

QUESTIONNAIRE FOR DISTRICT JUDGE
AND MAGISTRATE INTERVIEWS

Answers of Magistrate Naville

I. Commencement of Action and General Procedures

- A. Initial court review upon filing? (Removal review; jurisdictional review; U.S. as litigant.)

Not applicable.

- B. Scheduling conference procedures. (When, what format, what forms used for scheduling first conferences and pretrial conferences?)

Not applicable.

- C. Telephone conference calls?

Not applicable.

- D. Courtroom protocol. (Where counsel tables are positioned, whether to stand when addressing the Court; tardiness; scheduling conflicts; side-bar conferences; request to approach witness, marking and handling of exhibits, use of computers, video exhibits, CDRoms, etc.)

Not applicable.

- E. Procedures for resolving scheduling conflicts. (Trial dates, motion dates; how and when brought to Court's attention; what grounds valid for rescheduling?)

Not applicable.

- F. Practice re assignments and references to magistrates.

Not applicable.

G. ADR procedures.

Not applicable.

II. Civil Law and Motion Procedures

A. Days, times for calendar. (What does the judge require in terms of advance notice to the Court, if any, of motions to be presented?)

Not applicable.

B. Does the judge use a short form procedure for non-dispositive motions?

Not applicable.

C. Procedures re scheduling. (Call Judge's clerk or law clerk first to set? Resetting on Court's own motion? Short matters called first? Will any orders on motions be entered without court appearance? What types of motions? How do lawyers determine whether an appearance is required?)

Not applicable.

D. Procedures re obtaining orders shortening time. (Court or magistrate; need for personal appearance by attorney; ex parte vs. stipulated; notice to opposing counsel?)

Not applicable.

E. Calendaring TROs, preliminary injunction hearings, contempt hearings. (What arrangements required; practice re allowing evidentiary hearings?)

Not applicable.

F. Continuances. (Practice re granting; preferred procedures.)

Not applicable.

G. Briefing schedules. (Any special preferences or rules?)

Not applicable.

H. Oral argument. (When desired, when unnecessary? Will oral argument on motions be granted if a party requests it? Under what circumstances? Any provision for identifying particular questions for argument? Any tentative ruling procedure? Any time limits? Preferred procedure for presenting new authorities not included in briefs?)

Not applicable.

I. Motion papers and briefs. (Extra copies desired? Particular format preferred? Special length provisions? Contacts with law clerks encouraged, discouraged?)

Not applicable.

J. Should motion papers and briefs be filed in chambers, in the clerk's office, or both?

Not applicable.

K. Preparation of proposed orders after rulings. (When submitted, by whom, preferred procedures re obtaining opposing counsel's approval as to form?)

Not applicable.

L. Other comments?

Not applicable.

III. General Duty Judge -- Special Proceedings

A. Preferred procedures for scheduling matters in General Duty department. (Call clerk? Regular calendar? Orders shortening time and emergency matters -- practice; ex parte vs. stipulation; notice to opposing counsel.)

Not applicable.

- B. Evidentiary hearings. (How to schedule, preferred practice?)

Not applicable.

IV. Criminal Law Procedures

- A. Days, times for calendar.

These are very flexible and within the parameters set under the Federal Rules of Criminal Procedure, are generally set around the calendars of the United States Attorney, counsel for the defendant, and my own personal calendar.

- B. Procedures for scheduling. (Scheduling orders; how firm are dates initially set? Preferred method of changing dates, continuances; conflict between criminal trial date and civil trial already set.)

Again, this is extremely flexible as there are very few times that the courtroom is being used for civil, jury or bench trials. Those few occasions where the courtroom was unavailable (i.e. due to bench trial, remodeling, etc.), the adjacent small courtroom formerly used by United States Bankruptcy Judge for hearings was substituted.

- C. Bail procedures.

1. When, by whom are initial bail determinations made; preferred method, content of presentation (proffer or live witnesses)

This generally comes into play concerning detention hearings, or if an arrangement has been agreed to between the United States Attorney and counsel for defendant, I will normally approve the same. If an agreement has not been made, then the parties must go through the required detention hearing and a decision is based upon hearing the evidence. I allow either the proffer of testimony or live witnesses of counsel's own choosing.

2. Procedure for appeal of magistrate's ruling on bail issues.

To date I have not had one appealed.

3. Procedure for obtaining exemption from bail conditions (trip out of town) or modification of bail provisions.

In these types of situations, I make an attempt to find out ahead of time whether this is going to be a problem with the defendant and the government. To the extent it can be anticipated, we try to address it at that hearing. To the extent that it cannot, I rely heavily upon the recommendations of the United States Probation Officer as to whether or not he considers the defendant to be a good candidate to relax bond requirements in a given instance.

- D. Speedy Trial Act motions and orders. (Will Court accept stipulation between Government and counsel re Speedy Trial Act time exclusion, or complex case designations? If not, how, when determined?)

Not applicable.

- E. Criminal evidentiary/suppression hearings. (Procedures to calendar evidentiary hearings; proffers, declarations or affidavits vs. live testimony; statements of contested and uncontested facts and issues.)

Not applicable.

- F. Oral argument. (Ever considered unnecessary? Any provision for identifying particular issues for argument? Any tentative ruling system? Time limits? Preferred practice for submitting newly discovered authorities?)

Not applicable.

- G. Motion papers and briefs. Timing on filing briefs and motions in limine. (Extra copies desired? Particular format preferred? Contacts with law clerks encouraged, discouraged?)

Not applicable.

H. Trial briefs, jury instructions, forms of verdict. (When required from defense, preferred format and sequence, etc.)

Not applicable.

I. Pretrial conferences. (When, how scheduled; preferred procedures?)

Not applicable.

J. Discovery. (Deadlines; motions necessary? "Open-file" discovery practices? Reciprocity? Timing re Jenks Act and Rule 404(b) disclosures.

Not applicable.

K. Entering pleas.

1. Procedure preferred re presentation of factual basis, terms of any plea bargain; when is written plea required/preferred? Will the defendant be sworn and subject to questioning at plea hearing?

Not applicable.

2. Are nolo contendere or Alford pleas ever accepted?

Not applicable.

L. Sentencing. (Does the judge confer with the probation officer without notice to and/or presence of counsel? Timing on objections to Presentence Report; must objections be in writing? Will the Court give notice of its intention to depart from the Guidelines -- opportunity to brief departure issues?)

Not applicable.

M. Other comments?

Not applicable.

V. Pretrial and Trial

- A. Pretrial reports - civil. (Joint vs. separate; amount of detail; any areas of particular interest to Court? Does the judge have his own form of pretrial order, does he use a standard form prescribed for use in the court as a whole, or does each case have a customized order?)

Not applicable.

- B. Identification of trial witnesses. (How much detail required in statements; any flexibility in application; expert witnesses? Can witness identified as "live" be presented through deposition?)

Not applicable.

- C. Motion cut-off date and discovery cut-off date. (What are normal limits; under what circumstances are these dates altered?)

Not applicable.

- D. Trial continuances. (What grounds acceptable, necessary; cut-off time for motion; effect of stipulation among counsel?)

Not applicable.

- E. Are time limits imposed for trial?

Not applicable.

- F. Are mini-opening statements and summations permitted?

Not applicable.

- G. Trial exhibits:

1. Pre-marking. (When required; civil vs. criminal.)

Not applicable.

2. Pretrial exchange of trial exhibits. (How required; must copies be provided to other side?)

Not applicable.

3. Pretrial resolution of objections to admissibility.

Not applicable.

4. Marking -- numbering, lettering, conventions.

Not applicable.

5. Copies of exhibits for judge. (Required? If so, what format -- loose, binders, etc.)

Not applicable.

6. Use in opening statement -- necessity to obtain prior court approval.

Not applicable.

7. Copies of exhibits for jurors? (Required/allowed? If so, what format -- loose, binders, all vs. fewer than all?)

Not applicable.

8. Exhibits into jury room? (How decided; general rule?)

Not applicable.

9. Preferences re scheduling and briefing in limine motions?

Not applicable.

H. Experts at trial

1. Exchange of identities. (When, how requested; civil vs. criminal.)

Not applicable.

2. Exchange of reports or summaries of testimony.

Not applicable.

3. Voir dire re qualifications (preferred procedures).

Not applicable.

4. Any special rules re presentation to jury? (Summaries in lieu of direct testimony, etc.)

Not applicable.

5. Other comments?

Not applicable.

I. Jury selection process.

1. Voir dire questions.

Not applicable.

2. Examination of jurors. (Court vs. counsel upon request of counsel.)

Not applicable.

3. Exercise of challenges.

Not applicable.

4. General practice. (How many called up at a time; general questions to whole panel, etc.)

Not applicable.

J. Juror notetaking during trial. (Allowed? prohibited? cautionary instructions?)

Not applicable.

K. Visual aids during trial (charts, videos, models, computer generated exhibits).

1. Use in opening statements. (Need for judicial approval? limitations? conditions on use?)

Not applicable.

2. Stipulations/pretrial exchange required?

Not applicable.

3. Court permission required during trial? (When, how, any limit on types of visual aids?)

Not applicable.

L. Deposition testimony at trial. (Preferred practice; who reads what parts, etc.)

Not applicable.

M. Jury instructions.

Not applicable.

1. Format, preferred sources.

Not applicable.

2. Does judge have own preferred instructions? (If so, are they required? When are they provided to counsel?)

Not applicable.

3. Hearing re objections and making record.

Not applicable.

4. When is jury instructed? (Any pre-instruction at commencement of case? Before or after argument, or both?)

Not applicable.

5. How is jury instructed? (Orally only? Are transparencies of the instructions used as the judge reads? Are copies of instructions given to jurors during deliberation?)

Not applicable.

- N. Closing argument -- ground rules. (Where to stand; what can be used, e.g., exhibits, blowups of instructions, blowups of trial testimony; preferred method of handling objections during argument; any special rules re what can be said about instructions; time limits?)

Not applicable.

VI. Discipline and Sanctions

- A. Civil matters -- Rules 11, 16, 26, etc.

Not applicable.

- B. General sanctions under 28 U.S.C. 1927 (when imposed, what sort of hearing held, what types of notice given?)

Not applicable.

- C. Criminal matters.

Not applicable.

VII. Settlement and Sentencing

- A. Civil settlement conferences.

1. When, how set? (Routinely? Only as requested? At what stage of the proceedings? How many times?)

Not applicable.

2. Before whom? (Trial judge? Magistrate? Another district judge?)

Not applicable.

3. Settlement conference statements, procedures. (Written statements required/desired? Are they filed? Must clients be present? What format for conference? Use of computer-generated and video materials at conference?)

Not applicable.

4. Any special procedures? (Early Neutral Evaluation? Special arbitration procedures? Mediation? Rent-a-judge? Mini-trial?)

Not applicable.

- B. Criminal matters.

1. Sentencing memoranda (preferences).

Not applicable.

2. Resolution of factual disputes on sentencing.

Not applicable.

VIII. Ex Parte Communications

- A. Communications between Court and party. (Any circumstances when permitted; clerk/law clerk involvement?)

Not applicable.

- B. Communications between Court and state court on related cases.

Not applicable.

- C. Differences between civil and criminal?

Not applicable.

IX. Any other comments?

None.

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