

RULES OF PRACTICE FOR CIVIL CASES

CHRISTINE D. LITTLE
UNITED STATES MAGISTRATE JUDGE

1. Behavior before the Court:

Parties and their counsel shall comply at all times with LGnR3, governing Courthouse and Courtroom Conduct. Professionalism, courtesy, decorum, and common sense shall dictate all behavior before the Court.

2. Pretrial Rules:

- a. Compliance with LCvR16-1 and the pretrial deadlines set forth in the judge's Scheduling Order is mandatory, absent court order modifying the requirements.
- b. Consistent with the Judge's Scheduling Order, parties and counsel are expected to provide the Court as much advance written notice as possible of any anticipated question of law or evidence that is particularly difficult so that such issue may be determined before trial.
- c. Motions in limine and *Daubert* motions shall be timely filed in accordance with the Scheduling Order. Any such motion filed after the pretrial conference is untimely and will not be considered absent a showing of manifest injustice. Absent leave of court, all limine issues shall be presented in a single motion and brief. A copy of any evidence sought to be excluded (e.g. exhibits, expert opinions as reflected in a report, or testimony identified in a prior deposition) shall be submitted to the Court with the motion briefing.
- d. The parties shall utilize the form of proposed pretrial order available at <https://www.oknd.uscourts.gov/cdl>. The jointly prepared, proposed

pretrial order shall be submitted to
CDLIntake_OKND@oknd.uscourts.gov.

- e. The parties shall exchange all trial exhibits sufficiently in advance of the deadline for submission of the proposed pretrial order to permit the parties to comply with the requirements in the Court's Scheduling Order that the parties (1) list any objections to exhibits, as well as responses to those objections, in the proposed pretrial order and (2) meet and confer in an attempt to resolve any objections prior to submission to the Court.
- f. In the proposed pretrial order, exhibits shall be listed and described by Bates numbering or other easily identifiable and distinguishable characteristic. Listing by broad categories of exhibits (e.g. "medical records," "photographs," "invoices") without such numbering is impermissible. Exhibits and witnesses not listed in the final Pretrial Order will not be allowed at trial absent written motion showing good cause for untimely disclosure and establishing that manifest injustice will occur absent admission of such evidence.
- g. Counsel shall prepare sets of exhibit notebooks as follows for use at trial: (1) the witness stand; (2) the opposing party; (3) the judge; and (4) the judge's law clerk. The parties shall submit the judge's set of exhibit notebooks to the Courtroom Deputy at least three days in advance of the pretrial conference. All other exhibit notebooks shall be available on the morning of trial.
- h. At the Pretrial Conference, the parties' counsel and any pro se parties shall be prepared to: (1) discuss and present arguments on pending motions, objections to exhibits, and requested voir dire and jury instructions; and (2) discuss any anticipated procedural or substantive matters that would require bench conferences or otherwise waste time if raised during or at the outset of trial.

3. Trial Rules:

- a. **Joint Statement of the Case Submitted Prior to Trial:** Counsel shall prepare a joint statement briefly identifying the parties and describing the nature of the case and claims and defenses of the parties. This statement will be read to the venire by the judge at the outset of jury selection. The joint statement shall be submitted to the judge's email intake box at least three days prior to the commencement of trial.
- b. **Professional Courtesy to Court Reporter:** Absent advance Court permission and suitable arrangement with the court reporter, daily copy transcript will not be permitted. A party seeking daily copy shall present any such request in advance of trial. If a party anticipates the use of technical, medical, or unusual terms during the course of trial, counsel should provide a list or glossary of those terms to the Court and the court reporter prior to trial.
- c. **Early Arrival on First Day of Jury Trial:** In order to start at the time designated for a jury trial, the judge expects the parties and counsel to be present in the courtroom, organized, and ready for trial 30 minutes prior to the designated trial start time. This is for the purpose of being prepared to address with the judge any last-minute issues (e.g. potential pre-admission of exhibits, the statement of the case, order of evidence presentation, etc.),
- d. **Voir Dire:**
 - The judge will question the venire about prior jury service, knowledge of the case, parties, witnesses, and counsel, prior involvement in litigation, occupation / work experience, and education. The Court may also include appropriate questions from the parties' proposed voir dire.
 - If requested and deemed appropriate, the judge may permit supplemental questioning by counsel, limited to a total of no more than 20 minutes by each party. Counsel shall not utilize voir dire to argue the case, pose questions about anticipated evidence, legal theories, or

instructions, or ask hypothetical questions intended to obtain a juror's commitment to a particular verdict.

e. Exhibits:

- Prior to trial, all exhibits shall be pre-marked and numbered consistent with their designation in the Pretrial Order. Court time may not be used for marking exhibits.
- If a party wishes to utilize a summary pursuant to Fed. R. Evid. 1006 or an illustrative aid pursuant to Fed. R. Evid. 107, the summary or aid shall be provided to opposing counsel 14 days prior to trial. Any motion to exclude such summary or aid shall be filed no later than 7 days prior to trial.
- In cases with voluminous exhibits, counsel are encouraged to prepare an exhibit notebook tailored to each witness. The purpose of this requirement is the elimination of repeated trips by counsel to the witness stand. If counsel intends to question a witness about a group of exhibits, he or she should avoid delay by having the witness notebook already on the witness stand.
- The judge encourages the use of the electronic evidence presentation system in the courtroom. Inexperienced users should contact the judge's courtroom deputy to schedule a short training session in advance of trial.

f. Witnesses:

- Parties shall ensure that their witnesses are readily available to avoid needless delay and ensure the presence of a sufficient number of witnesses for a full day of testimony, so that court does not have to be adjourned early due to a party running out of witnesses.

- If the Rule of Sequestration is invoked, counsel shall ensure that their prospective witnesses do not enter or remain in the courtroom during any other witness's testimony.
- If a witness is to be called by video, the video recording shall be edited prior to trial, and each parties' counsel shall ensure that the video portions to be played are consistent with any court rulings on designations and objections as to that witness. Videotaped testimony may be edited and presented by subject matter to assist the trier of fact in understanding the evidence or determining a fact in issue.
- At the conclusion of each trial day, counsel and pro se parties shall advise the Court and opposing counsel of the next day's witnesses and the order in which those witnesses will be called.
- All arguments and examinations shall be conducted from the lectern.
- Courtroom demonstrations are prohibited unless advance permission has been obtained from the judge outside the presence of the jury.
- Absent exceptional circumstances, examination of a witness will include direct examination, cross examination, one redirect, and one recross.
- Only the attorney handling the questioning of a witness may raise or respond to an objection in regard to that witness's testimony.
- During witness examination and testimony, parties and counsel shall not react with inappropriate gestures, facial expressions, or sounds signifying agreement, disagreement, approval, or disapproval. No person shall attempt to suggest an answer to a witness by expression or gesture (e.g. head nod), and any such conduct may result in exclusion of the person from the courtroom for the balance of trial.

g. Jury instructions:

- Requested jury instructions and verdict forms shall be filed in accordance with the Scheduling Order, and a copy in Word format shall be submitted to the judge's email intake box.
- Each requested jury instruction shall include a citation to a uniform or model instruction or supporting legal authority applicable to the case.
- Any objections to proposed jury instructions and pertinent case law shall be filed at least five days prior to trial.
- The Court will provide a draft set of jury instructions prior to conclusion of trial. Thereafter, the judge will conduct an informal, off-record jury instruction conference at a convenient break during trial. A formal, on-record conference will thereafter be conducted to permit the parties an opportunity to make a record of any objections that remain following the informal conference.
- The judge will read the final jury instructions to the jury before closing arguments. If desired, the parties may utilize the Court's final jury instructions during closing arguments.

h. Behavior in Front of the Jury:

- Stand a respectful distance from the jury at all times. Opening statements and closing arguments shall be made from the lectern.
- All objections in the presence of the jury must be short and to the point. Counsel and pro se parties shall not argue the objection in the presence of the jury and shall not argue with the ruling of the Court in the presence of the jury.

- Motions (e.g., motion for mistrial or judgment as a matter of law) shall not be made in the presence of the jury.
- Requests for bench conferences shall be kept to a minimum.
- Except in ruling on an objection, the judge will not, in the presence of the jury, declare that a witness is qualified as an expert or qualified to render an expert opinion, and counsel shall not ask the judge to do so.
- Counsel shall never assert personal knowledge of a fact in issue or assert a fact not in evidence.

4. Rules for Evidentiary Hearings:

- a. Counsel shall prepare the following sets of exhibit notebooks for use at an evidentiary hearing: (1) the witness stand; (2) the opposing party; (3) the judge; and (4) the judge's law clerk. The parties shall submit the judge's set of exhibit notebooks to the Courtroom Deputy at least three days in advance of the evidentiary hearing. All other exhibit notebooks shall be available on the morning of the hearing.
- b. The foregoing rules in Paragraphs 3(b) (relating to court reporters) and 3(f) (regarding witnesses) shall also apply in evidentiary hearings.