



Senior Judge J. Phil Gilbert

Case Management Procedures

Contents

- General Information
 - Court Hours and Promptness
- Pretrial Information
 - Motions and Practice
- Trial Information
 - Voir Dire Examination
 - Opening Statement
 - Examination of Witnesses and Argument
 - Objections to Questions
- Miscellaneous
 - Decorum
 - Difficult Questions
 - Interrogatories & Requests for Admissions
 - Exhibits
 - Depositions
- Witnesses
 - Doctors and Other Professional Witnesses

General Information

Court Hours and Promptness

The Court makes every effort to commence proceedings at the time set. Promptness is expected from counsel and witnesses.

If a witness was on the stand at a recess or adjournment, have the witness on the stand ready to proceed when Court is resumed.

Don't run out of witnesses.

Pretrial Information

Motions and Practice

A movant must submit a proposed order to Judge Gilbert's e-mail address (JPGpd@ilsd.uscourts.gov) for every motion filed.

Pretrial motions in criminal cases ordinarily must be filed within 21 days after the arraignment. Motions must be accompanied by a supporting memorandum of law.

All motions in civil matters must conform to Local Rule 7.1. Oral argument on a motion may be requested, but is discretionary with the Court.

In view of the requirements of Rule 50(b) in criminal cases and the press of civil litigation, the Court is forced to adhere more strictly to all applicable statutory and local rule time limits.

Trial Information

Voir Dire Examination

The voir dire examination is conducted by the Court. If voir dire questions are to be tendered, they should be submitted in advance of trial at the Final Pretrial Conference in civil cases and in criminal cases as early as practicable before commencement of trial, preferably before the day of trial.

Upon request, in civil cases and single defendant criminal cases, the Court will allow counsel to ask questions of prospective jurors. **Counsel should try to ask their questions of the panel as a whole, however, limited questioning of individual jurors will be permitted.** Unless leave of court is given, each side will have 15 minutes to question the jury panel.

After the completion of the voir dire examination, a side bar conference is held for challenges for cause. Then peremptory challenges will be taken up with some slight variation depending upon whether it is a civil or criminal case.

In civil cases (6 jurors), the plaintiff and defendant are each entitled to 3 peremptory challenges to the entire panel. Fourteen (14) members of the jury panel will be called in numerical order and questioned. The jury will be picked in panels of three (3) unless the parties agree to a seven (7) person jury, in which case the first panel selected will be four (4). Challenges for cause will be taken up first. Plaintiff will then use peremptory challenges beginning with the first juror called until a panel has been accepted and tendered to defendant. Defendant may then accept said panel or exercise peremptory challenges to a member or members of said panel. If defendant breaks the panel by the exercise of peremptory challenges, the next numerical juror is placed into the panel until a panel has been accepted and tendered back to plaintiff. This process continues until a panel has been accepted by plaintiff and defendant, or until each side has exercised all their peremptory challenges. Additional members of the jury panel will be questioned in numerical order as needed until a jury is selected. The 1991 Amendment to Rule 47 of the Federal Civil Procedures and Rules abolished alternate jurors. Rule 48 now permits that additional jurors may be selected to hear and participate in the verdict in civil cases. In multiple party cases, additional peremptory challenges may be granted and divided among the parties by the court.

In criminal cases (12 jurors), the government is entitled to 6 peremptory challenges and the defendant, or the defendants jointly, to 10 peremptory challenges to be exercised on the entire panel. Twenty eight (28) members of the jury panel will be called in numerical order and questioned. Challenges for cause will be taken up first. The jury will be picked in panels of four. The government will use peremptory challenges beginning with the first juror called until a panel has been accepted and tendered to defendant. Defendant may then accept said panel or exercise peremptory challenges to a member or members of said panel. If defendant breaks the panel by the exercise of peremptory challenges, the next numerical juror is placed into the panel until the panel has been accepted and tendered back to the government. This process continues until a panel has been accepted by the government and defendant or until each side has exercised all their peremptory challenges. This process continues until a jury of 12 has been accepted by the government and defendant. Typically, two alternate jurors are used, and each side is entitled to 1 additional peremptory challenge to be used against an alternate juror only. In multiple defendant cases, additional peremptory challenges may be granted and divided among the defendants by the court.

Opening Statement

An opening statement is a "road map" or "birds-eye-view" of the case and should be confined to what you expect the evidence to show. It is a common mistake, and certainly not proper, to use the opening statement to argue the case or to instruct as to the law.

Examination of Witnesses and Argument

Counsel should conduct examination of witnesses while standing from either the lectern, the counsel table or at the end of the jury box away from the witness stand. With permission of the Court, counsel may conduct the examination of a witness while seated at counsel table. Indicate to the Court when you have finished your examination, and the Court will then recognize opposing counsel for questioning.

Although permission of the Court is not required to approach a witness, the Court prefers that witnesses not be approached except when absolutely necessary.

Rise when addressing the Court and when making objections. This calls the Court's attention to you.

During opening statement and argument, counsel may approach the jury box to reasonably emphasize and communicate with the jury but should avoid any excessive pacing back and forth which is distracting to both the Court and the jury.

In order to expedite trial proceedings, those witnesses expected to be used should be assembled in the hallway or witness room ready to be called by Counsel when requested by the Court.

Do not run out of witnesses.

Note of Caution! Always make sure you are being heard by the Court, jury, opposing counsel and especially the Court Reporter. It may be your record that needs protection.

Objections to Questions

When objecting, state only that you are objecting and specify the ground or grounds of objection. Do not use objections for the purpose of making a speech, recapitulating testimony or attempting to guide the witness.

Argument upon the objection will not be heard until permission is given or argument is requested by the Court.

Miscellaneous

Decorum

Colloquy or argument between attorneys is not permitted. Address all remarks to the Court.

In a jury case, if there is an offer of stipulation, first confer with opposing counsel about it.

All requests of the reporter for re-reading of questions or answers shall be addressed to the Court.

Counsel during trial shall not exhibit familiarity with witnesses, jurors or opposing counsel. The use of first names ought to be avoided.

During the argument of opposing counsel, remain seated at the counsel table and be respectful. Never divert the attention of the Court or the jury.

Difficult Questions

If you have reason to anticipate that any question of law or evidence is difficult or will likely provoke an argument, give the Court advance notice. The best procedure is to prepare a brief or memorandum and submit it to the Court in advance of trial.

Interrogatories & Requests for Admissions

Where there has been extensive discovery and counsel expects to offer answers to interrogatories or requests for admissions extracted from several separate documents, a document showing such question and answer or admission shall be prepared with copies for the Court and opposing counsel. This obviates the time-consuming process of thumbing through extensive files to locate the particular item.

Exhibits

Exhibits should be marked in numerical order (1, 2, 3, etc.) and the Clerk shall have custody of all exhibits after their admission.

Have photocopies of an exhibit for the Court and opposing counsel.

Each counsel is responsible for any exhibits which he secures from the Clerk. At each noon-time or end-of-the-day adjournment, return all exhibits to the Clerk.

Documents and other exhibits, where practical, shall be tagged and marked as exhibits and shown to opposing counsel **before** their use in court.

Exhibits not previously marked may be marked for identification in open court by a request that the Clerk to mark them. At the time of making such a request, counsel should briefly describe the nature of the exhibit.

Ordinarily, exhibits should be offered in evidence when they become admissible rather than at the end of counsel's case.

When counsel or witnesses refer to an exhibit, mention should also be made of the exhibit number so that the record will be clear.

Where maps, diagrams, pictures, etc., are being used as exhibits, and locations or features on such documents are being pointed out by witnesses or counsel, such locations should be indicated by appropriate markings on the document if not readily apparent from the documents themselves. Unnecessary markings should be avoided. Markings on exhibits should only be made after receiving the Court's permission to do so.

Where several exhibits are contained within an envelope, package or box, mark the container as, for example, exhibit 1 and others as exhibits 1-A, 1-B, etc.

Depositions

All depositions used at the trial shall be marked for identification as exhibits.

Portions of depositions used for impeachment may be read to the jury during the cross-examination with pages and lines indicated for the record before reading.

Witnesses

Witnesses shall be treated with fairness and consideration; they shall not be shouted at, ridiculed or otherwise abused.

No person shall ever, by facial expression or other conduct, exhibit any opinion concerning any testimony which is being given by a witness. Counsel ought to admonish their clients and witnesses about this common occurrence.

The Court requests that all witnesses be instructed to be suitably attired.

Witnesses not listed or identified on the final witness list submitted to the court will be prohibited from testifying unless leave of court is granted for good cause shown.

Doctors and Other Professional Witnesses

The Court attempts to cooperate with doctors and other professional witnesses and will, except in extraordinary circumstances, accommodate them by permitting them to be put on out of sequence. Anticipate any such possibility and discuss it with opposing counsel. If there is an objection, confer with the Court in advance.