

Honorable George W. Cannon, Jr.
Magistrate Judge
District Court of the Virgin Islands
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POLICIES AND PROCEDURES

I. GENERAL INFORMATION

A. Communications with Chambers

1. Judge Cannon permits communications with chambers by telephone, regular mail or facsimile on non-substantive matters.

2. All substantive issues must be addressed by a motion or other filing made in accordance with the applicable Rules of the Court. Under no circumstances may any party or counsel communicate *ex parte* with any chambers personnel concerning substantive matters. Law clerks may not render advice to counsel.

B. Scheduling

For the benefit and convenience of the parties and to ensure the fairness and predictability of proceedings, the Court expects strict adherence by all parties to any schedule imposed by the Court, whether verbally or by written order.

C. Status and Settlement Conferences

1. As a general rule, I expect all counsel on St. Croix to attend civil pretrial conferences in person and to be on time. St. Thomas attorneys may continue to attend scheduling and status conferences by telephone as a cost-cutting measure to their clients. Video conference is available upon request. Settlement conferences require all attorneys to attend **in person with their clients** except if special permission is allowed by the Court to participate by telephone.

2. The docket and my calendar are now available on Web Pacer at www.vid.uscourts.gov/pacer. If you have to confirm a

conference, feel free to call my chambers and ask my staff to check my calendar.

D. Electronic Filing

Counsel are reminded that all documents filed with the Court must be filed electronically on the Court's Case Management/Electronic Case Files ("CM/ECF") system. Counsel should refer to the CM/ECF Manual, available on the Court's website, at www.vid.uscourts.gov, as well Local Rule of Civil Procedure 5.4.

II. PRETRIAL MATTERS

A. Continuances

Civil Cases: Where compelling circumstances so require, counsel may request an extension of a filing or other deadline. Only written motions for continuances will be entertained. A request in the form of a letter is unacceptable. Any request for a continuance must present the position of opposing counsel.

Criminal cases: Any request for a continuance must be filed as a motion stating the reasons for the request. Any request for a continuance must present the position of opposing counsel.

B. Discovery

Civil Cases: Parties are expected to manage discovery in civil cases in accordance with Federal Rule of Civil Procedure 26, without involving Judge Cannon, except in the rarest of cases.

Judge Cannon relies on counsels' good faith compliance in all respects with Rule 26(f) in conducting discovery conferences. Such conferences should not be viewed as perfunctory, but rather as a meaningful and substantive discussion to formulate the discovery plan required by the Rule. Parties who do not comply will have no voice at scheduling conferences and may be subject to sanctions.

Criminal Cases: Judge Cannon expects compliance with Federal Rules of Criminal Procedure 16 in conducting discovery in criminal cases. Counsel are also expected to comply with the Local Rules of Criminal Procedure relating to discovery.

C. Settlement & Pleas

Civil Cases: Judge Cannon addresses the possibility of settlement at all stages in the proceedings. In addition, consistent with Local Rule of Civil Procedure 3.2, Judge Cannon directs all parties to consider the use of mediation as an alternative dispute resolution process at an appropriate stage in the litigation.

Upon reaching a settlement, counsel must file a notice of such settlement immediately to be followed with a stipulation of dismissal.

Criminal Cases: Judge Cannon addresses the possibility of pleas at all times. Counsel are encouraged to advise the Court as early as possible of any pleas to avoid unnecessary juror expenses.

D. Motion Practice

Parties are expected to be familiar and comply with the Court's Local Rules regarding motion practice.

E. Oral Argument

Oral argument may be permitted where there are unique factual/legal issues presented. If the matter is set for oral argument, counsel should be prompt, and well prepared.

F. Final Pretrial Conferences

Judge Cannon will utilize the pretrial conference to discuss specific trial procedures.

III. TRIALS AND PROCEEDINGS

For misdemeanor or criminal trials or if the parties consent to a trial by the magistrate judge pursuant 28 U.S.C. § 636(c), and Fed. R. Civ. P. 73, then the following policies will apply.

A. General Procedures

1. Civility and professionalism is the foundation of Judge Cannon's courtroom procedures.

2. Court normally begins at 9:00 a.m. The Court will make

every effort to commence proceedings on time. Counsel, the parties, and witnesses shall be on time.

3. Cellular phones, Blackberries, pagers, and other communication devices are not permitted in the courthouse without special permission from a judge. Attorneys are responsible for their own and their witnesses' communication devices. A violation of this rule may result in confiscation of the offending instrument.

B. Decorum of Counsel

1. The trial shall at all times be conducted in a dignified and formal manner. Counsel shall not raise their voices any louder than is necessary to be clearly heard by the Court, witnesses, and the jury. Always address the Court and not one another. Counsel should never act or speak disrespectfully to the Court or opposing counsel in any manner. Conferences with co-counsel must be conducted in whispers, so they are not audible to others in the courtroom.

2. Counsel's demeanor should be one of courtesy and professionalism. Avoid using first names.

C. Proposed Jury Instructions

1. The parties may submit proposed jury instructions on substantive issues and proposed verdict forms or special interrogatories for the jury no later than ten days before the jury trial.

2. Each proposed instruction should be on a separate page, double spaced, and should include citation to specific authority and submitted electronically.

3. Counsel will have the opportunity to file supplemental instructions during trial as necessary.

E. Proposed Findings of Fact and Conclusions of Law

At the conclusion of a non-jury trial in a civil case, the parties are expected to submit proposed findings of fact and conclusions of law, with specific reference to trial evidence.

F. Court Seating

1. In accordance with local practice, plaintiff's table is closest to the jury box.

2. If there is a request for more than one counsel table for all plaintiffs or all defendants, or any other special requests for seating, visual aids, etc. notify Judge Cannon's Courtroom Deputy at least one week before trial.

3. If any party desires sequestration, that motion shall be made at the outset of the trial. If sequestration is ordered, all witnesses for all parties will be sequestered. Counsel will be responsible for informing their non-party witnesses that they should remain outside the courtroom until called, and that they should not discuss their testimony with other witnesses until the trial is concluded.

G. Voir Dire

1. In civil cases, ten days before jury selection, the parties will submit their proposed questions for *voir dire*.

2. Judge a conducts *voir dire* in all cases.

H. Peremptory Challenges

1. Counsel are given the opportunity to exercise their peremptory challenges simultaneously. Counsel are encouraged to use the "Attorney's List" of jurors provided by the Court to indicate which panel members they wish to strike with their peremptory challenges.

2. In a typical civil case with two parties, each party has three peremptory challenges.

3. In a typical criminal case, the government has six peremptory challenges and the defendant has ten challenges. If alternate jurors are selected, each party is given additional challenges.

I. Opening Statements

The purpose of the opening statement is to state briefly what counsel expects the evidence to show. It is not proper to use the opening statement to argue the case. Upon violation of any of these rules, the Court may, *sua sponte*, interrupt the

opening statement and admonish counsel. The Court may impose time limits on opening statements.

J. Exhibits

1. The Court requires that all exhibits anticipated to be offered at trial be numbered sequentially, irrespective of who propounds the exhibit. The numbering must be completed in advance of the proceeding. The parties need not agree on the admissibility of any exhibit in preparing the exhibits for trial. The Court will rule on the admissibility of individual exhibits in the course of trial.

2. Counsel are advised to prepare a binder or binders containing all documentary exhibits for the Court's use during trial, as well as one for use with witnesses.

3. If a party intends to rely on an exhibit during trial, that exhibit must be shared with the opposing party prior to trial.

4. If a party intends to use non-court equipment in the presentation of evidence, such materials, equipment, and instructions for use must be shared with the opposing party well in advance of the proceeding to avoid delays during the proceeding.

5. If an exhibit is a physical object that witnesses are required to handle, counsel should leave the object at the witness stand to avoid delays in bringing such exhibits to and from witnesses.

6. The Court uses the Jury Electronic Recording System (JERS). Counsel should provide the Court with a USB Flash Drive or CD/DVD disk containing electronic versions of exhibits at least three business days prior to the commencement of trial. Counsel are advised to consult with Court technical staff to determine the proper format for saving electronic versions of exhibits. Counsel should be prepared to present their exhibits using the Court's electronic presentation devices. Documentary exhibits should be presented using the Elmo projector/document camera. Counsel are expected to consult with Court personnel to familiarize themselves with the equipment at least three business days prior to the commencement of trial.

7. In the event of technical failure of the Court's

presentation devices or equipment, parties should be prepared to proceed with their own alternative methods of presenting exhibits.

K. Witnesses

1. The rule of civility is absolute in addressing witnesses, whether on direct or cross examination. Witnesses should not be shouted at, ridiculed, or abused in any manner.

2. Counsel are advised to ensure that all witnesses are available to testify when needed, and to avoid running out of witnesses during a trial day.

3. At the beginning of the examination, counsel should ask witnesses to state and spell their names for the benefit of the court reporter.

L. Objections

1. When objecting, counsel should only state "objection" and cite to the evidentiary rule upon which the objection is based. Do not offer argument or explanation unless requested to do so by the Court. Counsel will not be permitted to state additional reasons after the Court has ruled. Do not use objections for the purpose of making a speech, recapitulating testimony, or attempting to guide the witness.

2. For the purposes of protecting the record, counsel may, outside of the hearing of the jury, request a more complete argument on an objection. Argument will be heard during a scheduled break or before or after trial for the day.

3. In a case involving multiple parties, an objection by one shall be considered an objection by all unless a party specifically opts out of the objection.

4. If a witness is testifying by way of videotape or deposition transcript, counsel must designate the portions of the transcript intended to be presented at trial well in advance of trial. Counsel must provide notice of such designation to all parties no later than two weeks prior to trial. Counsel should attempt to resolve all issues or objections prior to trial. To the extent the parties cannot resolve any issues or objections, they must advise the Court of any outstanding disputes no later than one week prior to trial.

5. If transcripts of audio or video recordings are used in a case, counsel will jointly resolve any dispute regarding the accuracy of transcripts prior to trial.

M. Summation

1. Judge Cannon may set time limits for closing arguments. Plaintiff's counsel should be sure to reserve time from their closing to use for rebuttal. Failure to do so may constitute a waiver of rebuttal.

2. Any objection during closing should be carefully considered, brief and legally based.

N. Jury Instructions and Deliberations

1. Judge Cannon provides counsel with a copy of proposed jury instructions for review in advance of a charging conference. After reading the charge to the jury, he provides the jury with one written copy of the charge for use during deliberations.

2. If Judge Cannon submits written interrogatories to the jury, one copy of such interrogatories is given to the jury.

3. All exhibits admitted into evidence at trial will be provided to the jury during deliberation.

4. If there is a request to poll the jury, the courtroom deputy polls the jury.