

**PREPARATION FOR TRIAL  
BEFORE THE HONORABLE DON J. SVET**

1. Be on time for each court session. Trial engagements take precedence over any other business. If you have matters in other courtrooms, make other arrangements in advance for the handling of such matters.
2. Court time may not be used for marking exhibits. This must be done in advance of the court session.
3. Under no circumstances are you to attempt to communicate in any manner with any member of the jury prior to or during trial.
4. Stand when you address the Court. This includes the making of objections.
5. Stand a respectful distance from the jury at all times.
6. Do not argue the case or discuss law in your opening statement. In your opening statement, you should present a concise summary of the ultimate facts to be proved. Do not describe in detail what particular witnesses will say.
7. Stand at the lectern when you question witnesses. (Counsel with physical disabilities will be excused from this requirement.) Do not face or otherwise appear to address yourself to the jurors when questioning a witness or listening to an answer.
8. If you intend to question a witness about a group of documents, avoid delay by having all the documents with you when you start the examination. If you must approach any witness for any reason, obtain permission of the Court first.
9. Commence your examination or cross-examination without unnecessary preliminary introductions.
10. When you object in the presence of the jury, make your objection short and to the point. Do not argue the objection. Do not make substantive motions (e.g., a motion for mistrial) in the presence of the jury. Such matters may be raised at sidebar, or by request, at the first recess without waiving any rights by such delayed motion.
11. Do not argue with the ruling of the Court in the presence of the jury and refrain from thanking the Court following a ruling.
12. Trial dates are **DEFINITE SETTINGS** and are not on a trailing docket. Jury Selection and Jury Trial and Bench Trials will begin each day at 8:30 a.m.

## EXHIBITS

1. Exhibits shall be exchanged at the earliest possible date, but no later than **TWENTY (20) CALENDAR DAYS** before trial. Charts, plats, diagrams, etc., shall be marked and ready as to measurements, landmarks, and other identifying factual material. Exhibits shall be marked and identified (plaintiff's on yellow labels by numbers and defendant's on blue by letters).
2. **TEN (10) CALENDAR DAYS** before trial, you shall file with the Clerk a complete list of all objections to the exhibits offered. Please also furnish this list to the Court (two copies) and opposing counsel. You should specify the Rule of Evidence or other legal authority upon which your objection is based. The Court will consider such objections and exhibits will be admitted prior to the beginning of the trial.
3. Two sets of exhibits shall be furnished to the Court **FIVE (5) WORKING DAYS** before trial. When appropriate, exhibits shall be placed in three-ring binders.

## ADMISSIBILITY

All other issues of admissibility of evidence, including Motions in Limine, which can be anticipated shall be presented **FIFTEEN (15) CALENDAR DAYS** before trial for ruling.

## WITNESSES

1. Witness shall be identified in accordance with the Trial Order, but in no event later than **TWENTY (20) CALENDAR DAYS** before trial.
2. **FIVE (5) CALENDAR DAYS** before trial, you shall file with the Clerk a complete list of witnesses in the order to be called at trial. Please also furnish this list to the Court (two copies) and opposing counsel. The order of the witnesses is not binding but known witnesses not listed in accordance with this procedure will not be allowed.
3. Each party will be responsible for securing the appearance of witnesses the party proposes to call.
4. Clients and witnesses shall be on time.
5. When calling an expert witness, it is the responsibility of counsel to establish his/her qualifications as an expert after which counsel must move his/her acceptance by the Court as an expert. In that connection, counsel must inform the Court the particular field in which counsel offers the witness as an expert. All expert reports must be exchanged in advance in accordance with Rule 26(a)(2) of the Federal Rules of Civil Procedure.

## **DEPOSITIONS**

Consistent with the Federal Rules of Civil Procedure, depositions may also be introduced into evidence.

1. Notify opposing counsel and the Court of such intended use of depositions at least **TWENTY (20) CALENDAR DAYS** before trial. Opposing counsel will note objections to any material at least **TEN (10) CALENDAR DAYS** before trial.
2. If a deposition is used in part, counsel shall mark the parts to be used for the Court and opposing counsel. Plaintiff will use a yellow marker and the defendant a blue marker. This does not apply to cross-examination or rebuttal.

## **VOIR DIRE**

**VOIR DIRE MATERIAL** shall be filed with the Clerk at least **FOUR (4) WORKING DAYS** before trial.

## **JOINT STATEMENT OF THE CASE**

Parties must confer and submit an agreed concise Statement of the Case **FIVE (5) WORKING DAYS** before trial. This will be read to the Jury Panel in lieu of the Complaint.

## **MEMORANDA OF LAW**

Trial briefs outlining the basic legal theories, anticipated evidence in support of such theories, and the legal basis of any anticipated evidentiary disputes are strongly encouraged and should be filed with the Clerk at least **FIVE (5) WORKING DAYS** before trial.

## **JURY TRIALS-INSTRUCTIONS**

The parties must submit one mutually approved set of jury instructions no later than **TEN (10) CALENDAR DAYS** before trial. For those instructions the parties were unable to agree upon, each party must submit its own proposed instructions at the same time as submission of the mutually agreed instructions.

## **NON-JURY TRIALS-FINDINGS OF FACT**

Findings of fact and conclusions of law shall be filed at least **TEN (10) WORKING DAYS** before the case is set to begin, with references to exhibits and proposed testimony.