Civil Cases: Trials - Civil & Criminal Matters

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A. TRIAL DATE AND TIME

The Court sets a date certain for the trial in the phase two Scheduling Order.

Trial hours generally are 9:00 a.m. to 4:00 p.m. At the end of the day, the Court will inform the parties and jurors of the following day's schedule. The parties 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 IN CIVIL PROCEEDINGS

The Court will engage in settlement discussions once trial has commenced, but outside trial hours. The parties, 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 (2) business days before trial is to begin. These can be supplemented or amended at the conclusion of trial. At the conclusion of trial, the parties must submit final proposed findings of fact and conclusions of law via email to the Court's Case manager, in Word format. Proposed findings of fact must include citations to the trial transcript. A deadline for the submission of final proposed findings of fact and conclusions of law will be discussed at the close of trial.

D. JURY TRIALS

1. Jury Selection

At least three business days before the start of trial, the parties shall submit a statement of claims and 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, as well as identify expected witnesses.

The Court conducts voir dire. At least two business days before the start of trial, the parties must submit any requests for voir dire to the Court, indicating any objection by the opposing side. The parties must meet and confer in advance of this deadline in order to meet it. 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 the necessary number of potential jurors seated (10 for a civil case and 14 for a criminal case). At sidebar, the parties then can exercise their peremptory challenges. The Court excuses jurors without disclosing which side excused them. In a civil case, eight jurors will consider the evidence and deliberate, unless the parties stipulate to a different number. In criminal trials, twelve jurors will consider the evidence and deliberate, unless the parties stipulate in writing to a different number or a different number is ordered by the Court, as provided for in Federal Rule of Criminal Procedure 23(b).

In criminal trials, consistent with Federal Rule of Criminal Procedure 24(c), alternate jurors will be identified to counsel and the parties, only, prior to jury selection. Each side will have separate additional peremptory challenges for prospective alternate jurors as set forth in the rule.

2. **Jury Instructions**

   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.

E. **EXHIBITS**

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

1. **Marking Exhibits**

   The parties 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. For non-jury trials, the Court requires two (2) copies of the 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**

   The parties must maintain a record of all admitted exhibits during trial. During trial and after trial pending any appeal, the parties will maintain custody of their admitted exhibits. The Court's Case Manager will take custody of the parties' exhibits during jury deliberation and provide the exhibits to the jury.

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.

   The parties are encouraged to contact the Case Manager to schedule a time prior to trial to test their equipment for publishing exhibits.

5. **Preparing Exhibits for Jury Deliberation**

The parties 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) business 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 three (3) business days 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 ordering the entry of final judgment.