

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

STANDING ORDER IN CRIMINAL CASES

Judge Yvonne Gonzalez Rogers

Revised April 2, 2019

1. **Conformity to Rules.** Parties are expected to consult and comply with all provisions of the Local Rules and the Federal Rules of Criminal Procedure relating to motions, briefs, continuances, and all other matters, unless specifically superseded by this Standing Order. Any failure to comply with any of the rules and the Court's Standing Order may be deemed sufficient grounds for the appropriate sanctions. Parties are advised that this Standing Order is subject to change without notice and that they should check for the latest revisions on the Court's website at [cand.uscourts.gov/ygrorders](http://cand.uscourts.gov/ygrorders).

2. **Chambers Copies of Motions and Trial-Related Filings.** Unless otherwise specifically ordered, a chambers copy of all documents filed, whether electronically filed or manually filed at the Clerk's Office, shall be submitted to the Clerk's Office in an envelope clearly marked with the case number and "YGR Chambers Copy" for receipt no later than 12 noon the second business day after the document is filed. Submission by overnight delivery such as Federal Express or UPS is sufficient.

a. **All chambers' copies must be 3-hole punched** in the left margin in a manner suitable for placement in a 3-ring binder.

b. Chambers copies must include tabs between exhibits and must fasten or attach pages of individual documents together so as to distinguish between separate documents. Please do not use bottom tabs as they do not work well in binders.

c. Chambers copies submitted without meeting the above requirements may be rejected, and the party may be required to re-submit.

3. **Motions**

a. **Discovery Motions.** All criminal discovery motions will be referred to a magistrate judge. Unless otherwise ordered, all cases ending with 0-4 will be referred to Magistrate Judge Kandis Westmore and all cases ending with 5-9 will be referred to Magistrate Judge Donna Ryu.

b. **All Other Motions.** Unless otherwise ordered, the parties may stipulate to any mutually agreeable briefing schedule so long as all briefing is complete at least *seven (7)* days in advance of the hearing.

In the absence of a stipulation, motions (except those pertaining to sentencing) shall be filed at least *twenty-one (21)* days in advance of the hearing date. Opposition briefs shall be filed at least *fourteen (14)* days in advance of the hearing date. Reply briefs shall be filed at least *seven (7)* days in advance of the hearing date.

The party filing any motion or opposition shall show which of the exclusions under 18 U.S.C. § 3161 may be applicable to the action sought or opposed, and his or her calculation of the amount of excludable time.

All motions and oppositions to motions shall comply with Criminal Local Rule 47- 2(b), which requires that motions "presenting issues of fact ... be supported by affidavits or

declarations which comply with the requirements of Civil Local Rule 7-5.” Civil Local Rule 7-5, in turn, requires that “[f]actual contentions made in support of or in opposition to any motion must be supported by an affidavit or declaration and by appropriate references to the record.” Moreover, other evidence in support of or in opposition to any motion “must be appropriately authenticated by an affidavit or declaration.” That rule further requires that affidavits and declarations contain factual contentions only, avoiding conclusions and legal argument, and “conform as much as possible to the requirements of Federal Rule of Civil Procedure 56(e).” Declarations or affidavits not complying with these requirements may be stricken.

**4. Pre-trial Motions in Limine.** A motion *in limine* refers “to any motion, whether made before or during trial, to exclude anticipated prejudicial evidence before the evidence is actually offered.” *Luce v. United States*, 469 U.S. 38, 40, n.2 (1984). Unless otherwise ordered, not less than **twenty-one (21)** days prior to the pretrial conference, the parties shall serve, **but not file**, motions *in limine*. Not less than **fourteen (14)** days prior to the pretrial conference, the parties shall serve, **but not file**, any oppositions thereto. Parties should address a single, separate topic in each motion *in limine*, and contain no more than seven pages of briefing per side. Parties may not file more than **five** motions per side or exceed page limitations without leave of the Court. The parties shall then meet and confer to resolve the motions.

Any motions not resolved **shall be filed** not less than **seven (7)** days prior to the pretrial conference. The parties shall jointly submit a chambers copy organized with each motion and the respective opposition. The proponent of a motion shall also submit a comprehensive proposed order summarizing each of his or her own motions and the requested relief. No reply briefs shall be considered.

**5. Exclusion of Witnesses.** The Court hereby orders that witnesses shall be excluded until testimony is completed. Parties are ordered to admonish witnesses of the Court’s rulings. Failure to comply with a ruling by the Court may result in sanctions, including without limitation the striking of the witness’s entire testimony.

**6. Joint Pretrial Conference Statements.** Counsel shall comply with Local Rule 17.1-1(b) and file a joint pretrial conference statement **not less than seven (7)** days prior to the pretrial conference addressing all **fifteen (15)** issues identified therein. Counsel shall meet and confer in advance on proposed jury instructions, voir dire questions, exhibits, and stipulations. Counsel should be prepared to discuss with the Court any anticipated evidentiary objections and any means for shortening and simplifying the trial. Counsel should submit an agreed upon set of additional requested voir dire questions to be posed by the Court. Any voir dire questions on which counsel cannot agree shall be submitted separately.

The government shall serve and file: (1) a proposed jury verdict form; (2) a list of all witnesses who may be called, together with a brief summary of the testimony of each; (3) an exhibit list; and (4) a trial memorandum briefly stating the legal bases for the charges and the anticipated evidence, and addressing any evidentiary, procedural or other anticipated legal issues. To the extent consistent with the defendant’s right to an effective defense, defense counsel shall also serve and file items (2) through (4) above.

The parties shall also meet and confer and file a Joint Statement of the case to be read during voir dire. Any disputes will be resolved at the pre-trial conference.

7. **Jury Instructions.** Jury instructions §1.1 through §1.11 and §3.1 through §3.10 from the most recent Manual of Model Jury Instructions for the Ninth Circuit will be given absent objection. Jury instructions §1.12 and §1.13 may be given if necessary. Counsel shall jointly submit one set of additional proposed jury instructions, ordered in a logical sequence, together with a table of contents, using the Ninth Circuit Manual where possible, or Devitt and Blackmar or CALJIC, *not less than seven (7)* days prior to the pretrial conference. Any instructions on which counsel cannot agree shall be marked as "disputed," and shall be included within the jointly submitted instructions and accompanying table of contents, in the place where the party proposing the instruction believes it should be given. Argument and authority for and against each disputed instruction shall be included as part of the joint submission, on separate sheets directly following the disputed instruction.


8. **Opening Statements.** Parties must meet and confer to exchange any visuals, graphics or exhibits to be used in opening statements. Unless otherwise agreed, the exchange must occur no later than the close of business on the Wednesday before trial. Any objections not resolved must be filed in writing by the Thursday before trial. The parties shall be available by telephone on the Friday before trial to discuss the issues raised with the Court.

9. **Requests for Transcripts.** If transcripts will be requested during or immediately after the trial, arrangements must be made with the Court Reporter Coordinator (Telephone No. 510-637-3534) *at least one week* prior to the commencement of the trial.

10. **Interpreters.** Counsel must notify the Court at least 30 days in advance of trial if any witness requires an interpreter and there is no certified court interpreter available to translate in the necessary language(s).

**IT IS SO ORDERED.**

Dated: April 2, 2019

  
YVONNE GONZALEZ ROGERS  
United States District Judge