscilla_springs@txwd.uscourts.gov to arrange equipment testing and setup.

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

Contact Priscilla Springs, Courtroom Deputy, at (210) 472-6550 ext 5016, or priscilla_springs@txwd.uscourts.gov.

23. May parties bring their own equipment? If so, are there any restrictions on what equipment may be brought and who should be contacted to arrange for the delivery of such equipment?

Yes, but pre-arrangements must be made through courthouse personnel listed in 22 above.

24. Is it possible to have time in the courtroom to familiarize oneself with the layout and available technology? If so, who should be contacted to schedule the time?

Yes, but arrangements must be made through courthouse personnel listed in 22.

Motions Practice

25. When (if ever) does the court want a courtesy copy of a filing?

Never.

26. Does the court prefer copies of cases attached to briefs or motions? If so, are copies from electronic databases acceptable? Does the court prefer pertinent provisions of the cases to be highlighted?

No.

27. Does the court typically have hearings on contested motions in civil cases?

Yes, the court will set a hearing on contested motions, if the Court deems a hearing is necessary.

28. What time of day are hearings in civil cases generally held?

Times vary for civil matters.

29. Does the court allow telephone conferences for the resolution of motions or other matters? If so, who arranges them and when are they typically scheduled?

Only in extraordinary circumstances and permission must be granted at least one week prior to hearing. Please contact Priscilla Springs at (210) 472-6550 ext 5016 or at priscilla_springs@txwd.uscourts.gov. The requesting party must advise why a telephone conference/appearance is being requested. If approved by the Court the courtroom deputy will arrange the telephone conference with parties.

30. Does the court depart from the page limits contained in the local rules? If so, by standing order or is a motion for leave of court and order required?

On occasion, the Court will allow counsel to file pleadings with a number in excess of that stated in the local rules (twenty pages for motions and ten pages for responses and replies).

A motion to exceed the page limit is required, along with the proposed pleading, for the Court's determination in granting or denying.

31. Does the court accept briefing on motions beyond the motion, response, and reply? If so, is a motion for leave of court and order required?

No.

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

Letter briefs should not be submitted.

33. Does the court permit the parties in civil cases to agree to extensions of time by stipulation filed with the court, rather than by motion and order, where the extension will not affect other pretrial dates? E.g., an extension to answer the complaint or to respond to written discovery.

Extensions to answer a complaint requires an agreed motion and proposed order. See Fed. R. Civ. P. 6. Discovery extensions may be stipulated to between the parties without any need for court approval, but there will be no intervention by the Court except in extraordinary circumstances, and no trial setting will be vacated because of information obtained in post-deadline discovery.

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

Trial dates will be set after dispositive motions have been heard by the court and ruled upon.

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

The Court requires motions to include pertinent citation to authorities and a certificate of conference required by Local Rules 7(d)(i) and 7(i).

Courtroom Decorum

36. Does the court have special rules governing courtroom decorum (*e.g.,* addressing opposing counsel; approaching the witness; talking or passing notes at the counsel table; beverages allowed at the counsel table; attire)?

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

Otherwise, see Local Rule AT-5.

Water bottles are allowed at the counsel table, no other beverages are allowed in the courtroom.

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

All presentations in the courtroom are from the lectern.

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

All presentations in the courtroom are from the lectern.

Hearing and Trial Procedures

39. What is the court's general procedure for continuing civil trials? How early does the court want the request made and how early will the court rule on such a request?

A motion to continue should be filed at the earliest date possible and should show good cause for the continuance. The court will rule as soon as practicable.

40. Will the court grant a motion to continue the trial date if it is unable to rule on a pending dispositive motion before the parties must begin final trial preparation?

Trial date will be provided after dispositive motions are ruled on.

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

Trial will normally convene at 9:00 a.m. and adjourn around 4:30 p.m. recessing for lunch between 12:00 p.m. to 1:30 p.m.

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

Only in rare and exceptional circumstances. The Court will set the deadline if and when it allows its use.

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

No, the Court will conduct voir dire.

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

The Court will provide a time limit on opening statements. If counsel becomes repetitive or excessive the court may ask them to conclude their statements. For more information, please contact Priscilla Springs at (210) 472-6550 ext 5016 or at priscilla_springs@txwd.uscourts.gov.

45. Does the court require the parties to exchange demonstratives prior to using them in trial? If so, when should they be exchanged?

Yes. All exhibits, except those offered solely for impeachment, that a party intends to offer at trial must be marked with gummed labels or tags that identify them by the exhibit number under which they will be offered at trial, and must be exchanged with opposing parties at least 14 days before the trial setting. To avoid bench conferences in a jury trial, the Court recommends that parties exchange any item that a party intends to use in the presence of the jury as a demonstrative aid, regardless whether the party intends to move its admission.

A list disclosing any objection, together with the grounds therefore, that may be made to the admissibility of any exhibits must be submitted 7 days before the date of the trial setting. Objections not so disclosed, other than objections under Federal Rules of Evidence 402 and 403 shall be deemed waived unless excused by the court for good cause shown.

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

Yes. Parties should submit to the Court the name of those witnesses whose testimony is expected to be presented by means of a deposition and designation by reference to page and line of the testimony to be offered (except those to be used for impeachment only) and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony at least 7 days prior to trial setting.

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

Before trial, counsel must provide the Courtroom Deputy with a copy of all depositions to be used as exhibits at trial. Counsel will designate the portion of any deposition to be read by citing pages and lines. Objections to those portions (citing pages and lines) with supporting authority must be filed at least 7 days before trial setting. Use of videotape depositions is permitted to the extent the parties agree on admissibility or edit to resolve objections.

48. May the parties provide the court with electronic versions of proposed jury instructions, verdict forms, or proposed findings of fact and conclusions of law? If so, what format should be used?

Yes. Proposed jury instructions, verdict forms and/or proposed finds of fact and conclusions of law should be provided in Microsoft Word and emailed to priscilla_springs@txwd.uscourts.gov.

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

Generally the parties may leave exhibits and equipment overnight in the courtroom, but there are occasions when other proceedings are scheduled and then discretion is necessary. Please check with the Courtroom Deputy on the particular day.

50. What is the court's practice on returning exhibits to the parties and requiring the parties to preserve them for appeal?

At the conclusion of the trial, the Courtroom Deputy will approach counsel and return all exhibits. Counsel will be required to sign an Inventory of Exhibits. Counsel are responsible for maintaining exhibits in an unaltered and safe manner for appeal.

Court Appointments

51. What are the court's procedures and requirements for court appointments for indigents?

The Court will follow 28 U.S.C. § 1915(e)(1).

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

If an ad litem is required, the Court will appoint or refer the matter to a Magistrate Judge, but the parties may make recommendations.

Miscellaneous

53. What are the court's procedures for dismissal of cases for want of prosecution?

Case by case basis. Usually a show cause hearing or order will be entered prior to dismissal.

54. What are the court's requirements and procedures for voluntary dismissal of cases?

Either a motion to dismiss and order (Rule 41(a)(2)) or a stipulation of dismissal (Rule 41(a)(1)(A)(ii)) may be used. Do not use both.

55. When does the court find that sanctions are appropriate?

Sanctions will be assessed on a case by case basis.

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

The Court expects lawyers in federal court to be prepared, provide competent services and be knowledgeable of the Federal Rules of Criminal Procedure and the Local Rules of the United States District Court for the Western District of Texas.

57. Any pet peeves?

1) **Tardiness**

2) **Late filing submissions.**

3) **Attorneys talking too fast, or over the Judge or one another, which is difficult for the court reporter to transcribe.**

4) **Not immediately notifying the Court that the case has been settled.**

5) **Not abiding by deadlines set out by the Court.**

6) **Renumbering exhibits during trial. Exhibits should be marked prior to trial and they should match the exhibit list submitted to the court.**

CRIMINAL CASES

Contacting the Court

1. Who should be contacted regarding scheduling matters?

   Contact Priscilla Springs, Courtroom Deputy, at (210) 472-6550 ext 5016, or priscilla_springs@txwd.uscourts.gov.

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

   An attorney may address a procedural question that cannot be answered by the Federal Rules of Criminal Procedure, Local Rules, or the Judge's Scheduling Order to the Courtroom Deputy.

   Contact Priscilla Springs, Courtroom Deputy, at (210) 472-6550 ext 5016, or priscilla_springs@txwd.uscourts.gov.

   Please do not call the Judge's staff to inquire about substantive issues.

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

   The court prefers that you contact Priscilla Springs, Courtroom Deputy, at (210) 472-6550 ext 5016, or priscilla_springs@txwd.uscourts.gov. If further assistance is needed she will provide you with the appropriate contact information.

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

   Contact Priscilla Springs, Courtroom Deputy, at (210) 472-6550 ext 5016, or priscilla_springs@txwd.uscourts.gov. If unable to reach Courtroom deputy and immediate assistance is required you may contact Chambers at (210) 472-5870.

5. May parties contact the court during depositions?

   No.

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

   A courtesy call should be made to the courtroom deputy clerk and notice should be given to the opposing party of the fact of filing or notice of any hearing set.

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

Any such request should be made by motion, with a telephone call to the courtroom deputy clerk.

8. Is it permissible to contact the court regarding the status of motions in a criminal case? If so, should the law clerk or the courtroom deputy be contacted?

Yes, you may contact Priscilla Springs, Courtroom Deputy, at (210) 472-6550 ext 5016, or priscilla_springs@txwd.uscourts.gov.

9. Should the parties notify the courtroom deputy, the law clerk, or another person if a contested motion in a criminal case has been resolved?

Yes, you may contact Priscilla Springs, Courtroom Deputy, at (210) 472-6550 ext 5016, or priscilla_springs@txwd.uscourts.gov.

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

The parties are required to notify the Court if a evidentiary hearing is requested. Contact Priscilla Springs, Courtroom Deputy, at (210) 472-6550 ext 5016, or priscilla_springs@txwd.uscourts.gov.

General Pretrial Matters

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

A general scheduling order and trial date is entered by the Court immediately after the case has been assigned to the Court.

12. What is the court's procedure for requests for modification of scheduling orders?

The Court will approve, in most instances, an agreed modification at the beginning of a case. However, if the court receives multiple requests a hearing will be set in order for counsel to show good cause why additional continuances are needed. If a continuance is not agreed to, the opposing party should file a response to any motion immediately.

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

Pleas are routinely referred to a U.S. Magistrate Judge. Motions to withdraw counsel or substitution of counsel may be referred to a U.S. Magistrate Judge. The Court may refer various other criminal matters to a Magistrate Judge on a case by case basis.

Procedures Specific to Criminal Cases

14. Must counsel in criminal cases confer on all motions before filing them? If so, must counsel reflect the result of their conference in the body or title of the motion?

Yes. The local rules so require and failing to include a certificate of the conference and the reason for no agreement, may result in the motion being dismissed for failure to comply with the local rules.

15. Does the court prefer use of the pretrial checklist or pretrial motion practice?

The parties should follow the Court's standing discovery order. The standing discovery order will also set deadlines for filing motions concerning matters not covered by the standing order, as well as dates for motions hearing and trial.

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

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

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

File a motion, attach the check list and ask for a hearing.

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

Motions should contain specific and detailed factual allegations, and not general assertions. The Court requires motions to include pertinent citation to authorities and a certificate of conference required by Local Rules 7(d)(i) and 7(i).

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

All parties should comply with the General Order regarding Discovery.

20. What does the court hope to accomplish at docket call settings in criminal cases?

There are no docket call settings in criminal cases.

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

All exhibits, except those offered solely for impeachment, that a party intends to offer at trial must be marked with gummed labels or tags that identify them by the exhibit number under which they will be offered at trial, and must be exchanged

with opposing parties at least 14 days before the date of the trial setting. To avoid bench conferences in a jury trial, the Court recommends that parties exchange any item that a party intends to use in the presence of the jury as a demonstrative aid, regardless whether the party intends to move its admission.

A list disclosing any objection, together with the grounds therefore, that may be made to the admissibility of any exhibits must be submitted 7 days before the date of the trial setting. Objections not so disclosed, other than objections under Federal Rules of Evidence 402 and 403 shall be deemed waived unless excused by the court for good cause shown.

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

Objections to presentence investigation report should be given in writing to the probation officer who will attach it to the presentence investigation report which will be filed at the time of sentencing. If the Probation Officer does not modify the presentence investigation report or guideline worksheet and the objection remains unresolved, Counsel shall file a Sentencing Memorandum outlining the unresolved objection, any authorities relied upon and sentencing recommendations for the Court's consideration. The Sentencing Memorandum should be filed with the Clerk's Office at least 7 days prior to sentencing hearing. Counsel shall provide a copy of the Sentencing Memorandum to opposing counsel and the U.S. Probation Officer.

If any objections will be withdrawn prior to sentencing, counsel must notify the court as soon as possible, and are encouraged NOT to wait until the sentencing hearing to do so.

23. Does the court have any requirements for pretrial submissions in civil cases in lieu of or in addition to those in the local rules?

Pursuant to Local Rule 16(e), the Court expects the parties to submit the following <u>two weeks</u> prior to the scheduled trial:

(1) A list of questions the party desires the court to ask prospective jurors.

(2) A statement of the party's claims or defenses to be used by the court in conducting voir dire. The statement shall be no longer than one-half page with type double-spaced.

(3) A list of stipulated facts.

(4) An appropriate identification of each exhibit as specified in this rule (except those to be used for impeachment only), separately identifying those that the party expects to offer and those that the party may offer if the need arises.

(5) The name and, if not previously provided, the address and telephone number of each witness (except those to be used for impeachment only),

separately identifying those whom the party expects to present and those whom the party may call if the need arises.

(6) The name of those witnesses whose testimony is expected to be presented by means of a deposition and designation by reference to page and line of the testimony to be offered (except those to be used for impeachment only) and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony.

(7) Any motions in limine.

(8) An estimate of the probable length of trial.

Additionally, the parties should meet, confer, and submit a joint proposed set of jury instructions and verdict forms two weeks before the scheduled trial. Any instruction that counsel cannot agree upon should be submitted separately with appropriate citations to controlling authority supporting those instructions. All submissions should be submitted simultaneously.

One week before the scheduled trial, the parties must submit their objections to any witness, deposition testimony, exhibit, or motion in limine. Objections not so disclosed, other than objections under Federal Rules of Evidence 402 and 403 shall be deemed waived unless excused by the court for good cause shown.

Counsel are also required to confer regarding any charts or demonstrative exhibits to be presented at trial.

Facilities and Technology

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

Contact should be made with court reporter Angela Hailey @ (210) 244-5048 or Angela_Hailey@txwd.uscourts.gov

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

Yes. Authorization to use the wireless internet must be completed in the U.S. Clerk's Office located on the ground floor.

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

Projector with HDMI and VGA cable hookup; Document projector (ELMO); DVD player; screen; computer speakers.

Please contact Priscilla Springs, Courtroom Deputy, at (210) 472-6550 ext

5016, or priscilla_springs@txwd.uscourts.gov to arrange equipment testing and setup.

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

Contact Priscilla Springs, Courtroom Deputy, at (210) 472-6550 ext 5016, or priscilla_springs@txwd.uscourts.gov.

28. May parties bring their own equipment? If so, are there any restrictions on what equipment may be brought and who should be contacted to arrange for the delivery of such equipment?

Yes, but pre-arrangements must be made through courthouse personnel listed in 26 above.

29. Is it possible to have time in the courtroom to familiarize oneself with the layout and available technology? If so, who should be contacted to schedule the time?

Yes, but arrangements must be made through courthouse personnel listed in 26 above.

Motions Practice

30. When (if ever) does the court want a courtesy copy of a filing?

Only for emergency motions or when the pleading is filed within 48 hours of a hearing scheduled in the case.

31. Does the court prefer copies of cases attached to briefs or motions? If so, are copies from electronic databases acceptable? Does the court prefer pertinent provisions of the cases to be highlighted?

No.

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

Yes.

33. What time of day are hearings in criminal cases generally held?

Sentencings are usually held Monday mornings at 9:00 a.m. However, due to the Court's busy schedule, sentencing hearings may be scheduled throughout the week. Non-Evidentiary and Evidentiary motion hearings will be set separately throughout the week.

34. Does the court allow telephone conferences for the resolution of motions or other matters? If so, who arranges them and when are they typically scheduled?

In certain circumstances. Please contact Priscilla Springs at (210) 472-6550 ext 5016 or at priscilla_springs@txwd.uscourts.gov. The requesting party must advise why a telephone conference is being requested. If approved by the Court the courtroom deputy will arrange the telephone conference with parties.

35. Does the court depart from the page limits contained in the local rules? If so, by standing order or is a motion for leave of court and order required?

On occasion, the Court will allow counsel to file pleadings with a number in excess of that stated in the Local Rules. A motion to exceed page limit is required, along with the proposed pleading, for the Court's determination in granting or denying.

36. Does the court accept briefing on motions beyond the motion, response, and reply? If so, is a motion for leave of court and order required?

No.

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

Letter Briefs should not be submitted.

38. Does the court permit the parties in criminal cases to agree to extensions of time by stipulation filed with the court, rather than by motion and order, where the extension will not affect other pretrial dates? E.g., an extension to answer the complaint or to respond to written discovery.

No.

39. How far before trial does the court rule on dispositive motions?

The Court will rule on dispositive motions as soon as possible.

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

No.

Courtroom Decorum

41. Does the court have special rules governing courtroom decorum (e.g., addressing opposing counsel; approaching the witness; talking or passing notes at the counsel table; beverages allowed at the counsel table; attire)?

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

Otherwise, see Local Rule AT-5.

Water bottles are allowed at the counsel table, no other beverages are allowed in the courtroom.

42. Does the court prefer that counsel address the court from counsel table or from the lectern?

All presentations in the courtroom are from the lectern.

43. Does the court prefer that counsel address witnesses from counsel table or from the lectern?

All presentations in the courtroom are from the lectern.

Hearing and Trial Procedures

44. What is the court's general procedure for continuing criminal trials? How early does the court want the request made and how early will the court rule on such a request?

If a continuance of trial is needed the motion must be filed prior to the pretrial submissions deadlines set in the Court's scheduling order. With the exception of an emergency, late motions will not be tolerated and may result in a motion hearing in order for counsel to show good cause as to the late request.

45. Will the court grant a motion to continue the trial date if it is unable to rule on a pending dispositive motion before the parties must begin final trial preparation?

As far in advance as possible. A hearing on the motion will be set prior to the trial setting and if the motion cannot be addressed prior to trial the court will usually continue the trial setting.

46. When does the court typically begin and end trial days?

Trial will normally convene at 9:00 a.m. and adjourn around 4:30 p.m. recessing for lunch between 12:00 p.m. to 1:30 p.m.

47. Does the court permit the use of jury questionnaires? If so, when should the proposed questionnaire be provided to the court?

Only in rare and exceptional circumstances. The Court will set the deadline if and when it allows its use.

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

No.

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

The Court will provide a time limit on opening statements. If counsel becomes repetitive or excessive the court may ask them to conclude their statements. For more information, please contact Priscilla Springs at (210) 472-6550 ext 5016 or at priscilla_springs@txwd.uscourts.gov.

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

Yes. Parties should submit to the Court the name of those witnesses whose testimony is expected to be presented by means of a deposition and designation by reference to page and line of the testimony to be offered (except those to be used for impeachment only) and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony at least 7 days prior to pretrial conference or trial if a pretrial conference is not set.

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

Before trial, counsel must provide the Courtroom Deputy with a copy of all depositions to be used as exhibits at trial. Counsel will designate the portion of any deposition to be read by citing pages and lines. Objections to those portions (citing pages and lines) with supporting authority must be filed at least 7 days before pretrial conference or trial if a pretrial conference is not set. Use of videotape depositions is permitted to the extent the parties agree on admissibility or edit to resolve objections.

52. May the parties provide the court with electronic versions of proposed jury instructions, verdict forms, or proposed findings of fact and conclusions of law? If so, what format should be used?

Yes. Proposed jury instructions, verdict forms and/or proposed finds of fact and conclusions of law should be provided in Microsoft Word and emailed to priscilla_springs@txwd.uscourts.gov.

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

Generally the parties may leave most exhibits and equipment overnight in the courtroom, but there are occasions when other proceedings are scheduled and then discretion is necessary.

Certain exhibits (ie: firearms, drugs, etc) are not allowed to remain in the courtroom overnight and must be placed in the custody of the case agent.

54. What is the court's practice on returning exhibits to the parties and requiring the parties to preserve them for appeal?

At the conclusion of the trial, the Courtroom Deputy will approach counsel and return all exhibits. Counsel will be required to sign an Inventory of Exhibits. Counsel are responsible for maintaining exhibits in an unaltered and safe manner for appeal.

Court Appointments

55. What are the court's procedures and requirements for court appointments for indigents?

In criminal cases, all indigents have appointment of counsel. The Court does not appoint counsel for state or federal habeas cases or prisoner cases, with the exception of that rare case where special circumstances justify the appointment of counsel.

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

If an ad litem is required, the Court will appoint one or refer the matter to a magistrate Judge, but the parties may make recommendations.

Miscellaneous

57. When does the court find that sanctions are appropriate?

Sanctions will be assessed on a case by case basis.

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

The Court expects lawyers in federal court to be prepared, provide competent services and be knowledgeable of the Federal Rules of Criminal Procedure and the Local Rules of the United States District Court for the Western District of Texas.

59. Any pet peeves?

1) **<u>Tardiness</u>**

2) **Late filing submissions.**

3) **Attorneys talking too fast, or over the Judge or one another, which is difficult for the court reporter to transcribe.**

4) **Not notifying the Court that a motion is unopposed.**

5) **Not abiding by deadlines set out by the Court.**

6) **Objections raised at sentencing that were not previously submitted to the Probation Officer.**

7) **The Court not being notified of withdrawal of objections to presentence investigation reports prior to a sentencing hearing.**

8) **Renumbering exhibits during trial. Exhibits should be marked prior to trial and they should match the exhibit list submitted to the court.**