

# **Trials**

## **A. TRIAL DATE AND TIME**

The Court sets a date certain for the trial at the Case Management Status and Scheduling Conference after consultation with counsel. Because the Court consults with the attorneys before setting a trial date and sets the date early, adjournments are rarely granted.

Trial hours generally are 9:00 a.m. to 1:00 p.m., although the Court may occasionally continue into the later afternoon. The Court will inform the parties and jurors at the end of each day of the following day's schedule. Counsel must appear for trial promptly, ready to begin. If problems arise during trial, they should be raised with the Court at the end of each day or during a break. They should not be raised at the start of the day, or otherwise while the jury is waiting, unless absolutely necessary.

## **B. SETTLEMENT**

The Court will engage in settlement discussions once trial has commenced, but outside trial hours. Counsel, however, will be assessed juror costs in cases which settle on or after the day of jury selection and/or trial.

## **C. NON-JURY TRIALS**

The parties must file proposed findings of fact and conclusions of law two days before trial is to begin. These can be supplemented or amended at the conclusion of trial. At the conclusion of trial, counsel must submit final proposed findings of fact and conclusions of law to chambers on a disc or flash drive, in a format compatible with Word 2010 or WordPerfect X5.

## **D. JURY TRIALS**

### **1. Jury Selection**

The parties shall submit a statement of claims or defenses, no longer than one page, suitable to read to the jury during opening instructions. The Court will have counsel introduce themselves and their clients and identify expected witnesses.

The Court conducts voir dire. At least one week prior to the start of trial, requests for voir dire should be exchanged by counsel. At least two days prior to the start of trial, requests for voir dire should be submitted to the Court, indicating any objection by the opposing side. The Court may allow counsel to present follow up questions at a sidebar conference, and when appropriate, the Court will also ask the requested follow up question(s).

A modified strike method is used for jury selection. Once all challenges for cause are made, the Court will have 16 potential jurors seated. At sidebar, the parties then can exercise their peremptory challenges. The Court will conduct four rounds of strikes. Each side gets four strikes. The Court excuses jurors without disclosing which side excused them. Eight jurors will consider the evidence and deliberate.

### **2. Instructions and Verdict Form**

The Court will provide proposed opening and closing instructions. Counsel are responsible for all instructions related to their specific claims or defenses, and special instructions relating to evidence. The parties are required to meet and confer prior to the first day of trial to discuss jury instructions and the verdict form.

On or before the first day of trial, the parties must submit to chambers a single set of proposed, stipulated jury instructions on a disc or flash drive, in a format compatible with Word 2010 or WordPerfect X5. Each instruction should be contained on a separate page and must contain references to authority. The parties shall separately submit to chambers at the same time any additional proposed instruction (in the same form) to which any other party objects. Nevertheless, the parties must make a concerted, good faith effort to narrow the areas of dispute, and to discuss each instruction with the goal of reaching agreement as to an acceptable form. The parties should submit a hard copy of the agreed upon verdict form on or before the first day of trial.

The jury is charged before final argument, and will be provided a copy of the final instructions to take into the jury room.

### **3. Note Taking and Juror Involvement**

The Court advises jurors before trial begins that they will be permitted to take notes during trial. The Court instructs jurors that if they take notes, such notes are not evidence and should not be shared with other jurors. The notes are merely aids for the individual juror's memory of the evidence presented. The Court will consider, on a case by case basis, whether to allow the jurors to question witnesses, either directly or through submission of questions to be asked by the Court.

## **E. EXHIBITS**

The Court generally resolves disputes about exhibits at the Final Pretrial Conference.

### **1. Marking Exhibits**

Counsel must mark all proposed exhibits in advance of trial. Plaintiff's exhibits shall use numbers and Defendant's exhibits shall use letters. A consecutive numbering and lettering system should be used. The Court requires the use of a bench book of exhibits.

### **2. List of Exhibits**

A list of proposed exhibits shall be submitted directly to chambers by each of the parties on or before the first day of trial.

### **3. Custody and Record of Admitted Exhibits**

Counsel must maintain a record of all admitted exhibits during trial. During trial and after trial pending appeal, counsel for each party will maintain custody of that party's admitted exhibits. The Court Reporter will take custody of the parties' exhibits during jury deliberation.

### **4. Publication of Exhibits During Trial**

The Court encourages parties to use electronic projection to publish exhibits during trial in a manner that allows the jury, Court, attorneys, and parties to view an exhibit simultaneously. Parties are responsible for providing equipment for such purpose and should contact the Court's Case Manager, to obtain permission to bring such equipment into the courthouse. If photographs and documentary exhibits are not published electronically, then the party must prepare exhibit books for the Court and each juror. Regardless of whether exhibits are published electronically, a separate exhibit book should be prepared and made available to a witness who is to be questioned about an exhibit.

### **5. Preparing Exhibits For Jury Deliberation**

Counsel must confer and purge from one set of binders or files all exhibits not admitted during the course of trial. 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.

## **F. DEPOSITION EVIDENCE**

If depositions are to be read into evidence, the transcripts should be reviewed by both parties, and an agreement must be reached on which portions of the deposition are to be presented. At least seven (7) days before trial, the parties must notify the Court if they are not able to reach an agreement. Parties must prepare redacted portions of the deposition transcript prior to the first day of trial, and provide a copy to the Court on or before the first day of trial.

## **G. VOLUNTARY CONSENT TO PROCEED BEFORE MAGISTRATE JUDGE**

In accordance with 28 U.S.C. §636(c) and pursuant to Rule 73(b) of the Federal Rules of Civil Procedure, the parties may consent to a magistrate judge conducting all proceedings in their case, including a bench or jury trial, and order the entry of final judgment