

JURY TRIAL GUIDELINES FOR DIVISION B

These are guidelines for jury trials in Division B. Adherence will expedite the trial and reduce objections.

I. Voir Dire Procedure

- A. Absent the Court approving a higher number in advance, 28 jurors will be called initially.
- B. All challenges exercised at the sidebar or while panel is not in the Courtroom.
- C. Challenges for cause as to each member of the panel will be considered first.
- D. For peremptory challenges, each juror will be considered in the order called. For the first juror, Plaintiff will be asked first whether or not they intend to exercise a peremptory challenge, then Defendant. The Defense will be asked first for the next juror and thereafter the Court will alternate which party goes first. The jury will consist of the first six jurors with one or two alternates that have not either been stricken for cause or stricken by peremptory challenge. The selection process will continue until all peremptory challenges are exercised and/or the parties advise that they do not wish to exercise any further peremptory challenges.
- E. Strikebacks permitted.

II. Voir Dire Examination During voir dire counsel should not:

- A. Argue the case.
- B. Engage in efforts to indoctrinate, visit with, or establish "rapport" with jurors.
- C. Question jurors concerning anticipated instructions or theories of law, or jurors "understanding" of various legal principles yet to be explained to them.
- D. Ask jurors what kind of verdict they might return under a hypothetical state of facts.
- E. Seek a pre-commitment from a juror to a factual or legal proposition that is in issue.

III. Opening Statement

- A. Explain the issue; summarize the facts.
- B. Don't argue the issues or facts.
- C. Visual aids permitted, if stipulated to or leave of Court obtained.
- D. Counsel must provide opposing party with a copy of the power point presentation before opening statements to give ample opportunity to raise any objections.

IV. Objections and Trial Motions

- A. Say "objection" and state the precise legal grounds.
- B. Don't argue objections or motions before jury. The Court will rule promptly or ask counsel to approach sidebar.
- C. Don't make gratuitous comments to or about opposing counsel.
- D. Act professionally and maintain the dignity of the Court at all times.
- E. Do not "thank" the Court for its ruling if it is in your favor.
- F. Side Bars - Use your professional judgment. Ask for one only for substantive or critical issues. You do not need a side bar for every objection.

V. Examination of Witnesses

- A. Remain at lectern unless leave of Court obtained.
- B. Don't argue with, badger or be rude to witnesses.
- C. Don't instruct witnesses to be responsive or to answer "yes" or "no", etc. Ask the Court to do this, if needed.

VI. Use of Depositions, Written or Video

- A. Discuss before trial all depositions and have Court rule on all objections before, if possible.
- B. For impeachment - make sure it impeaches or the jury will be instructed to disregard.
- C. As evidence - see Rule 1.330(a)(4) - you may be required to read more than you wanted to.
- D. Provide copies to the Court of all depositions to be used at trial for whatever purpose on or before the Friday before the first day of trial. The copies may be paper or electronic. However, paper copies of depositions do not need to be submitted to the Court if they are available electronically in the Clerk's file by that same date. The party that wants to use a specific deposition has the responsibility to make sure it is available on the Clerk's electronic docket.
- E. Provide the witness a copy of his or her deposition before you attempt to impeach.

VII. Pretrial Motions

- A. Anticipate critical issues of law and have those ruled upon before trial, if possible. The Court will make time to hear any critical issues before trial if you advise either the Judge or the Judicial Assistant of its importance.

- B. Motions in Limine are useful and encouraged. Use them to raise issues concerning actual evidence in your case. As with other critical legal issues, the Court will make time to hear a motion before trial.

VIII Trial Procedure

- A. No testimony other than for identification will be permitted from documents not in evidence.
- B. When referring to exhibits/documents, always identify for the record. Use letters for identification, numbers for exhibits in evidence. The Court is not concerned with admitting exhibits out of order, so long as each exhibit has a separate number. The parties may refer to exhibits by bates stamped numbers if they wish.
- C. Trial will normally start each day at 9:00a.m. and end each day at 5:00 p.m. One hour will be given for lunch and the goal is to have at least one 15 minute break mid-morning and another mid-afternoon.
- D. The parties are permitted to have water at their table.

VIII. Jury Instructions

- A. The parties shall submit complete originals of their preliminary proposed jury instructions and verdict form to the Court, with copy to chambers, and served upon opposing counsel no later than 12:00 p.m. on the Friday before the commencement of the trial. The proposed jury instructions and verdict form shall also be submitted by electronic mail in Word or WordPerfect format. The Court prefers to use Word.
- B. The Court works from the Plaintiff's instructions, i.e., Defendant need not submit standard instructions, but should submit any deviation or non-standard instructions. If Defendant anticipates an issue over whether the Court should give a certain standard instruction, then the Defendant should submit that as well.
- C. Special instructions should accurately and concisely state the law, should address an issue raised by the evidence and should not mislead or confuse the jury.
- D. Special instructions - less is better. Please do not submit repetitious instructions.