

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STANDING ORDER FOR CRIMINAL CASES BEFORE JUDGE VINCE CHHABRIA

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SUMMARY TABLE OF DEADLINES

DEADLINE	DATE
Change of Plea – Copy of Plea Agreement	Friday Before Plea Entered at 12 p.m.
Pretrial Statement, Motions in Limine	14 Days Before Pretrial Conference
Jury Instructions, Verdict Form, Additional Jury Questionnaire Questions, Objections to Jury Questionnaire, Proposed Description of the Case, Proposed Additional Voir Dire, Exhibit Lists, Witness Lists	7 Days Before Pretrial Conference
Individuals Involved List	7 Days Before Jury Selection
Notification of Need for Interpreter for Trial	30 Days Before Trial
Arrangement of Daily Transcript or Real-Time Reporting	14 Days Before Trial
Contact Kristen Melen Regarding Courtroom Layout and Technology	10 Days Before Trial
Deliver Original and Copy Trial Exhibit Sets, List of Names, Places, Uncommon Terms and Acronyms	5 Days Before Trial

CONFORMITY WITH RULES

1. The parties shall follow the Federal Rules of Criminal Procedure, the Criminal Local Rules, and the General Orders of the Northern District of California, except as superseded by this Court’s standing order.

SCHEDULING

2. The criminal law and motion calendar takes place on Tuesdays at 10:30 a.m. If a matter needs to be specially set (for example, if the matter is under seal or involves many defendants), please contact Kristen Melen, Judge Chhabria’s Courtroom Deputy, at vccrd@cand.uscourts.gov.

RECUSAL

3. Judge Chhabria previously worked in the San Francisco City Attorney's Office, and regularly recuses himself from civil cases involving that office or its clients. From time to time, he worked on cases in which the office defended members of the San Francisco Police Department ("SFPD"). Accordingly, in the event of a motion in which a defendant alleges that a member of the SFPD engaged in illegal or improper conduct, the defendant may request that Judge Chhabria recuse himself from the case. This request may be made orally or in writing, but it should be made no later than the due date for the opposition to the motion. Judge Chhabria is confident he can be fair in such cases, but believes that if a defendant is concerned about partiality, he should be entitled to a different judge.

CHANGE OF PLEA

4. If a plea is being entered pursuant to a plea agreement, counsel for the government shall email a copy of the plea agreement to Kristen Melen at vccrd@cand.uscourts.gov no later than noon the Friday before the plea is to be entered.

MOTIONS

5. Motions should be filed and noticed in accordance with Criminal Local Rule 47-2 unless otherwise ordered.

6. Motions and other filings need not be on pleading paper with line numbers. The Court prefers blank paper (although pleading paper will be accepted).

7. Paper courtesy copies are not required except as otherwise provided below. The Court may at times order the parties to provide digital courtesy copies of motion briefs, including supporting documents, on portable media (for example, a CD or flash drive).

SEALED FILINGS

8. For any documents submitted under seal, the parties shall provide a courtesy paper copy, as required by Criminal Local Rule 56-1, and a courtesy electronic copy. The electronic copy may be provided via a portable flash drive, email, or compact disk.

EVIDENTIARY HEARINGS

9. When using exhibits during evidentiary hearings, the parties must abide by the Court's instructions regarding preparation of exhibits for trial.

PRETRIAL FILINGS

Pretrial Statement

10. No later than 14 days before the pretrial conference, the parties must file, and send in Word format to vcpo@cand.uscourts.gov, a joint pretrial statement that addresses the items listed in Criminal Local Rule 17.1-1(b).

Motions in Limine

11. Any motions in limine must be filed no later than 14 days before the pretrial conference. Oppositions must be filed at least 7 days before the pretrial conference. No reply papers will be considered.

Jury Instructions

12. The parties should file joint proposed jury instructions, and send a copy in Word format to vcpo@cand.uscourts.gov, no later than 7 days before the pretrial conference. The parties should always indicate the relevant authority for a proposed instruction. The parties should often use the Ninth Circuit Model Jury Instructions; when they do, they should clearly identify any changes to the model instructions. That said, the Court at times deviates from the Ninth Circuit Model Jury Instructions to make the instructions more readable, and the parties are

encouraged to look at the Court's past jury instructions as guides. Recent criminal trials include No. 17-cr-381, *United States v. Robledo* and No. 15-cr-323, *United States v. Pon*.

13. Instructions on which the parties agree must be identified as "Stipulated Jury Instruction No. ___ Re _____," with the blanks filled in as appropriate.

14. If the parties disagree on an instruction, each party's proposed version of the disputed instruction shall be provided and identified as "Disputed Instruction No. _____ Re _____ Offered by _____," with the blanks filled in as appropriate. All proposed versions of the same instruction shall bear the same number. Following each set of proposed versions of a disputed instruction, each party shall explain, in no more than one page, why the Court should give that party's proposed instruction.

15. If the parties dispute whether a particular instruction should be given at all, the proponent of the instruction shall provide proposed language, identified as "Disputed Instruction No. _____ Re _____ Offered by _____," with the blanks filled in as appropriate. Following the disputed instruction, each party shall explain, in no more than one page, why the instruction should or should not be given.

16. The parties do not need to submit instructions from Chapters 1-3 of the Ninth Circuit Manual, but they must indicate which of these instructions should be included and which should be omitted.

17. The proposed jury instructions should not mention the indictment or the United States Code unless there's a compelling reason to do so. The instructions can simply refer to the defendant as having been charged in "Count One" with X, in "Count Two" with Y, and so forth.

Jury Questionnaire

18. In most cases, jury selection will involve the use of a written questionnaire. The standard questionnaire is available on Judge Chhabria's website. The parties should jointly file, and send in Word format to vcpo@cand.uscourts.gov, proposed questions to add to the standard written questionnaire no later than 7 days before the pretrial conference. The parties should indicate whether they agree on a proposed question. If they disagree, they may submit competing proposed questions, or specify that one side believes the question should be asked and the other does not. However, no argument may be included in this submission.

19. Also no later than 7 days before the pretrial conference, the parties should submit objections to any aspect of the standard written questionnaire. Please note that the parties will get to ask questions in voir dire, so there is no need to include every question in the written questionnaire.

Statement of Objection to Unconscious Bias Video

20. Starting January 1, 2019, prospective jurors will be shown a video on unconscious bias in the jury office. The video can be accessed here (www.cand.uscourts.gov/attorneys/jury-video). If a party objects to prospective jurors' viewing this video, the party must file a short statement (not to exceed one page double-spaced) explaining its objection. The party should then alert the Court to its objection at the pretrial conference.

Proposed Description of the Case

21. No later than 7 days before the pretrial conference, the parties should jointly file, and send in Word format to vcpo@cand.uscourts.gov, a proposed description of the case. The description will be inserted into the instruction sheet for the written jury questionnaire and will be repeated orally to prospective jurors when they come to the courtroom. If the parties can't

agree on a description, they may file one document with competing descriptions (but without any argument). Again, the description of the case should not refer to the indictment or to the United States Code unless there's a compelling reason to do so.

Proposed Additional Voir Dire Questions

22. No later than 7 days before the pretrial conference, the parties should submit separate lists of additional questions that they reasonably anticipate asking prospective jurors during voir dire, or questions that they want Judge Chhabria to ask. Objections to the other side's list will be considered at the pretrial conference but don't need to be filed.

Verdict Forms

23. No later than 7 days before the pretrial conference, the parties must jointly file, and send in Word format to vcpo@cand.uscourts.gov, either an agreed-upon proposed verdict form or competing proposed verdict forms.

Exhibit Lists

24. No later than 7 days before the pretrial conference, each party must file, and send in Word format to vcpo@cand.uscourts.gov, a list of exhibits. They need not submit the exhibits themselves at this time, unless instructed otherwise by Judge Chhabria.

Witness Lists

25. No later than 7 days before the pretrial conference, the parties must file, and send in Word format to vcpo@cand.uscourts.gov, lists of potential witnesses to be called at trial, other than solely for impeachment or rebuttal.

Involved Individual Lists

26. No later than 7 days before jury selection, the parties must jointly file, and send in Word format to vcpo@cand.uscourts.gov, a list of people involved in the case. This list will be

appended to the jury questionnaire, and prospective jurors will be asked to circle the names of any people they personally know. The list should include counsel, the defendant or defendants, potential witnesses, and any other people significantly involved in the case.

PRETRIAL CONFERENCE

27. At the pretrial conference, the parties should be prepared to address motions in limine, jury instructions, the written questionnaire, proposed voir dire, the verdict form, and any issues relating to exhibits or evidence.

28. In advance of the pretrial conference, Judge Chhabria will typically file “Court’s Draft Jury Instructions (1),” based on the submission by the parties. The parties should review this document carefully to see what was included and what was excluded or changed from their submission. Judge Chhabria will work off this document with the lawyers during the pretrial conference, hearing any objections to the draft (including objections about anything from the parties’ submission that was omitted).

29. Closer to the end of trial, Judge Chhabria will file “Court’s Draft Jury Instructions (2),” which will incorporate discussion from the pretrial conference and any developments from trial. The parties should review this document carefully to make sure it comports with the discussion at the pretrial conference. Judge Chhabria will hear objections to this draft before creating a final set of instructions for the jury.

TRIAL EXHIBITS

Original Trial Exhibits

30. Each side must prepare a set of its own trial exhibits to be used with the witnesses at trial and, if applicable, on appeal.

31. No later than 5 days before trial, each side shall deposit its set of trial exhibits with the Courtroom Deputy. Arrangement for delivery of these exhibits shall be made prior to the date of delivery with Kristen Melen by way of email to vccrd@cand.uscourts.gov. The exhibits shall be provided in three-ring binders, with each exhibit tagged, three-hole-punched, and separated with a label divider identifying the exhibit number. A spine label on each binder should be marked “Original” and indicate the numbers of the exhibits contained therein.

32. Exhibits shall be sequentially numbered (not lettered). Blocks of numbers should be assigned to fit the needs of the case (e.g. the government has 1 to 100, Defendant A has 101 to 200, Defendant B has 201 to 300, etc.).

33. A single exhibit should be marked only once. If the government has marked an exhibit, the defendant should not re-mark the same document with another number. Different versions of the same document (e.g. versions of a document with and without additional handwriting), however, must be treated as different exhibits and marked with different numbers.

34. To avoid any party claiming “ownership” of an exhibit, all exhibits shall be marked and referred to as “Trial Exhibit No. _____,” not as “Government’s Exhibit” or “Defendant’s Exhibit.”

35. Each exhibit shall be tagged as follows:

<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA</p> <p>TRIAL EXHIBIT 100</p> <p>Case No. _____</p> <p>Date Entered _____</p> <p>By _____ Deputy Clerk</p>
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36. Judge Chhabria prefers but does not require that the exhibit tags be in a color that will stand out (yet still allow for photocopying).

37. Counsel should fill in the exhibit and case numbers, but leave the other spaces (“Date Entered” and “By”) blank.

38. Exhibit tags shall be placed on or near the lower right-hand corner of the first page of each exhibit. If the exhibit is a photograph, or the exhibit does not have enough room to accommodate the tag on the front page, the tag shall be placed on the back of the last page of the document in the lower left-hand corner.

Copy Sets of Exhibits

39. In addition to the “official record” exhibits, each side must provide one copy of its exhibits in electronic form (on a portable USB drive or compact disk) to the Courtroom Deputy no later than 5 days before trial. The electronic copy of the exhibits should contain each exhibit as a separate file, with each file named so that the exhibits appear sequentially when sorted by file name.

40. Judge Chhabria's preference for his set of binders is to use copies of the exhibit binders being presented to each witness.

Treatment of Exhibits During Trial

41. Counsel must consult with each other and with Kristen Melen at the end of each trial day about which exhibits are in evidence and any limitations thereon. If there are any disagreements, counsel should promptly bring them to Judge Chhabria's attention.

42. The parties must provide agreed-upon written transcripts of the content of any audio or video exhibits to be used at trial. Failure to provide an agreed-upon transcript by the day an exhibit is offered will preclude the exhibit's admission.

43. At the close of evidence, before closing arguments, counsel must confer with the Kristen Melen to make sure the exhibits in evidence are in good order.

44. Exhibit notebooks for the jury will not be permitted without prior permission from Judge Chhabria.

45. Publication may be by poster blow-up, use of the courtroom electronic evidence presentation system, or such other method as is allowed in the circumstances. It is permissible to highlight, circle, or underscore in the enlargements as long as it is clear that the alterations are not on the original.

46. Each party shall retain a full set of exhibits after trial through the appellate process. It is each party's responsibility to make arrangements with the Clerk of the Court to file the record on appeal.

PRETRIAL ARRANGEMENTS

47. Should a daily transcript and/or real-time reporting be desired, the parties shall make arrangements with Rick Duvall, Court Reporter Supervisor, at (415) 522-2079, at least 14 days before the trial date.

48. No later than 5 days prior to the start of trial, the parties must provide the Court Reporter a jointly-created list of names, places, and any uncommon terms or acronyms that are likely to come up during the trial.

49. If any witness will require an interpreter at trial, counsel shall notify Kristen Melen at least 30 days before the commencement of trial.

50. The parties should contact Kristen Melen, no later than 10 days before trial, to discuss any questions or issues about the layout of the courtroom.

51. The Court may be able to provide access to an easel and the courtroom electronic evidence presentation system. The parties should consult www.cand.uscourts.gov/courtroomtech for information on the available courtroom technology. During trial, counsel may wish to use computer graphics, poster blow-ups, or models. The parties must provide such equipment. Counsel should share equipment to the maximum extent possible. The United States Marshal requires a court order to allow equipment into the courthouse. To request such an order, the parties should contact the Kristen Melen no later than 10 days before trial. For electronic equipment, the parties should arrange with Kristen Melen no later than 10 days before trial a date to set up and test the equipment in advance of trial and be prepared to maintain the equipment during trial. The parties shall tape extension cords to the carpet for safety.

JURY SELECTION

52. The prospective jurors will fill out their questionnaires in the jury office first thing in the morning. After the jury office has collected the questionnaires, it will make copy sets: one for the government, one for each defendant, and one for the Court. Counsel will be given a brief period to review the questionnaires in the courtroom before the prospective jurors are summoned from the jury office. As discussed above, counsel will have an opportunity to propose case-specific questions for inclusion in the questionnaire. However, counsel will also have ample opportunity to ask questions of prospective jurors during voir dire.

53. After the prospective jurors come to the courtroom, Judge Chhabria will discuss hardships with them. Judge Chhabria may then ask a few questions of prospective jurors but will shortly thereafter turn over voir dire to the lawyers.

54. Immediately after jury selection, the parties must return their copy sets of the questionnaires to Kristen Melen. Judge Chhabria's standard practice will be to maintain one set of questionnaires, under seal, for 10 years, in the event they become relevant during post-trial litigation.

TRIAL

55. Trial begins promptly at 8:30 a.m. each day and typically ends between 2:00 and 2:30 p.m., with a 45-minute lunch break.

56. The parties must be present starting at 8:00 a.m. each day in the event matters need to be discussed outside the jury's presence.

57. Counsel must notify the other side of the witnesses who will be called the following two trial days.

IT IS SO ORDERED.

Dated: April 30, 2019



Vince Chhabria
United States District Judge