

Senior District Judge Terry R. Means

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Judicial Assistant: Michelle Moon 817-850-6670

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[Courtroom Technology](#)

501 W. 10th Street, Room 502
Fort Worth, Texas 76102-3673

Courtroom: 5th floor

Case Letter Designation: (Y)

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Judge Specific Requirements

I. Case Management Procedures

A. Status Report/Scheduling Order

An Order to Submit a Joint Status Report ("OSJSR") is issued as soon as possible after all or most defendants have filed responsive pleadings. The OSJSR sets out a number of requirements and requires that important case-specific information be included in the parties' Joint Status Report. The Initial Scheduling Order is based on the parties' responses in their Joint Status Report.

B. Preliminary Pretrial Conference ("Rule 16 Conference")

Typically, unless a FRCP 16(a) scheduling conference is requested by a party, the judge will merely enter an Initial Scheduling Order after reviewing the Joint Status Report filed by the parties, and will not convene a conference before the Court.

C. Fed. R. Civ. P. 26(f) Conference

The parties must comply with FRCP 26(f). If, at the time the judge enters his OSJSR, the parties have already conducted a FRCP 26(f) scheduling conference that fully complies with the one required by the OSJSR, they need not convene an additional conference. If the parties have already submitted a Rule 26(f) written report that outlines their proposed discovery plan by the time the OSJSR issues, they must nevertheless submit the Joint Status Report required by the OSJSR, because the OSJSR requests additional information not required by FRCP 26(f). The parties may, however, adopt portions of their written report by reference in the Joint Status Report if they attach a photocopy of the written report to their Joint Status Report.

D. Referrals to Magistrate Judges

Without identifying who will or will not consent, the parties must inform the judge in their

Joint Status Report whether they will consent to referral of the case to a magistrate judge pursuant to 28 U.S.C. § 636(c). If all parties consent, the case will be referred to the magistrate judge for all purposes. Additionally, most discovery motions are referred to the magistrate judge.

E. **Settlement Discussions**

In the Court's Initial Scheduling Order, parties are ordered to hold a face-to-face settlement conference. If a settlement is reached, the Court should be notified immediately. The Court will then enter an order setting a deadline for the filing of an agreed order of dismissal due to settlement.

F. **Pretrial Order**

Within 60 days after discovery is closed, an order for trial-setting conference will be issued. The Court's law clerk conducts a trial-setting conference with counsel. Following the trial-setting conference, the Court will issue a final scheduling order that will advise the parties as to whether a pretrial order is necessary.

G. **Final Pretrial Conference**

A final pretrial conference is held the morning the trial commences in most civil cases.

II. **Motion Practice**

A. **Requirements for Specific Motions**

1. **Summary Judgment**

The time for filing summary judgment motions is set by the Initial Scheduling Order, which is issued after the parties file their Joint Status Report.

Content of Motions. Regarding summary-judgment motions, the parties shall proceed as though local civil rules 56.3(b) and 56.4(b) contain the word "must" instead of the word "may" in their first lines. That is, all matters required by local civil rules 56.3(a) and 56.4(a) must be set forth in the party's brief;

Identifying Live Pleadings. The party moving for summary judgment must identify, in a separate section at the beginning of his brief, by name of pleading, date filed, and document number on the Court's docket, the live pleadings for each party who has appeared in the action. Any party filing a response to the motion shall indicate whether he agrees with the movant's identification of the live pleadings and, if not, why not; and

2. **Continuance**

See LR 40.1; absent exceptional circumstances, continuances in civil cases are not granted since the trial month is agreed to by counsel for the parties and the Court at the trial-setting conference.

3. **In Limine**

Motions in limine are due approximately one month before trial; the deadline for filing them will be set out in the Final Scheduling Order, which will be issued soon after the trial-setting conference.

B. **Appendices**

1. Highlighting of Appendices. Regarding the documentary evidence submitted in an appendix, Judge Means requires that, **if the appendix is electronically filed**, the proponent of the appendix underline (or, as to large passages, bracket in the margin) the portions of the appendix upon which he relies. Similarly, **if the appendix is manually filed**, the portion of each page of the appendix upon which the proponent relies must be highlighted, underlined (or, for large passages, bracketed in the margins).
2. Large Appendices. Local civil rule 10.1(e) notwithstanding, the judge's paper copy of any appendix exceeding one hundred fifty (150) pages must be submitted in one or more three-ring binders, with the notice of electronic filing placed on top of the appendix inside the first binder and tabbed dividers placed between each separate exhibit. No single binder should exceed approximately three hundred (300) pages. See section E, below for appendices of fewer than 150 pages.

3. Exhibit Tabs. If tabs are used to separate exhibits, they must be placed on the right-hand side of the exhibits (i.e., not at the bottom of the page).

C. Non-published Citations

If citations to non-published cases are included in a brief, the proponent of the brief must attach a copy of the non-published case in the appendix. Westlaw citations are preferred over Lexis.

D. Hearings

Hearings on motions are set by the Court only when the Court determines that a hearing is necessary. Parties must submit in the motion, the response, and the reply all information necessary for a ruling.

E. Judge's Paper Copies

Local civil rule 5.1(b) and the ECF Administrative Procedures Manual require that a paper copy of any electronically-filed document be submitted to the judge. Judge Means requires that the paper copy arrive at his chambers by mail or personal delivery within three working days of the electronic filing. The electronically-filed document may be unfiled if the judge's paper copy does not arrive timely.

The paper copy must have the notice of electronic filing stapled in the upper left-hand corner of the first page of the document to which it pertains. The document must be bound as follows: (1) if 50 pages or fewer, by a staple in the upper left-hand corner; (2) if more than 50 but not more than 150 pages, two-hole punched at the top and placed under an Acco-type fastener; or (3) if more than 150 pages, three-hole punched on the left side and placed in a 3-ring binder (to contain no more than approximately 300 pages). See also section B(2), above.

Where a case or issue has been referred to the magistrate judge, the magistrate judge's paper copy of any pertinent electronically-filed document must arrive at the magistrate judge's chambers by mail or personal delivery within three working days of the electronic filing.

III. Discovery

A. Fed. R. Civ. P. 26(a)

Parties are required to comply with the initial disclosure requirements of FRCP 26(a)(1)(A) unless they stipulate that they will not be made. If the parties stipulate that FRCP 26(a)(1)(A) initial disclosures will not be made, that stipulation will be honored by the Court.

B. Filing Discovery Material

Discovery materials must not be filed unless Judge Means otherwise directs.

IV. Trial Procedures

A. Marking and Exchanging Exhibits

Exhibits are marked and exchanged approximately one week before the trial month begins; that deadline and the required procedures are set out in the Final Scheduling Order.

The Court construes LR 26.2(a) and (b) to require the exchanging and listing of any exhibit (except impeachment documents) that a party intends to offer in evidence or to use in the presence of the court or jury as a demonstrative aid, regardless of whether the party intends to move its admission into evidence. The judge construes narrowly the impeachment exceptions of FRCP 26(a)(3) and LR 26.2(a) and (b).

B. Voir Dire

The judge conducts voir dire, but usually gives each side 10 to 15 minutes to ask the venire additional questions.

C. Proposed Jury Instructions/Findings of Fact and Conclusions of Law

Deadlines and other requirements are established in the Final Scheduling Order.

D. Courtroom Decorum

These requirements are not all-inclusive, but are intended to emphasize and supplement the ethical obligations of counsel under the Code of Professional Responsibility, the Local Rules of the Northern District of Texas (LR 83.4 and 83.16-83.18; LCrR 53.1-53.3, 57.4), and the time-honored customs of experienced trial counsel. When appearing in this Court, all counsel

(including, where applicable, all persons at counsel table) must abide by the following, unless excused by the presiding judge:

1. Stand as Court is opened, recessed, or adjourned.
2. Stand when the jury enters or retires from the courtroom.
3. Stand when addressing, or being addressed by, the Court.
4. Stand at the lectern while examining any witness, except that counsel may approach the clerk's desk or the witness for purposes of handling or tendering exhibits.
5. Stand at the lectern while making opening statements or closing arguments.
6. Address all remarks to the Court, not to opposing counsel.
7. Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly detached from any ill-feeling between the litigants or witnesses.
8. Refer to all persons, including witnesses, other counsel, and the parties by their surnames and not by their first or given names.
9. Only one attorney for each party may examine or cross examine each witness. The attorney stating objections, if any, during direct examination will be the attorney recognized for cross examination.
10. Any counsel who calls a witness shall have no further discussions with that witness concerning any aspect of the case or his testimony after the witness has been tendered for cross-examination until such time as the witness has been tendered back for re-direct examination.
11. Request permission before approaching the bench.
12. Any paper or exhibit not previously marked for identification must be marked before it is tendered to a witness for examination, and any exhibit offered in evidence must be handed to opposing counsel when offered.
13. In making objections counsel must state only the legal grounds for the objection and must withhold further comment or argument unless elaboration is requested by the Court.
14. When examining a witness, counsel may not repeat the answer given by the witness.
15. Offers of, or requests for, a stipulation must be made privately, not within the hearing of the jury.
16. In opening statements and in arguments to the jury, counsel may not express personal knowledge or opinion concerning any matter in issue (i.e., don't say "I think" or "I believe," etc.) and, may not read or purport to read from deposition or trial transcripts.
17. Counsel must admonish all persons at counsel table that gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses, or at any other time, are absolutely prohibited.
18. No one, including especially attorneys, parties, and witnesses, may bring food or drink (except bottled water) into the courtroom, nor may they chew gum.

E. Other

Section VII of the Court's Civil Justice Expense and Delay Reduction Plan ("the Plan"), Misc. Order No. 46, permits the presiding judge to "limit the length of trial, the number of witnesses each party may present for its case, the number of exhibits each party may have admitted into evidence, and the amount of time each party may have to examine witnesses." The judge imposes time limits on the presentation of evidence, and may set other limits permitted by the Plan. Unless leave of court is obtained, the judge also limits the examination of each witness to direct examination, cross-examination, and redirect examination. The judge also follows the scope-of-cross-examination requirement of FRCP 611(b).

V. Miscellaneous Procedures

A. Electronic Filing

1. Effective September 1, 2008, all cases on Judge Means's docket (civil and criminal) are automatically assigned to the electronic case filing (ECF) system pursuant to the local rules. A party may be exempted from ECF upon the filing of a motion showing good cause.
2. Electronic filing is not permitted for the following parties/documents:
 - a. prisoners filing pro se;

- b. the state-court record in cases involving the pursuit of habeas relief under 28 U.S.C. § 2254; and
 - c. the administrative record in cases seeking judicial review of a decision of the Commissioner of Social Security under 42 U.S.C. § 405(g).
3. All motions require a proposed order that must be emailed to Means_orders@txnd.uscourts.gov and must be in Word or WordPerfect format.
4. When electronically submitting proposed orders in criminal cases in accordance with instructions found at the proposed-order event in the ECF filing system, please:
- a. identify in the subject line whether an order for continuance relates to trial, sentencing, or other hearing; and
 - b. always including the defendant's identification number, which is found at the end of the case number in parentheses (single-defendant cases should use the number 1).

B. Telephone Calls to Chambers

All ECF questions should be directed to the Fort Worth ECF Help Desk at 817-850-6733 or to the Dallas ECF Help Desk at 214-753-2633.

All case-inquiry phone calls are referred to Judge Means's judicial assistant/courtroom deputy, Michelle Moon, at 817-850-6670.

Telephone calls directly to the Court's law clerks are not permitted.

Many of the questions that the judge's staff receives from lawyers and litigants are answered by the federal rules of civil procedure, the local civil rules, the judge specific requirements, or the judge's scheduling orders. It is the judge's desire that callers receive prompt, courteous, and accurate responses to their questions. To achieve this level of service, it is necessary that callers avoid contacting the staff to ask questions that are answered by the rules and the court's orders.

C. Faxed or Emailed Documents

The Court does not accept faxed or emailed documents for filing or as judge's copies. The judge's copy of any document filed must arrive by mail or hand delivery within three days of the electronic filing of the document in accordance with section V(A)2, above.

D. Attorney Admissions

The judge administers the oath to attorneys who seek admission to the bar of the Northern District of Texas, or to attorneys who have been admitted to another bar subject to taking that bar's oath by advance appointment only. Appointments may be obtained by calling Michael Foley at 817-850-6670. Attorney admissions are generally conducted when the judge has a 10:00 a.m. criminal docket scheduled and does not conduct them after the criminal docket has commenced. Counsel must present the counsel's papers to Mr. Foley in chambers (Room 502) no later than 9:45 a.m. The judge seldom conducts attorney admissions at other times.

Attorneys who are taking the oath of admission to the Northern District of Texas must be introduced and sponsored by a member of this Court's bar who is currently in good standing.

E. Vacation Letters

Vacation letters are not recognized by this Court. Counsel is responsible for having someone monitor orders for settings which may conflict with their vacation schedules and to file an appropriate motion for extension or continuance on their behalf.

VI. Law Clerk / Extern Positions

As of July 2014, Judge Means will not be accepting applications for new law clerks.

Year Service Began: 1991

Appointed By: President George H. W. Bush

Education: Bachelor of Arts from Southern Methodist University in 1971; Juris Doctor from Southern Methodist University School of Law in 1974

Judicial Service: Justice, Texas Court of Appeals, 10th Appellate District 1989 - 1991

Legal Practice: Means & Means, Corsicana 1975 - 1989

Current Memberships: Eldon B. Mahon Inn of Court; State Bar of Texas; Tarrant County Bar Association; Waco-McLennan County Bar Association

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