

## TRIAL PROCEDURES FOR JUDGE SHARP

Counsel's filed written proposed jury venire questions will be given to the court for review. The court **does not** allow counsel in criminal cases too personally voir dire the jury panel. In civil cases, they can **usually** voir dire the jury panel by asking general questions. Counsel are allowed to back strike when selecting a jury, provided both sides have not already passed on the panel on the previous round.

Trials usually start at 9:00 a.m., although it's usual for the judge to come out earlier. On the first day of a jury trial, the jury voir dire panel is brought into the courtroom prior to 9:00 a.m. so that the trial will begin promptly. Lunch break is one hour, usually beginning at Noon. Ten minute breaks are taken around 10:30 a.m. and 2:30 p.m. Should counsel be late, please know that the court **will** proceed without them. Court generally recesses at 5:00 p.m.

If not attired in a coat **and** tie, male witnesses **will not** be allowed to testify. Women should be properly attired for appearing in court. Furthermore, the court will not recess to accommodate a late arriving witness. Getting witnesses into the courtroom to testify is the responsibility of counsel calling the witness. If a party runs out of witnesses, they must rest. Recall of witnesses in any parties case is not allowed. Rebuttal witnesses must truly be for the purpose of rebuttal.

Examination of witnesses **is limited to direct and cross**. Therefore, it is extremely important that counsel timely objects to cross that is outside the scope of direct. If the objection is not sustained, counsel should ask to be able to redirect on that which exceeds the scope. Likewise, counsel needs to timely object should any redirect exceed the scope of cross. Furthermore, counsel making objections on direct is counsel for cross and counsel directing will

be counsel making objections on cross. Speaking objections are prohibited by local rule. If the court desires elaboration, it will ask for it. While making objections, counsel should be standing and should speak loudly so that opposing counsel, the witness, the court reporter, and the court can hear and understand. Likewise, do not expect the court to raise or renew objections.

Objections to exhibits and witnesses based solely on counsel's failure to list them on the pretrial stipulation is sufficient to sustain an objection preventing admission of any such exhibits and the testimony of any such witnesses. This includes failure to timely designate an expert. An expert not properly designated will **not** be allowed to testify as an expert.

Bench conferences are **not** favored. If a bench conference is requested, the court will probably allow it; however, if it proves to be a waste of time the court will be less likely to allow any further bench conferences.

Before trial, counsel should have tagged and identified by number all the exhibits intended to be offered at trial. Additionally, exhibits should be listed on a standard exhibit list form or on a similar form showing the numbers assigned. The number that counsel assigns to an exhibit is the number it will have regardless of whether it is not used, is only identified, is not admitted, or is admitted. At trial and before presenting exhibits to witnesses, counsel should provide the clerk with an exhibit list for the record, the court reporter, and the court. During the trial, before providing a listed exhibit that has yet to be identified in the trial to a witness, counsel should hand it to the clerk for review by the court. When the exhibit is returned to the clerk, it will be given either to counsel or to the witness. Opposing counsel should have already seen the exhibit; however, should opposing counsel ask to see it, it should be shown to counsel before giving it to the clerk. The court expects that counsel have seen each other's exhibits. Photographs of exhibits

that need to be substituted for record purposes should be given to the clerk as soon as possible after the trial begins, but not later than the conclusion of the trial.

Depositions read at trial in lieu of live testimony are not transcribed by the court reporter and should be filed if they have not already been filed. However, depositions used for impeachment will not be filed as the court reporter will have made a record of such impeachment. Counsel having video depositions to play need to provide their own equipment to play such videos. Objections raised at video depositions should be cleared up before the magistrate judge or stipulated too **before** trial. The video played at trial should be edited prior to trial to avoid delays at trial attempting to locate questions and answers to be played or skipping over those not to be played. After a video deposition is played, the transcript should be filed and not the tape.

**All** jury instructions desired should be provided to the court before trial. Before the plaintiff rests any disagreements as to the jury instructions and the verdict form should be resolved and a set of instructions **agreed** upon and a set of instructions **not agreed** upon, if any, along with an agreed upon verdict form should be provided to the court. It is the court's practice to send back a copy of the final jury instructions to the deliberating jury; therefore, it would greatly aid the court if the set of instructions given the court was **devoid** of heading indicating who proposed them. In a criminal case the court will also send back a copy of the indictment.

A copy of any document counsel files during the trial should be provided the courtroom deputy. The copy will be given to the court as a working copy.