

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE: ALL CRIMINAL MATTERS )  
ASSIGNED TO JUDGE SHERRI A. ) **STANDING CRIMINAL ORDER**  
LYDON )

In addition to the Federal Rules of Criminal Procedure and this District’s Local Criminal Rules, the following rules apply to all criminal matters before the undersigned:

**PRE-TRIAL AND TRIAL**

**Continuances.** Motions to Continue that are filed before a scheduled pretrial conference shall state a reason under 18 U.S.C. § 3161(h)(7)(B) why a continuance is requested. Motions and proposed orders from defense counsel *must* include the following:

- language that defense counsel has specifically advised his client that by requesting this continuance, or consenting thereto, the defendant has agreed to continue his case,
- the defendant’s signature agreeing to a continuance of his case,
- language that defense counsel has consulted with the Assistant United States Attorney (“AUSA”) assigned to the case and whether the AUSA consents.

Motions to Continue should be filed one (1) week prior to the date of the pretrial conference. A proposed order of continuance is not necessary.

**Motions to Suppress.** Motions to Suppress are to be scheduled for hearing prior to Pre-Trial Conferences. All Motions to Suppress require filing of written briefs. Motions should be filed as soon as the Pre-Trial Conference is noticed so the Government can adequately respond.

**Subpoenas for Documents.** Counsel shall comply with the requirements of Federal Rule of Criminal Procedure 17 when requesting subpoenas for documents and/or testimony.

A motion is required when counsel seeks the issuance of a subpoena duces tecum that is returnable prior to trial or other adversarial hearing(s). The motion must concisely address the factors set forth in *United States v. Nixon*, 418 U.S. 683 (1974)—relevance, admissibility, and specificity.<sup>1</sup> Additionally, counsel must briefly explain “why, and on what terms, the court should issue subpoenas duces tecum requiring pre-trial production.” *United States v. Beckford*, 964 F. Supp. 1010, 1023 (E.D. Va. 1997). In most cases, these motions should be filed publicly and served on opposing counsel. However, the Court will consider *ex parte* requests where a party can make a showing of good cause. *See, e.g., Beckford*, 964 F. Supp. at 1030 (holding that *ex parte* applications can be sought where the request would “(i) divulge trial strategy, witness lists or attorney work-product; (ii) imperil the source or integrity of subpoenaed evidence; or (iii) undermine a fundamental privacy or constitutional interest of the defendant”). An example *ex parte* motion for issuance of pretrial subpoenas is available at under the Criminal Heading with Judge Lydon’s Form Orders and Operational Orders [www.scd.uscourts.gov](http://www.scd.uscourts.gov).

**Voir Dire.**<sup>2</sup> At least seven (7) calendar days prior to jury selection, all voir dire requests must be emailed to chambers at [lydon\\_ecf@scd.uscourts.gov](mailto:lydon_ecf@scd.uscourts.gov). *See* Local Criminal Rule 26.04(A) (D.S.C.). The request forms may be found at [www.scd.uscourts.gov](http://www.scd.uscourts.gov). Prior to submitting any voir dire requests, the parties must confer and determine if they can agree on these requests. If so, the agreed upon requests must be submitted as joint submissions. The parties must also submit a list

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<sup>1</sup> If records are sought for purposes related to sentencing, no separate showing of admissibility is needed. *See* 18 U.S.C. §§ 3553(a), 3661. For other requests, counsel should explain why the subpoena is reasonably likely to return evidence that is admissible, including as impeachment evidence.

<sup>2</sup> The Court will ask potential jurors during jury selection if they know or have any connection with any of the attorneys, parties, or witnesses listed by either party in their pretrial briefs. The Court will also summarize the allegations and ask if any potential juror is familiar with the dispute or has any preconceived views that may impair his or her ability to be impartial.

of witnesses and, if relevant, their addresses and occupations. If you intend to seek special voir dire, you must certify that the questions you wish to ask are not duplicative of those asked in the juror questionnaire.<sup>3</sup>

**Requests to Strike Jurors for Cause.** Joint Strikes for Cause must be filed with the Court no later than noon two (2) business days prior to jury selection. In trials involving more than one defendant, the defense must select one spokesperson for the purpose of jury selection. Pursuant to Fed. R. Crim. P. 24(b)(2), the defendant or defendants jointly have ten (10) peremptory challenges in non-capital felony cases.

**Jury Instructions.** All proposed jury instructions are required to be submitted in the following format:

- The parties are required to jointly submit one set of instructions. Accordingly, parties are required to serve their proposed instructions upon each other in time to confer and submit to the Court one complete set of agreed-upon joint instructions, as well as any disputed supplemental instructions, seven (7) business days prior to trial. Joint instructions should be e-mailed to [lydon\\_ecf@scd.uscourts.gov](mailto:lydon_ecf@scd.uscourts.gov). Do not electronically file in ECF. Please include the case number in the subject line of the e-mail message.
- If the parties cannot agree upon one entire set of joint instructions, they are required to submit joint instructions that have been agreed upon (labeled as Joint Request to Charge No. \_\_\_\_), and to submit supplemental instructions that have not been agreed upon (appropriately labeled as Plaintiff's Request to Charge No. \_\_\_\_ or Defendant's Request to Charge No. \_\_\_\_).

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<sup>3</sup> This district requires potential jurors to complete an extensive Juror Questionnaire. A sample questionnaire is available on the district's website ([www.scd.uscourts.gov](http://www.scd.uscourts.gov)). The questionnaire is intended to provide more thorough information to counsel than would otherwise be available and to minimize the time necessary to conduct voir dire. Copies of the responses to the written interrogatories submitted to the jury venire will be available for review in CM/ECF. Attorneys and parties are advised that they must file a "Juror Questionnaire & List Request" form in the appropriate case via CM/ECF using the *Certification-Juror Questionnaire and List Request* event, found under Other Filings - Trial Documents to obtain access to the questionnaires. You may obtain the form from the Jury Administrator at the Clerk's Office or from the Court's Internet site at <https://www.scd.uscourts.gov>.

- Legal authority should be cited in all instructions. Each supplemental instruction should list any party requesting the instructions as well as any party's objection to the instruction. Along with the notation of the party objecting to or requesting the instruction, the supplemental instruction should cite the legal authority in support of the requested instruction and the specific basis for each objection to the instruction. Objections should specifically and concisely set forth the objectionable material in the proposed instruction. The numbering of supplemental instruction should begin where the agreed-upon joint instructions end. A document with samples of each type of instruction (agreed-upon and objected-to) is available under the Criminal Heading with Judge Lydon's Form Orders and Operational Orders at [www.scd.uscourts.gov](http://www.scd.uscourts.gov).
- If legal authority is cited that is not reported in the Southeastern Reporter or Federal Reporters, copies of cited authority should be attached to the requested instruction. All instructions should be concise, understandable, and neutral statements of law. Argumentative or formula instructions are improper, will not be given, and should not be submitted.
- Failure to comply with any of the above instructions may subject the noncomplying party and/or its attorneys to sanctions.

**Meet, Mark, and Exchange Exhibits.** No later than seven (7) calendar days before the trial date, the attorneys for each side must meet for the purpose of agreeing and marking all exhibits to be used at trial and, where possible, agree on the admissibility of trial exhibits. In the event there is an objection to any exhibit, the opposing party must notify the Court at least four (4) days prior to trial by e-mailing chambers at [lydon\\_ecf@scd.uscourts.gov](mailto:lydon_ecf@scd.uscourts.gov). A sample table for identifying exhibit objections (and the basis for such objections) is available under the Criminal Heading with Judge Lydon's Form Orders and Operational Orders at [www.scd.uscourts.gov](http://www.scd.uscourts.gov). After the exhibit list is prepared, the parties are not to re-number the exhibits. If items are deleted, the exhibits should be struck through and marked as withdrawn. The Government may wait until the day of the trial to mark fungible evidentiary items such as drugs, money, etc.

**Proposed Orders.** Do not file proposed orders in CM/ECF and do not submit proposed orders following an oral argument unless requested to do so. In the event a proposed order is requested, or otherwise appropriate, counsel should e-mail a copy of the proposed order and

related motion to lydon\_ecf@scd.uscourts.gov in Microsoft Word format (double-spaced), and opposing counsel should be copied on the e-mail. The e-mail subject line should include the case number and the short form of the case name. The e-mail should indicate if the order was requested or if it relates to a corresponding motion.

**Electronic Courtroom System.** Counsel are required to use the electronic courtroom presentation system during trial. If counsel has not undergone electronic courtroom training, contact Meredith Cotton in the Florence Clerk of Court's Office (843-676-3819) or Karen Boston in the Columbia Clerk of Court's Office (803-253-3477) regarding use of the electronic system and scheduling training. However, note that training will not be conducted during trial.

### **PLEA AGREEMENTS**

**Plea Agreements and Element Sheets.** Plea Agreements that include element and penalties must be filed with the Court no later than two (2) business days prior to a plea hearing.

### **POST-TRIAL/PLEA AND SENTENCING**

**Objections to Presentence Reports.** Parties are to communicate any objections to the presentence report in writing to the United States Probation Officer within fourteen (14) days of the disclosure of the report. The report shall be determined to have been disclosed (1) when a copy of the report is physically delivered, (2) one day after the availability for inspection is orally communicated, or (3) three days after a copy of the report or notice of its availability is mailed. If the United States Probation Officer does not receive timely objections, the Court will consider the report to be without objection at sentencing.


**Objections to Supervised Release Violation Reports.** Parties are to communicate any objections to the violation report in writing to the United States Probation Officer within 10 days

of the disclosure of the report. If the United States Probation Officer does not receive timely objections, the Court will consider the revocation hearing uncontested.

**Motions to Vary or Depart from the Applicable Sentencing Guidelines.** Parties are to file any motions to vary or depart from the applicable Guidelines seven (7) days prior to the sentencing hearing. This includes motions by either party made pursuant to § 5K1.1 of the United States Sentencing Guidelines and/or 18 U.S.C. § 3553. The parties are directed to the Standing order Regarding Sealing Documents Filed in Criminal Matters available at 3:24-mc-318-RBH for the procedures regarding sealing such motions.

**Sentencing Memoranda.** Parties are to file sentencing memoranda seven (7) days prior to the sentencing hearing.

**IT IS SO ORDERED.**

  
Sherri A. Lydon  
United States District Judge