

**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 to the Instructions attached herewith.

JURY SELECTION/TRIAL DATE:

MAY 23, 2006 at 9:00 A.M.

200 E. Griggs, Second Floor Courtroom, Las Cruces, NM
before the Honorable Judith C. Herrera

PRETRIAL DEADLINES:

Motions in Limine:

May 9, 2006 (responses due May 16, 2006)

Proposed Jury Instructions:

May 9, 2006

Calendar Call:

May 22, 2006 at 4:00 p.m. (Firm trial dates given at this time)

It is not unusual for most or all of the cases on a trial calendar to be resolved pretrial; therefore, counsel and parties in remaining cases shall be prepared to go to trial on the trial date of May 23, 2006, unless otherwise advised at the Calendar Call.

ATTACHMENTS:

1. List of cases set for jury selection/trial on May 23, 2006. 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 **505-348-2080**.

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.

**May 23, 2006 at 9:00 a.m. trial trailing docket for Judge Judith C. Herrera.
Las Cruces - Second Floor Courtroom**

06cr00092 JH USA v. Torres

plaintiff - USA Luis Martinez

defendant - Gary Torres (In Custody) Howard L Anderson

06cr00535 JH USA v. Crawley

plaintiff - USA Mark D'Antonio

defendant - Kenneth Lee Crawley (In Custody) James Langell

06cr00538 JH USA v. Quaintance

plaintiff - USA Luis Martinez

defendant - Timothy Jason Kripner Leon Schydlower

defendant - Mary Helen Quaintance Mario A. Esparza

defendant - Danuel Dean Quaintance Marc H. Robert

06cr00539 JH USA v. Gutierrez-Reyes

Interpreter: **Chandler Thompson** Language: Spanish

plaintiff - USA Richard Williams

defendant - Liz Yudid Gutierrez-Reyes Sara Azari Carmen E. Garza

06cr00542 JH USA v. Morales-Bautista

Interpreter: **Chandler Thompson** Language: Spanish

plaintiff - USA Gregory Wormuth

defendant - Julio Cesar Morales-Bautista (In Custody) Jane Greek

06cr00544 JH USA v. Haas

plaintiff - USA Gregory Wormuth

defendant - Robert Louis Haas Jane Greek

06cr00545 JH USA v. Fernandez

plaintiff - USA Kenneth J Gonzales

defendant - Miguel Angel Fernandez Jr. (In Custody) Steve G Sosa

06cr00546 JH USA v. Flores

plaintiff - USA Mick I.R. Gutierrez

defendant - Jose Flores (In Custody) Mario Torrez

06cr00551 JH USA v. Fonseca

Interpreter: **Chandler Thompson** Language: Spanish

plaintiff - USA Kelly H. Burnham

defendant - Jose Jesus Fonseca-Aguayo (In Custody) Herman E. Ortiz

06cr00552 JH USA v. Nash

plaintiff - USA Mark D'Antonio

defendant - Quincy D'Own Nash (In Custody) Michelle Engert

06cr00554 JH USA v. Guilez

plaintiff - USA Ronald Jennings

defendant - Orlando Joe Guilez (In Custody) Dennis J Candelaria

06cr00709 JH USA v. Celaya-Martinez

Interpreter: **Chandler Thompson** Language: Spanish

plaintiff - USA Richard Williams

defendant - Adiel Celaya-Martinez Steve G Sosa

defendant - Alberto De Jesus-Viviano Herman E. Ortiz

06cr00710 JH USA v. Casillas-Paez

Interpreter: **Chandler Thompson** Language: Spanish

plaintiff - USA Alfred Juarez Perez

defendant - Rene Manuel Casillas-Paez Steve G Sosa

defendant - Tisha Elizabeth Ice Noel Orquiz

06cr00712 JH USA v. Wagoner

Interpreter: **Chandler Thompson** Language: Spanish

plaintiff - USA Kelly H. Burnham

defendant - Michael A Wagoner (In Custody) Jane Greek

defendant - Rosalinda Garza (to be arraigned 4-20-06)

defendant - Valerie Palmer (fugitive)

PRETRIAL DEADLINES

Before the Honorable Judith C. Herrera

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
PERTAINING TO CIVIL CASES		
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 twenty (20) 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 Initial Pretrial Report.
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

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.

PRETRIAL DEADLINES
Before the Honorable Judith C. Herrera

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. Each party shall also submit the proposed findings and conclusions on a 3.5" WordPerfect diskette.
PERTAINING TO CIVIL <u>and</u> CRIMINAL CASES		
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. Do not argue the case or cite legal principles in your voir dire. 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	

PRETRIAL DEADLINES
Before the Honorable Judith C. Herrera

PERTAINING TO CRIMINAL CASES		
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

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 Fifth 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