Trials

The Court uses a trailing docket. If an attorney has a conflict with another trial, the attorney should advise the Court as soon as the conflict is discovered. The Court's policy is the court with the earliest date of notice has precedence, and the Court will try to accommodate scheduling conflicts whenever possible.

The Court requires exhibits to be exchanged one week prior to trial, and the plaintiff and defendant exhibits are numbered separately; the preferred method is to use the traditional "Plaintiff's Exhibit __" and "Defendant's Exhibit __" stickers, but any clearly marked method is acceptable. A consecutive numbering system should be used, Plaintiff starting with Exhibit 1, Defendant starting with Exhibit 500. The Court requires the use of a bench book of exhibits. Both during and after trial, pending appeal, the parties retain custody of the exhibits. The Court does not require that trial briefs be exchanged prior to trial. The only limitations on trial briefs are those dictated by prudence and good sense.

a. **Non-Jury Trials**

In non-jury trials, proposed findings of fact and conclusions of law must be filed prior to trial unless the Court sets a later date at the final pretrial conference. In all cases, the proposed findings of fact and conclusions of law must be submitted in writing and in electronic form. In a non-jury trial, the Court attempts to provide the findings of fact orally. The findings of fact are provided in writing for longer, more complex cases.

b. **Jury Trials**

The strike method, as described in the Court's Order Re: Jury Selection, is used to select jurors. Alternate jurors are no longer used in civil trials since all sitting jurors participate in deliberations. The Court conducts the *voir dire* and may, in some circumstances, permit brief follow-up questions by counsel. Counsel may not ask questions related to the amount of damages they are seeking. Requests for specific *voir dire* questions, if desired, must be submitted to the Court at least one week prior to the start of trial. Three peremptory challenges are permitted per party in civil cases. The Court has counsel exercise preemptions in open court.

On the first day of trial, counsel must submit a joint set of jury instructions and a joint verdict form. The instructions and the verdict form must be submitted on paper and in electronic form. At the final pretrial conference, the Court will provide counsel with an electronic version of the Court's standard opening and closing jury instructions. Counsel should return the joint set of instructions and verdict form on paper and in electronic form on the first day of trial. Any disputed instructions must be submitted separately, on paper and in electronic form, also on the first day of trial, including each side's support for or objection to the disputed instructions. Toward the end of trial, the Court will instruct counsel to meet with her law clerk in order to review the instructions, and delineate any remaining disputes. Disagreements regarding the instructions will be resolved by the Court, and preserved for the record.

c. **Miscellaneous**

The hours for trial are set by the Court on a week-by-week basis. A time limitation of 30-60 minutes is imposed on opening statements and closing arguments depending on the complexity of the case. In addition, the Court has occasionally limited counsel who are repetitious or

whose evidence is merely cumulative. The Court prefers that counsel request permission to approach a witness and the bench. The Court typically charges a jury before final arguments.

Jurors are allowed to take the instructions into the jury room during deliberations, and the Court gives jurors copies of the jury instructions to follow along while the Court is reading. In addition, jurors may be allowed to take notes during trial. Evidentiary matters, including foundation for reports, etc., must be resolved prior to trial. The Court does not want record keepers brought in when there is no real dispute as to the authenticity of business records. The Court will not adjourn trial so that counsel can take last minute depositions. Counsel should be prompt for all court appearances.