

Civil Trial Practice

A. TRIAL DATE

The Court sets a date certain for the trial at the initial Scheduling Conference after consultation with counsel. Attorneys must bring their schedules to the conference to avoid conflicts. Because the Court consults with the attorneys before setting a trial date, adjournments are rarely granted.

If issues arise regarding the date set for trial, the Court is available to conduct a status conference, either by telephone or in person, by contacting the case manager.

B. BENCH TRIALS

The Court may conduct a status conference with the parties to discuss the structure and expectations in advance of the bench trial.

For bench trials, each party should submit, through the Utilities function in CM/ECF, proposed Findings of Fact and Conclusions of Law at least one week before the first day of trial. The proposed findings of fact and conclusions of law should be clearly numbered and contain only one fact or legal element per number. Findings of fact and conclusions of law should be clear and concise.

The Court may make findings of fact and law orally from the bench, or may take the matter under advisement and issue a written opinion and order at a later date.

C. JURY TRIALS

1. JOINT FINAL PRETRIAL ORDER

Proposed Joint Final Pretrial Orders should not be filed on the docket. Rather, the proposed Joint Final Pretrial Order must be submitted through the Utilities function in CM/ECF on or before the date set forth in the scheduling order.

Counsel is directed to consult and strictly comply with [Local Rule 16.2](#) governing the proposed Joint Final Pretrial Order.

If plaintiffs do not convene a conference or initiate the process of completing the Joint Final Pretrial Order, or if defendants fail to respond, either party may file a Notice of Failure to Complete the Joint Final Pretrial Order on or after the date the Order is due to be filed on the docket. The Notice must indicate that the party filing the Notice attempted to communicate with the other parties prior to filing the Notice. Counsel must separately submit, through the Utilities function in CM/ECF, its own proposed Final Pretrial Order.

2. FINAL PRETRIAL CONFERENCE ATTENDANCE

The following persons shall personally attend the final pretrial conference:

- i. Trial counsel for each party;
- ii. All parties who are natural persons;
- iii. A representative on behalf of any other party who has full settlement authority for the party;
- iv. A representative of any insurance carrier that has undertaken the prosecution or defense of the case and has contractually reserved to itself the ability to settle the

action.

Representatives must possess full authority to engage in settlement discussions and to agree upon a full and final settlement.

If a governmental entity is a party, then agency counsel or another person with settlement authority must attend along with counsel for the government, unless counsel for the government has settlement authority and has requested leave of the Court to attend without a client representative.

3. JURY INSTRUCTIONS

The parties must meet and confer before trial to discuss jury instructions. The parties must submit, through the Utilities function in CM/ECF, a single set of all stipulated proposed jury instructions and a verdict form no later than the date set forth in the Scheduling Order.

The parties must also submit any instructions they cannot agree on by the same date. All such instructions are to be submitted in Microsoft Word and each instruction shall contain references to authority.

The Court has its own standard introductory and concluding instructions.

4. JURY SELECTION

Voir dire will be conducted by the Court with follow-up questions permitted by counsel. Counsel should submit proposed voir dire questions, through the Utilities function in CM/ECF or in person, at least five days in advance of the trial. Jurors will be excused without disclosing which side excused them.

5. NOTE TAKING & JUROR QUESTIONS

Jurors will be permitted to take notes during trial. The Court will discuss this at the Final Pretrial Conference and any objections will be addressed at that time.

The Court specifically instructs the jury in advance on this issue. The Court will consider, on a case by case basis, whether or not jurors will be permitted to submit questions to be asked by the Court.

6. PROPER USE OF JURY TIME

Although counsel is expected to raise foreseeable evidentiary issues by motions *in limine* before trial, if evidentiary problems arise during trial, counsel should raise them before or after the trial day, or during a break, to avoid jury down time while such problems are solved.

• EXHIBITS

- 1. Marking and List of Exhibits:** A list of proposed and marked exhibits shall be submitted directly to the Court by each party by the deadline established at the Final Pretrial Conference or, for bench trials, per the Court's order. Generally exhibits are to be submitted in a three-ring binder one week in advance of trial. The Court may order that exhibits be submitted electronically.

No later than one week before the Final Pretrial Conference, each party shall make available for inspection all exhibits the party anticipates introducing at trial. This provision shall not extend the time for disclosure and inspection of material previously ordered.

2. **Foundation for Exhibits:** When a party has inspected an exhibit that the opposing party intends to introduce at trial, the authentication of the exhibit will be deemed established unless the objecting party files a notice with the Court at or before the Final Pretrial Conference indicating that the foundation for admission into evidence of the exhibit will be contested. See [Local Rule 16.2\(b\)\(9\)](#).
 3. **Objections to Exhibits:** These guidelines shall not affect the right of a party to object at the time of trial to the introduction of an exhibit other than on the basis of authentication and foundation.
 4. **Custody and Record of Admitted Exhibits:** Counsel are required to maintain a record of all admitted exhibits during trial. Counsel for each party must keep custody of that party's admitted exhibits during trial. Exceptions will be made for exhibits that may pose a threat or danger if transported to and from the Court, or exhibits that are delicate and otherwise unable to be moved without risk. In those instances, with advance warning, the Court will make arrangements to ensure the integrity of the evidence.
 5. **Preparing Exhibits for Jury Deliberation:** Originals of all exhibits admitted at trial should be ready to be turned over to the jury foreperson prior to closing jury instructions so that jury deliberations are not delayed.
 6. **Filing Exhibits:** It is the responsibility of the parties to ensure that the record is complete.
- **TRIAL START TIME**

The time for trial each day will be set by the Court on a case-by-case basis. In general, however, jury trials begin at 9:00 and bench trials begin at 10:00 each day.