

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA, et al.,

Plaintiffs,

v.

AT&T INC., et al.,

Defendants.

Case No. 1:11-cv-01560 (ESH)

[PROPOSED] ORDER GOVERNING TRIAL WITNESSES

Under Federal Rule of Civil Procedure 16(b) and Local Rule of Civil Procedure 16.4, it is hereby ORDERED that the following schedule shall govern the identification of fact witnesses in this matter:

- | | |
|--------------------|--|
| November 15, 2011: | Plaintiffs provide an initial list of fact witnesses for trial. |
| December 6, 2011: | Defendants provide an initial list of fact witnesses for trial. |
| January 12, 2012: | Each side may disclose up to an additional five fact witnesses and may remove trial witnesses from their respective lists. |

It is further ORDERED that:

1. Plaintiffs' and Defendants' witness disclosures shall include a brief description of the subjects about which each potential witness is expected to testify.
2. For all non-party witnesses available for trial, the proponent of the testimony shall provide a written direct examination pursuant to the schedule established by the Court on September 23, 2011, and shall tender the witness for examination at trial by the opposing parties.

3. For any party witness called as a non-adverse witness, the proponent of the testimony shall provide a written direct examination pursuant to the schedule established by the Court on September 23, 2011, and shall tender the witness for examination at trial by the opposing parties.
4. For any party witness called as an “adverse” witness, the proponent of the testimony shall not provide a written direct examination, but shall examine the witness at trial as provided by Federal Rule of Evidence 611(c). Such witness shall then be tendered for examination by the opposing parties, without “scope” limitation and without submission of pre-filed written direct examination, so that the witness need appear at trial on only one occasion and can provide live testimony for both sides.
5. Each side reserves the right to call a witness on the other side’s witness list if the side designating that witness elects not to call the witness at trial.
6. To ensure a fair opportunity for cross-examination of the opposing side’s witnesses, each side is permitted to depose and to obtain relevant documents from each witness (including non-party witnesses) added on January 12, 2012, to the opposing side’s witness list prior to deposition of the potential witness, even if document productions and depositions must be conducted after the fact discovery cut-off of January 10, 2012. As set forth in Paragraph 7 of the Scheduling Order, any depositions of the parties’ designated witnesses shall not count against the limit on depositions set forth in that paragraph.
7. Each side will have ___ hours to present its case at trial (exclusive of attorney argument). This will include direct examination, cross-examination, and rebuttal.

SO ORDERED this _____ day of _____ 2011.

Ellen Segal Huvelle
United States District Judge