

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**TRIAL NOTICE**

**BY DIRECTION OF THE HONORABLE JUDITH C. HERRERA** the cases listed on the attachment are hereby scheduled for jury selection and trial on a trailing docket commencing on the date and time listed below. Counsel shall adhere to all deadlines set forth herein as well as the Instructions attached herewith.

**JURY SELECTION/TRIAL DATE:**

**MARCH 19, 2007 at 9:00 a.m.**

333 Lomas Blvd. N.W., Brazos Courtroom--5th Floor, Albuquerque, NM  
before the Honorable Judith C. Herrera

**SELECTED PRETRIAL DEADLINES**

(See attached "Pretrial Deadlines Before the Honorable Judith C. Herrera"  
for complete set of binding deadlines):

Jury Selection/Trial	March 19, 2007 at 9:00 a.m. (trailing docket.)
Calendar Call	March 8, 2007 at 1:30 p.m.
Change of Plea/Motion to Continue	To conserve judicial resources, the Court must be advised of all plea agreements and motions to continue <u>no later than 12:00 p.m. on March 5, 2007.</u>

**ATTACHMENTS**

1. List of cases set for jury selection/trial on March 19, 2007. This list does not necessarily reflect the order in which cases will be tried.
2. "Pretrial Deadlines Before the Honorable Judith C. Herrera" (includes guidelines for preparation of proposed jury instructions.)

Inquiries and notices of change of plea should be directed to Lincoln Sorrell, Courtroom Deputy to Judge Herrera, at **505-348-2398**.

**MATTHEW J. DYKMAN**, Clerk of Court



This Notice was electronically transmitted  
or mailed to all counsel of record as they are  
reflected on the Court's docket.

**March 19, 2007 at 9:00 a.m. before Judge Herrera (Brazos Courtroom--5th Floor)**

**CR 06-2256 JH USA v. Marvin Jones**

for Pltf: Reeve Swainston

for Deft: Tim Padilla

**CR 06-497 JH USA v. Francis Dan Pete**

for Pltf: Presiliano Torrez

for Deft: Richard Winterbottom

**CR 06-2371 JH USA v. Adan Manuel Maldonado**

for Pltf: David Walsh

for Deft: Thomas Walsh

**CR 06-2170 JH USA v. Charles Harris**

for Pltf: Fred Smith

for Deft: David Plotsky

**CR 06-2087 JH USA v. Michael Dean Begay**

for Pltf: Charles Barth

for Deft: Tom Jameson

**CR 06-2622 JH USA v. Habib Thomas**

for Pltf: Paul Spiers

for Deft: Jerry Herrera

**CR 06-2269 JH USA v. Jose Valentin Melendez-Dones**

for Pltf: Roberto Ortega

for Deft: Charles Aspinwall

**CR 06-2378 JH USA v. David Coronado-Coronado**

for Pltf: Rhonda Backinoff

for Deft: Martin Lopez III

**CR 06-2385 JH USA v. Chris Owens**

for Pltf: Greg Fouratt

for Deft: Roger Finzel

**CR 06-2257 JH USA v. Jeffrey Dobrian**

for Pltf: Louis Valencia

for Deft: Kenneth Gleria

**CR 06-538 JH USA v. Danuel Quaintance, et al.**

for Pltf: Luis Martinez, Amanda Gould

for Danuel Quaintance: Marc Robert

for Mary Helen Quaintance: Mario Esparza

for Joseph Butts: Bernadette Sedillo

**PRETRIAL DEADLINES**  
**Before the Honorable Judith C. Herrera**

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**PLEASE NOTE:**

- 1) Throughout these instructions, the term "trial" refers to commencement of the trailing docket. Therefore, all dates operate off of the current jury selection date or date upon which the trailing docket begins. **Counsel must seek leave of Court in the form of a written motion to extend any pretrial deadlines.**
- 2) Where a submission deadline falls on a weekend or a federal holiday, the deadline will be the next working day after the weekend or holiday.

EVENT	DEADLINE	COMMENT
<b>PERTAINING TO CIVIL CASES</b>		
Witness Identification	Fifteen (15) working days before trial	Witnesses shall be identified in accordance with the Pretrial Order but, in any event, no later than fifteen (15) working days before trial.
Exchange of Exhibits	Fifteen (15) working days before trial	Exhibits shall be marked and identified prior to trial, with plaintiff's exhibits identified on yellow labels by number and defendant's exhibits identified blue labels by letter.
Objections to Exhibits	Ten (10) working days before trial	You should specify the Rule of Evidence or other legal authority upon which your objection is based. In most cases, the Court will consider objections and admit exhibits prior to trial.
Motions in <i>Limine</i> and Other Admissibility Issues	Fifteen (15) working days before trial	Does <u>not</u> include <i>Daubert</i> motions. Challenges pursuant to <i>Daubert</i> shall be made by the <u>dispositive</u> motions deadline as set forth in the scheduling order.
Responses to Motions in <i>Limine</i> and Other Admissibility Issues	Eight (8) working days before trial	

**PRETRIAL DEADLINES**  
**Before the Honorable Judith C. Herrera**

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EVENT	DEADLINE	COMMENT
Witness and Exhibit Lists	Five (5) working days before trial	<p>Complete lists of witnesses to be called at trial with a brief summary of their testimony are to be filed. The order of the witnesses is not binding, but known witnesses not listed in accordance with this procedure will not be allowed to testify.</p> <p>An original plus three copies of the following shall be filed by the deadline: (a) a consolidated exhibit list identifying all exhibits the parties have stipulated to being admissible; (b) a consolidated exhibit list identifying all exhibits the parties have stipulated to being authentic, but to which there are other objections; and (c) a separate contested exhibit list on which the parties could not reach a stipulation.</p>
Statement of Case	Five (5) working days before trial	The parties must confer and submit an agreed statement of the case to the Court that will be read to the jury panel during jury selection.
Expert Reports	In accordance with Rule 26(a)(2) of the Federal Rules of Civil Procedure	When calling an expert witness, it is the responsibility of counsel to establish his/her qualifications to express an opinion under Rule 702 after which counsel must move his/her acceptance by the court as an expert. In that connection, counsel must inform the Court the particular field in which counsel offers the witness as an expert. As in other areas, cumulative expert testimony will not be permitted.
Depositions	Fifteen (15) working days before trial	Notify opposing counsel and the court of such intended use of deposition. If a deposition is used in part, counsel shall highlight the parts to be used for the Court. Plaintiff will use a yellow marker and defendant a blue marker. This does not apply to cross-examination or rebuttal.
Deposition Objections	Ten (10) working days before trial	Opposing counsel shall file with the Clerk objections to any material.

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EVENT	DEADLINE	COMMENT
Memoranda of Law	Five (5) working days before trial	Trial briefs outlining the basic legal theories, anticipated evidence in support of such theories, and the legal basis of any anticipated evidentiary disputes are encouraged and should be filed with the Clerk.
Non-Jury Trials - Findings of Fact	Ten (10) working days before trial	Findings of fact and conclusions of law shall be filed with the Clerk, with references to exhibits and proposed testimony. <b>Each party shall also submit the proposed findings and conclusions on a 3.5" WordPerfect diskette.</b>
<b>PERTAINING TO CIVIL <u>and</u> CRIMINAL CASES</b>		
Jury Instructions	Ten (10) working days before jury selection	Please refer to the attached "Preparation of Jury Instructions".
<i>Voir Dire</i> Exchange	Five (5) working days before jury selection	In the average case, each counsel will be permitted ten (10) minutes to <i>voir dire</i> the venire panel. <b>Do not argue the case or cite legal principles in your voir dire.</b> Requested <i>voir dire</i> shall be exchanged between counsel and submitted to the Court by the deadline contained herein. If counsel cannot agree on proposed <i>voir dire</i> , any objections must be brought to the Court's attention at least two (2) working days prior to trial.
Objections to Opponent's <i>Voir Dire</i>	Two (2) working days before trial	
Courtesy Copies of Exhibits for the Court	Beginning of Trial	Parties shall submit two (2) courtesy copies of exhibits, in notebooks, to the Court at the beginning of the trial.

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<b>PERTAINING TO CRIMINAL CASES</b>		
Witness and Exhibit Lists	Five (5) working days before trial	It will facilitate an orderly and efficient trial for counsel to exchange witness and exhibit lists five (5) working days prior to trial so that evidentiary problems can be anticipated and resolved correctly. In the event this requirement poses a danger to potential witnesses or for other good cause, the parties should approach the Court to seek relief from this requirement prior to the deadline.
Governments Notice of Rule 40(b) or 609(b) Evidence	Ten (10) working days before trial	Counsel will not get into possible areas of reversible error without prior Court approval, whether in opening statements or questioning witnesses. (e.g., commenting on a defendant's silence, invoking constitutional rights, raising Rule 404(b), 608 or 609 material, etc.)
Motions in <i>Limine</i> and Other Admissibility Issues	Ten (10) working days before trial	Does <u>not</u> include <i>Daubert</i> motions. Challenges pursuant to <i>Daubert</i> shall be made prior to the dispositive motions deadline usually established at arraignment.
Responses to Motions in <i>Limine</i> and Other Admissibility Issues	Five (5) working days before trial	
Motion(s) for Continuance	Motion(s) for continuance should be filed in accordance with 18 U.S.C. §3161(h)(8)(a), specifically setting forth the factual grounds justifying the continuance.	

## **PRETRIAL DEADLINES**

### **Before the Honorable Judith C. Herrera**

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#### **PREPARATION OF JURY INSTRUCTIONS**

Before the Honorable Judith C. Herrera

1. File a numbered original set of instructions with citations with the Clerk of Court. A copy should be submitted to chambers. The instructions shall list authority at the bottom of each instruction (Fig. 1.)
2. Submit an unnumbered original set of instructions without citations to chambers. (Fig. 2.)
3. Submit no more than one instruction per page.
4. Carefully proofread each instruction for errors in spelling, grammar, punctuation, citations, and for unintended deviations from pattern instructions used as sources.
5. Submit a cover sheet on all sets of instructions.
6. Submit a 3.5" diskette of all your instructions to chambers in a form compatible with WordPerfect 5.1 or higher.
7. If the New Mexico Uniform Jury Instructions are not applicable, Judge Herrera prefers that instructions, to the extent possible, follow the pattern jury instructions for the Tenth Circuit.

Instruction No. _____
Members of the Jury:
In any jury trial there are, in effect, two judges. I am one of the judges; the other is the jury. It is my duty to preside over the trial and to determine what evidence is proper for your consideration. It is also my duty . . .
Citation . . .

**Fig. 1: With Citation**

Instruction No. _____
Members of the Jury:
In any jury trial there are, in effect, two judges. I am one of the judges; the other is the jury. It is my duty to preside over the trial and to determine what evidence is proper for your consideration. It is also my duty . . .

**Fig. 2: Without Citation**