IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

BIJU MAKRUKKATTU JOSEPH	§	
	§	
V.	§	CASE NO.: 1:13-CV-324 (RC)
	§	
SIGNAL INTERNATIONAL, LLC, ET AL	§	
	§	

ORDER ON LIMITATIONS OF TRIAL TIME

This case is set for a final pretrial hearing on **April 2, 2015,** with trial on **April 6, 2015.** The court gave the parties notice that it would impose time limits on the presentation of their cases at trial. The court has reviewed the submissions of the parties and for the reasons stated allots time as follows:

It has long been recognized by trial lawyers, that "[a] shorter trial promotes jury comprehension." Manual for Complex Litigation (Fourth) § 12.3 (2004). The Federal Rules of Procedure "should be construed and administered to secure the just, speedy, and inexpensive determination of every action and proceeding." Fed. R. Civ. P. 1. "A trial court is required to 'exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence' in order to ensure that evidence is presented effectively for the ascertainment of truth, time is conserved, and witnesses are protected from harassment. *See* Fed. R. Evid. 611(a)." *United States v. Hill*, 643 F.3d 807, 845 (11th Cir. 2011).

"[M]any jurors expect information to be presented succinctly, even where it deals with complex matters." Manual for Complex Litigation (Fourth) § 12.3 (2004). This court is well aware that many lawyers fear that jurors may not have understood a point the first, third, fifth, or tenth time it is mentioned. But the undersigned has met with the jury in each case tried in this court.

Invariably a juror asks "why do the lawyers keep repeating themselves?" As one juror commented to the undersigned, "I am a teacher. I understand the rule about 'tell an audience what you plan to tell them, tell them, and then tell them what you told them.' That is three times. We don't need to hear it ten times."

Essentially the same case has been tried once against these Defendants in New Orleans. So, counsel should be familiar with what testimony will be presented and how it may be summarized. Counsel are expected to be familiar with Fed. R. Evid. 1006 and the savings in time that can be achieved by use of skillfully prepared summaries, as well as charts, timelines, diagrams and photos. *See* William W. Schwarzer, *Reforming Jury Trials* , 132 F.R.D. 575, 578 (1991). Counsel should also consider approved time saving techniques such as: the use of properly prepared affidavits to support the admission of those business records for which there is no agreement as to authenticity; using an expert's résumé as an exhibit to save time on his introduction; submission of extracts of voluminous exhibits containing only the pertinent pages; and proper use of the time allowed for interim statements to quickly transition between topics, and to inform jurors about expected testimony.

Jurors shall be provided with a notebook to aid in their comprehension of the case. Counsel should discuss: definitions of terms, diagrams, key exhibits, timelines, etc. for inclusion in juror notebooks. Parties shall cooperate in providing the court with a page for each side's witnesses, containing a photograph of the witness (about 3" x 3") with the witness's name, title (or position, if employed by a party), and space for jurors to take notes, for inclusion in each juror notebook; *See* Manual for Complex Litigation (Fourth) §§ 12.3, 12.31, 12.32, 12.422 (2004)

Time was requested for experts to opine on the law of immigration and other topics. The court will determine what law applies to the case and instruct the jury on the law as necessary. Expert

testimony on the law of immigration and on most other topics is not appropriate. *See, e.g., Askanase v. Fatjo*, 130 F.3d 657, 673 (5th Cir. 1997); *Thompson v. State Farm Fire & Cas. Co*., 34 F.3d 932, 941 (10th Cir. 1994); *Specht v. Jensen,* 853 F.2d 805 (10th Cir. 1988), *cert. denied*, 488 U.S. 1008 (1989).

The court's decision is based in part upon requests for time for more than one expert on a single topic and time for several witnesses concerning the same limited facts. Such testimony is repetitive at best, and confusing and contradictory at worst. *See* William W. Schwarzer, *Reforming Jury Trials*, 132 F.R.D. 575*,* 578 (1991).

The parties were ordered to provide the court with estimates of time needed for trial. The Order specified the information required, and stated that the estimates could be provided *in camera* so as not to reveal trial strategy. In many instances, parties chose to ignore the order and failed to describe the topic of expected testimony. Therefore, these requests were discounted. Defendant Billy R. Wilks chose to ignore the Court's order and failed to submit an estimate, so the Court must base its decision on information provided by the other parties.

It is further **ORDERED** that Plaintiffs will be allowed **36 hours**, whether used in direct examination or cross examination. Defendants Signal International, LLC, Signal International, Inc., Signal International Texas, G.P., and Signal International Texas, L.P. (as a group) will be allowed **28 hours**; Defendants Sachin Dewan and Dewan Consultants PVT.LTD (as a group) will be allowed **8 hours**; and Defendants Malvern C. Barnett, Law Offices of Malvern C. Burnett, A.P.C., and Gulf Coast Immigration Law Center, LLC (as a group) will be allowed **8 hours,** whether used in direct examination or cross examination. Plaintiffs and Defendants shall each have 10 minutes for interim statements, to be used not for argument or summation, but to inform the jury about anticipated testimony, or to direct the jury's attention to the fact that a new topic is

about to be discussed. For example, after covering invalidity contentions with an expert, counsel might say something like: "Ladies and Gentlemen, that completes Dr. Smith's testimony about the invalidity of both patents (the necessary treatment of Plaintiff). He will now discuss Dr. Howard's testimony about infringement of the '109 patent (the reasonable and necessary costs of Plaintiff's treatment)".

A party may, at the conclusion of 80% of its allotted time, move for an extension of time. Such extension will only be granted for good cause shown, and such good cause shall include a showing that the party's past use of time and anticipated use of remaining and requested time does not constitute undue delay, waste of time, or needless presentation of cumulative evidence.

So **ORDERED** and **SIGNED** this **17** day of **March, 2015.**

Ron Clark, United States District Judge