

Trial Rules for U.S. Magistrate Judge Jodi F. Jayne

Professionalism, courtesy, decorum, and common sense shall dictate all behavior. The parties and attorneys will be held to the highest standard of professional conduct.

1. Local Rules

- You are expected to be familiar with Local General Rule 3 concerning courtroom behavior and adhere strictly to each of the requirements of this rule.

2. General Courtroom Protocol

- Do not leave the courtroom while trial is in progress without leave of court.
- Attorneys should not directly address opposing counsel in open court.
- Computers may be used by counsel, as long as such use is unobtrusive and is cleared through the courtroom deputy prior to the morning of trial.
- Do not place any objects on courtroom furniture that might scratch the surfaces, including briefcases with metal closures or feet, demonstrative aids, or exhibits.
- Do not eat or chew gum in the courtroom.
- No beverages are allowed in the courtroom except bottled water.

3. Questions of Law or Evidence

- If you anticipate a difficult question of law or evidence arising at trial, give the court as much advance notice as possible, either in a trial brief or at the pretrial conference.

4. Voir Dire

- If supplemental voir dire examination by counsel has been approved by the court prior to trial, the following rules will apply:
 - Voir dire examination may not be conducted in a manner designed to inform the jury of the anticipated evidence, applicable law, or other information normally included in the opening statement.
 - The only purpose of voir dire examination is to gain knowledge about a prospective juror that will aid in making an informed challenge.
 - A statement disguised as a question will not be permitted.
 - Counsel may not ask a question based on a hypothetical statement of the facts or the law.
 - Voir dire may not be used to explain the burden of proof.
 - Do not attempt to elicit promises or assurances from jurors. Do not ask them to give any indication of what their verdict would be based on certain conditions.
 - Each side is limited to 15 minutes unless additional time is approved prior to trial.

5. Opening Statements

- Unless the case is unusually complex, each party will be limited to 20 minutes per side. In multiple party cases, time for opening statements may be reduced per party. Opening statements are to be used for outlining the proposed evidence, not for argument.

6. Exhibits

- Court time may not be used for marking exhibits. This must be done in advance of the court session.
- Advise opposing counsel of the exhibits to be used in advance of the day's court session.
- Exhibits for either party to which there is no objection, and which will certainly be used, shall be pre-admitted before the commencement of trial. If an exhibit is pre-admitted, there is no necessity for formal identification and admission during trial.
- If you intend to question a witness about a group of exhibits, avoid delay by having the witness notebook already on the witness stand.
- While the court permits exhibits to be passed to the jury, this procedure should be used sparingly and reserved for truly significant exhibits. If possible, when you wish to publish an exhibit to the jury, have a copy for each juror.

7. Witnesses

- Witnesses should be readily available to avoid needless delay.
- Please stand whenever you address the court or interrogate witnesses. (An exception is made for physical infirmity.) Use the lectern unless your comment is to be brief.
- Examination of a witness will include direct examination, cross examination, one re-direct examination, and one re-cross examination, except in exceptional circumstances.
- Attorneys will not interrupt each other or a witness except to assert an objection. Attorneys will not interrupt the court for any reason.
- Do not greet or introduce yourself to adverse witnesses. Commence your cross-examination without preliminaries. Do not face or otherwise appear to address yourself to jurors when questioning a witness.
- Except for children, address witnesses by their surnames, *e.g.*, Mr. A, Sergeant B, or Dr. C.
- Never assert your personal opinion as to the credibility of a witness or the culpability of a civil litigant. Do not assert personal knowledge of a fact in issue or a fact not in evidence.
- Do not react to a statement by another counsel or a witness being examined by another counsel by any gesture or facial expression signifying agreement, disagreement, approval or disapproval. Advise your clients they are subject to this same limitation.

- Where more than one attorney represents a party, only the attorney handling the particular witness may respond to an objection or raise an objection in regard to his/her testimony. Likewise, only one opposing attorney should make or argue motions or other objections as to that witness.
- If a witness is not available for trial, a party may use/read the testimony of that witness from the deposition transcript portion which has been designated or cross-designated by any other party. At trial, except for good cause shown, the reader of the testimony of a single witness will remain the same and counsel shall agree as to who reads the designated questions.

8. Jury Protocol

- Stand a respectful distance from the jury at all times. Statements and arguments to the jury will be made from the lectern.
- When you object in the presence of the jury, make your objection short and to the point. Do not argue the objection in the presence of the jury, and do not argue with the ruling of the court in the presence of the jury. Do not make motions (e.g., motion for mistrial) in the presence of the jury. Bench conferences should be kept to a minimum.
- Except in ruling on an objection, the court 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 should not ask the court to do so.

9. Deposition Designations and Counter Designations

- Deposition designations and counter designations are exchanged between counsel and are FILED as a pleading pursuant to Fed. R. Civ. P. 26(a)(3)(ii) with the name of the witness, page, line number, and basis for the objection (not the transcript itself).
- The deposition transcripts are to be highlighted in different colors indicating the designations and the counter designations.
- Objections, and the basis therefore, should be referenced or annotated in the margins. The highlighted deposition transcripts should be SUBMITTED in hard copy (not filed) to the Court Clerk in accordance with the scheduling order.
- Objections to any deposition designations and counter designations will be considered by the court only after a good faith effort to resolve such objections by means of a personal meeting between counsel. A high degree of cooperation between counsel is expected to minimize the number of objections. Subsequent to this meeting, any unresolved objections to deposition designations and counter designations are to be FILED as separate pleadings (i.e., a motion or an objection) with a table setting out the page, line, and basis for the objections for each designation of testimony as to each deponent without attachments of any deposition transcripts.

10. Motions in Limine

- Parties must file one omnibus motion in limine addressing every issue, rather than multiple motions in limine. If needed, counsel may seek relief from the page limitation typically applied to motions.

11. Videotaped Testimony

- Objections to, and rulings on, admissibility of videotaped testimony should be made sufficiently in advance of its presentation to the jury to permit it to be edited to reflect the court's ruling.

12. Juror Notebooks

- In cases of appropriate complexity, the court will permit the parties to distribute to each juror identical notebooks.
- Counsel are required to confer on the contents of the notebooks prior to commencement of the trial. Any argument or disagreements should immediately be brought to the attention of the court.
- Juror notebooks may include copies of the following:
 - The court's preliminary instructions;
 - Selected exhibits that have been ruled admissible or that the parties agree will be admitted without objection (or excerpts thereof);
 - Stipulations of the parties;
 - With agreement of counsel, other material not subject to genuine dispute, which may include:
 - Photographs of parties, witnesses or exhibits;
 - Curricula vitae of experts;
 - Agreed upon glossaries;
 - Agreed upon chronologies or time lines;
 - Blank paper for the jurors' use in taking notes.
 - During the course of the trial, the court may permit the parties to supplement the materials contained in the notebooks with additional documents as they become relevant and after they have been ruled admissible or otherwise approved by the court for inclusion.