

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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KIRK HENRY, et al.,)	
)	2:08-CV-635-PMP-GWF
)	
)	JUDGE PHILIP M. PRO'S
)	<u>ORDER REGARDING TRIAL</u>
)	
Plaintiff(s),)	
)	
vs.)	
)	
FREDERICK RIZZOLO, et al.,)	
)	
)	
Defendant(s),)	

1. Attached hereto is a list of the civil and criminal cases that are presently scheduled for the two-week stacked trial calendar before the **Honorable Philip M. Pro, United States District Judge, at Las Vegas, Nevada**, commencing on **TUESDAY, MARCH 9, 2010 at 9:00 a.m.** in Courtroom #7C.

2. Counsel for all parties in civil and criminal cases, and all pro se parties, shall appear in Courtroom Number #7C on **WEDNESDAY, MARCH 3, 2010, at 9:00 a.m.** for Calendar Call. Unless a party in a civil case or a defendant in a criminal case is appearing pro se, the individual parties in civil cases and defendants in criminal cases will not be required to appear for Calendar Call unless the Court directs otherwise.

3. Counsel and their clients will be excused from Calendar Call if settlement papers have been filed in a civil case or a defendant's plea of guilty or nolo contendere has been received in a criminal case prior to the date scheduled for Calendar Call.

4. **At Calendar Call**, all cases that remain to be tried will be ranked in order of trial. The Court may also schedule a final Pretrial Conference to address outstanding issues including any Motions In Limine that have not been previously ruled upon. Thereafter, the Court will not grant a continuance to any party absent a showing of good cause. Unless the Court otherwise directs, the cases will be tried one after the other on **TWENTY-FOUR (24) HOURS'** notice from the clerk.

5. **WITNESSES**. Counsel and any parties appearing pro se, shall immediately subpoena all witnesses for the trial date and time as listed above. Inasmuch as some cases will be tried in a trailing fashion, the subpoenas should contain a special instruction from counsel directing witnesses to contact the **office of counsel** for further instructions prior to appearing for trial. Witnesses are not required to be present at the Calendar Call.

6. **USE OF EVIDENCE DISPLAY EQUIPMENT**. Counsel wishing to utilize the court's evidence display equipment must contact the Courtroom Deputy Clerk prior to Calendar Call to determine its availability and to arrange for training, if needed.

7. **EXHIBITS**. **At Calendar Call** in every civil and criminal case, counsel and any parties appearing pro se, shall supply the undersigned's Courtroom Deputy Clerk with the original and two copies of a complete exhibit list of all exhibits that are intended to be used during the trial, and shall serve a copy upon all other parties. Numerals shall be used to identify all exhibits. Plaintiff's exhibits shall be marked 1 through 500. Defendant's exhibits shall be marked 501 through 1000. The exhibits shall be listed on the form to be provided by the clerk and pursuant to the instructions as shall be supplied by the clerk. The parties may use computer-generated exhibit lists as long as they conform to the requirements of the form that is provided by the clerk.

In any case which involves fifteen or more document exhibits, the exhibits shall be placed in a loose-leaf binder behind a tab noting the number of each exhibit. The binder shall be clearly marked on the front and side with the case caption and number and the sequence of exhibits. At the commencement of trial, counsel shall provide the Courtroom Deputy Clerk with the binder containing the original exhibits and a courtesy set for the trial judge.

8. **PROPOSED JURY VOIR DIRE QUESTIONS.** At **Calendar Call**, counsel and any party appearing pro se, shall file with the Courtroom Deputy Clerk an original and one copy of any proposed jury voir dire questions which any party requests the court to pose to prospective jurors at the time of jury selection.

9. **WITNESS LISTS.** At **Calendar Call**, counsel and any party appearing pro se, shall file with the Courtroom Deputy Clerk a list of witnesses expected to be called on behalf of each party for use by the Court during jury selection.

10. **CHANGE OF PLEA HEARINGS IN CRIMINAL CASES.** **Change of plea** hearings in criminal cases will be set for **CALENDAR CALL** unless otherwise scheduled. It shall be the joint responsibility of counsel for Plaintiff United States and for the Defendant to ensure that the original plea agreement and two copies are delivered to Courtroom Deputy Clerk Donna Andrews by 4:00 p.m. on the day prior to the plea of guilty or nolo contendere is to be taken. It shall further be the responsibility of counsel for Plaintiff United States to ensure that any necessary Produce Orders or Writs of Habeas Corpus Ad Prosequendum are timely delivered to the United States Marshal to ensure the presence of all in-custody defendants for change of plea, and to ensure proper notification for the attendance of any court interpreter which may be required for the

particular case.

11. **JURY INSTRUCTIONS IN CRIMINAL CASES.** Counsel are to comply with the “**Order Regarding Pretrial Procedure**” previously entered in the case. **At Calendar Call, counsel are required to submit proposed jury instructions to the Court.** The parties are further advised that the undersigned district judge has developed his own “stock” or “general” jury instructions drawn principally from the **Manual of Model Criminal Jury Instructions for the Ninth Circuit.**

12. **GOVERNMENT’S TRIAL MEMORANDUM.** In all criminal cases, Plaintiff United States shall file its original **Government’s Trial Memorandum** under seal **at Calendar Call** and shall also provide a reading copy for the Court. The Government’s Trial Memorandum shall be served on counsel for Defendant on the date trial commences.

13. **JURY INSTRUCTIONS IN CIVIL CASES.** In all civil cases to be tried before a jury, counsel and any parties appearing pro se are required to jointly file one set of agreed-upon jury instructions and form of verdict **at Calendar Call.** To meet this requirement, the parties are required to serve their proposed jury instructions upon each other at least two weeks prior to trial and file those with the Court on the date indicated in the Pretrial Order; and to thereafter confer to arrive at a single set of jointly agreed upon jury instructions. To the extent the parties are unable to agree as to the form of any particular instruction(s), each party shall also file **at Calendar Call** the jury instruction(s) which are not agreed upon together with the respective arguments and authorities of the parties in support thereof.

The parties are further advised that the undersigned district judge has developed his own

"stock" or "general" jury instructions drawn principally from the **Manual of Model Civil Jury Instructions for the Ninth Circuit**. Therefore, the efforts of the parties in preparing the jury instructions in compliance with this Order should be focused on developing special jury instructions which relate to the particular claims and defenses at issue as well as those relating to damages and any special evidentiary matters pertinent to the case.

All proposed jury instructions submitted by the parties should be concise, understandable, and neutral statements of law. Argumentative jury instructions are improper, will not be given, and should not be submitted.

14. **TRIAL BRIEFS, AND PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**. To the extent they have not already done so in accordance with the Court's Joint Pretrial Order, counsel for all parties, and any party appearing pro se, shall file an original and two copies of a trial brief in all civil cases **at Calendar Call**. Additionally, in all civil cases to be tried before the court sitting without a jury, the parties shall file proposed Findings of Fact and Conclusions of Law **at Calendar Call**.

15. **SANCTIONS**. As provided for under the Local Rules of Practice of this Court, the Court will consider the imposition of sanctions against any attorney or party appearing pro se who: (1) fails to timely file trial briefs, suggested voir dire questions and proposed jury instructions or proposed findings of fact and conclusions of law, whichever is applicable, as prescribed by the Pretrial Order, Order Regarding Pretrial Procedure, Scheduling Order or any order extending the time for such filings; (2) fails to comply with the provisions of this order including, but not limited to, the failure to appear for Calendar Call without first having been excused by the Court or the

clerk with the permission of the Court; or (3) fails to timely comply with any other order that schedules deadlines for trial preparation.

16. **CONSENT TO TRIAL BEFORE A MAGISTRATE JUDGE.** All parties in civil actions are reminded of their right, subject to the approval of the undersigned, to consent to trial before a United States Magistrate Judge pursuant to Title 28, United States Code, Section 636(c)(2). The right to proceed before a magistrate judge in a civil case includes those cases which will be tried before a jury as well as those cases to be tried before the Court sitting without a jury. Any appeal from a judgment resulting in a trial before a magistrate judge shall be taken directly to the United States Court of Appeals.

17. **CONTACT PERSON.** All questions and information regarding the trial calendar are to be directed to DONNA ANDREWS, Courtroom Deputy Clerk, at (702) 464-5426.

18. **THE DATE** of the Clerk's file mark shall constitute the date of this Order.

IT IS SO ORDERED.



PHILIP M. PRO
United States District Judge

TRIAL CALENDAR OF THE HONORABLE PHILIP M. PRO, UNITED STATES DISTRICT JUDGE, AT LAS VEGAS, NEVADA, COMMENCING ON TUESDAY, MARCH 9, 2010, AT 9:00 A.M., WITH CALENDAR CALL SET WEDNESDAY, MARCH 3, 2010, AT 9:00 A.M.

1. 2:08-CR-61-PMP-RJJ UNITED STATES OF AMERICA
vs.
MARQUE GARDELEY CUSTODY

JURY TRIAL (ESTIMATED __ DAYS) Indictment 1 Count : 18 USC 922(g)(1) & 924(a)(2)

Paul S. Padda, AUSA (388-6336 for Plaintiff) Richard F. Boulware, AFD (388-6577 for Defendant)

AMERICAN SIGN LANGUAGE INTERPRETER REQUIRED

2. 2:09-CR-60-PMP-PAL UNITED STATES OF AMERICA
vs.
SANTIAGO HUMBERTO RODRIGUEZ-APARICIO CUSTODY

JURY TRIAL (ESTIMATED __ DAYS) Indictment 3 Counts: 8 USC 1326; 18 USC 922(g)(5)(A) & 924(a)(2); 18 USC 922(g)(1) & 924(a)(2)

Robert A. Bork, AUSA (388-6336 for Plaintiff) Monique N. Kirtley, AFD (388-6577 for Defendant)

SPANISH INTERPRETER REQUIRED

3. 2:09-CR-261-PMP-RJJ UNITED STATES OF AMERICA
vs.
NATHAN RAY DENT CUSTODY

JURY TRIAL (ESTIMATED __ DAYS) Superseding Indictment 4 Counts: 18 USC 1951; 18 USC 2113(a)&(d); 18 USC 924(c)(1)(A); 18 USC 922(g)(1) & 924(a)(2)

Paul S. Padda, AUSA (388-6336 for Plaintiff) (388-6577 for Defendant)

TRIAL CALENDAR FOR MARCH 9, 2010

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4. 2:10-CR-10-PMP-RJJ UNITED STATES OF AMERICA
vs.
GARY SMITH PR BOND

JURY TRIAL (ESTIMATED __ DAYS) Indictment 1 Count: 42 USC 7413(c)(2)(A)

Roger Yang, AUSA Brenda Weksler, AFPD
(388-6336 for Plaintiff) (388-6577 for Defendant)

5. 2:05-CV-204-PMP-GWF LOREN G. CHAPULIN, et al.
vs.
JACKIE CRAWFORD, et al.

JURY TRIAL (ESTIMATED __ DAYS) Complaint: 442 Civil Rights Jobs

James Andre Boles Jill Carol Davis
(775-329-1544 for Plaintiffs) Timothy Andrews
(486-3420 for Defendants)

6. 2:08-CV-635-PMP-GWF KIRK HENRY, et al.
vs.
FREDERICK RIZZOLO, et al.

BENCH TRIAL (ESTIMATED __ DAYS) Criminal Contempt of James Kimsey

Peter S. Levitt, AUSA Richard F. Boulware, AFPD
(388-6336 for Plaintiff) (388-6577 for Defendant)
