

The Honorable Curtis V. Gómez
Chief Judge
District Court of the Virgin Islands
5500 Veterans Drive, Rm. 310
St. Thomas, U.S. Virgin Islands 00802
Telephone (340) 774-1800
Facsimile (340) 777-8532

POLICIES AND PROCEDURES

I. GENERAL INFORMATION

A. Communications with Chambers

1. Judge Gómez 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. Telephone Conferences

When appropriate, Judge Gómez will use telephone conferences for status conferences and other similar matters. In the event that a telephone conference is set, Judge Gómez requests that counsel or a conference call operator place the call in time to allow the conference to proceed as scheduled. Should the Court schedule a telephone conference, the parties participating by telephone are expected to proceed as though they were present in court.

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. Trial Scheduling

A Scheduling Order will usually assign a case to a three-week trial pool. All parties, witnesses and counsel can expect their cases to be tried during the trial pool period and should arrange their schedules accordingly. The Court will make every effort to give counsel reasonable notice of a trial date within the pool period and will attempt to notify counsel at least 72 hours before the day trial is to commence.

B. Continuances

Civil Cases: Where compelling circumstances so require, counsel may request an extension of a filing or other deadline. Judge Gómez will extend deadlines or continue trial dates only in very limited circumstances and where genuinely necessary.

Only written motions for continuances will be entertained. A request in the form of a letter is unacceptable. The party requesting the continuance must notify opposing counsel of the request at least 72 hours in advance of submitting the request to the Court. 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 such motion must be accompanied by a proposed order. The proposed order should outline how the continuance, if granted, would comply with the requirements of the Speedy Trial Act. To the extent a defendant requests a continuance, the defendant is encouraged to use the Court's Application and Checklist for Speedy Trial Extension form.

D. Discovery

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

Judge Gómez 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 among professionals 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 additional sanctions.

Criminal Cases: Judge Gómez 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, especially Local Rule 16.2, which requires the submission of a joint discovery statement.

E. Settlement & Pleas

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

Upon reaching a settlement, counsel must file a notice of such settlement immediately.

Criminal Cases: Judge Gómez 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.

F. Motion Practice

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

G. 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, professionally attired and well prepared. Counsel should not merely repeat the matters asserted in their brief.

H. Final Pretrial Conferences

Judge Gómez will utilize the pretrial conference to discuss specific trial procedures. Pretrial conferences are typically scheduled for the week preceding the trial date or trial pool to which a case is assigned. Judge Gómez utilizes the pretrial conference to resolve any outstanding motions and to discuss jury selection, trial exhibits, time management issues, and other trial procedures.

I. Juror Information

Juror lists containing biographical information will be available for review in the Clerk's Office to parties and the attorneys of record. The attorneys of record may take notes of the information on the lists and such information may be discussed with parties represented in aid of preparation for trial. Under no circumstances, however, may officers of the court provide for distribution their juror notes or a reproduction of the juror list to any person without first receiving permission from the court.

III. TRIALS AND PROCEEDINGS

A. General Procedures

1. Civility is the foundation of Judge Gómez' courtroom procedures. Rise when the judge or the jury enter and leave the courtroom.

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. All persons participating in court proceedings must wear proper attire. Shorts, tank tops, jeans, etc. are not appropriate attire.

4. Cellular phones, Blackberries, pagers, and other communication devices are not permitted in the courtroom. Attorneys are responsible for their own and their witnesses' communication devices. A violation of this rule may result in confiscation of the offending instrument.

5. Food, drink, chewing gum and the like are prohibited in the courtroom and witnesses should be so instructed.

B. Decorum of Counsel

1. Counsel shall dress in an appropriate professional manner. 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. All remarks should be addressed to the Court and counsel will rise when addressing the Court. 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. During opening statements or closing arguments, no juror should be addressed individually or by name.

C. Motions *in limine*

Judge Gómez normally hears any necessary *in limine* motions during trial, unless an earlier ruling will assist settlement discussions or the trial of the case.

D. 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 trial or trial pool date. Jury instructions need only be submitted with respect to substantive issues in the case. Proposed instructions on procedural matters such as the burden of proof, unanimity, and credibility are not necessary.

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

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 Gómez' Courtroom Deputy at least one week before trial.

3. Only counsel and parties, if desired, shall sit at counsel table. All persons sitting at counsel table shall observe the rule of civility at all times.

4. Witnesses and persons assisting counsel shall sit in the spectator section only, unless otherwise authorized by the Court. 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, the parties will submit a joint proposed neutral statement of the facts for *voir dire*. Prior to the final pre-trial conference the parties will submit joint proposed questions for *voir dire*, highlighting only the disputed questions. Proposed *voir dire* questions should not number more than fifteen.

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

H. Peremptory Challenges

1. Counsel are given the opportunity to exercise their peremptory challenges simultaneously. Counsel are required 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.

4. No back strikes will be permitted.

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. As exhibits are discussed during trial, counsel shall refer to the same exhibit by the same number; i.e.:

Direct: "Please look at the contract, Exhibit 32, and tell the jury . . .";

Cross: "Turning now to Exhibit 32, the contract, isn't it true that"

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 responsible for ensuring that all witnesses are well-groomed and properly attired for court.

3. Judge Gómez expects trial to proceed smoothly without delay. 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.

4. Counsel should ordinarily conduct examination of witnesses from the lectern. Do not approach a witness without specific permission. When such permission is granted, counsel must return to the lectern when the purpose for approaching is

concluded. Neither counsel nor the parties shall convey, by facial expression or other conduct, their reaction to the testimony of any witness.

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

6. If a witness was on the stand at a recess or adjournment, the witness should be on the stand ready to proceed when Court is resumed. Counsel are reminded that they may not discuss a witness's testimony with him or her once that witness has begun testifying until the witness is excused.

7. When using an exhibit during the examination of a witness, counsel should be prepared to display only the relevant document to the witness.

8. Counsel are expected to avoid the use of argumentative questions when examining witnesses. Counsel are also advised to keep their questions clear and to the point. A witness's answer should not be interrupted with another question.

9. If an examination must be interrupted because counsel needs to confer with co-counsel or retrieve an item, counsel should first advise the Court.

10. Upon completion of the examination of a witness, counsel should notify the Court.

I. Objections

1. When objecting, counsel should only state "objection" and cite to the evidentiary rule upon which the objection is based in a word or two. 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. In no case will trial be delayed to argue about or edit such evidence.

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. Demand for *Jencks* materials

When a demand for *Jencks* materials is made, it is a standing order of the Court that the Government shall immediately produce all such materials to the defense. The Court will not use the words "the government is ordered to produce *Jencks* materials" in the event it may suggest to the jury a failure to disclose materials. Rather, the Court will state that the Government knows its obligations. The Court intends this statement as a directive to the Government to produce *Jencks* materials immediately.

N. Side Bar Conferences

Judge Gómez discourages side bar conferences. If possible, issues should be resolved before the commencement of that day's proceedings, during breaks, at lunch time, or after the jury is dismissed for the day.

O. Summation

1. Judge Gómez 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.

P. Jury Instructions and Deliberations

1. Judge Gómez 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. Judge Gómez normally conducts the charging conference off the record. Judge Gómez always permits counsel to put objections to the charge on the record.

2. If Judge Gómez 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. Counsel must remain within seven minutes from the courthouse during jury deliberations.

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