

CIVIL JUDGES' TRIAL POLICIES & PROTOCOLS

The judge requires all attorneys who try cases in the court to comply with the following policies:

1. ACTIONS PRIOR TO TRIAL READINESS CONFERENCE

The attorneys must:

- a. Serve and file a Trial Brief, Witness List and an Exhibit List no later than noon the Wednesday preceding trial. An original and a copy of the Judges' use of the Trial Brief and any attachments are to be submitted for the Court. The copy is to be three-holed punched on the left side for insertion in a trial binder, and any attachments are to be tabbed on the right side; the original is to be two hole punched at the top and tabbed at the bottom.
- b. Allow opposing counsel to inspect all exhibits that are proposed to be offered in evidence.
- c. Consult with opposing counsel regarding possible stipulations on matters that are not reflected in the Civil Trial Management Conference Statement, and reduce these additional stipulations to writing so that they can be read into the record.
- d. The Court will usually rule on the Motions in Limine at the Trial Readiness Conference.

2. FIRST DAY OF TRIAL:

On the first day of trial, the Court will rule on any remaining Motions in Limine and all other matters that must be resolved before jury selection proceeds. The first day of trial is for the purpose of Jury selection, and once a jury is selected, to begin pre-instructions, opening, and evidence. The first day of trial takes place at the Oroville Courthouse, located at One Court Street, Oroville, CA beginning at 9:00 a.m. Attorneys and parties to be present at 8:00 a.m. to resolve any outstanding issues prior to jury selection.

- a. In the event of an emergency which will result in anyone being late for an appearance at any session, the attorney or self represented party must advise the judge at the earliest possible opportunity. An attorney's or party's lateness without a good cause shall result in sanctions.
- b. The attorneys must advise the judge immediately on learning of any circumstances that may require the judge to rule on any modification of the trial schedule.
- c. It is counsel's responsibility to make arrangements for a court reporter (Local Rule 1.8)(b).

3. MOTIONS

- a. **Written motions generally required.** The attorneys must inform the judge, not later than the Trial Readiness Conference, unless good cause exists for later presentation to the Court, of any unusual legal issues or evidentiary matters that may be the subject of motions during the trial. In limine motions should address the exclusion and admissibility of evidence, as well as any legal issues that would require the jurors to be excused during the trial. Except for relatively simple requests, when the issues are familiar and straightforward, all motions must be in writing, must specify exactly what the moving party wants the court to order, and must be accompanied by appropriate declarations, memoranda of points and authorities and proposed Order.

- b. **Time for submission and service.** All motions in limine anticipated for the entire trial must be submitted to the judge and personally served on or faxed to opposing counsel two (2) days prior to the trial readiness calendar.
- c. **Opposing and reply papers.** Written opposition must be submitted and personally served on or faxed to opposing counsel one (1) day prior to the Trial Readiness Conference.

4. EXHIBITS AND DISCOVERED MATERIAL:

- a. **Marking Exhibits.** **Do not** Pre-mark Exhibits. The Clerk will mark each exhibit as it is introduced. A copy of the Exhibits is to be provided in a binder for the Judge. **Do not** give a binder of exhibits to the Clerk unless the binder in its entirety is one exhibit.
- b. **Showing and referring to exhibits.** The attorneys may not place exhibits within sight of the jurors without the judge's prior approval. On request of the offering party, the judge generally permits exhibits to be shown to the jurors during the direct testimony of the first witness who addresses these exhibits, as long as opposing counsel has been informed in advance and given an opportunity to object outside the jurors' presence. Exhibits may not be placed within the jurors' view without first affording opposing counsel an opportunity to object.
During trial, the attorneys must always refer to the exhibits by number or letter, as marked and not as "plaintiff's" or "defendant's" exhibits.
- c. **Furnishing copies.** The attorneys must provide the judge and opposing counsel with a copy of each exhibit sought to be introduced in evidence, unless impractical to do so, in which case the attorneys should consider a photo of the exhibit to be provided to the judge or opposing party/counsel for their reference .
- d. **Verifying exhibits.** Before leaving the courtroom for any recess or adjournment, the attorneys must verify that the clerk has possession of all marked exhibits. The attorneys must also review and verify all exhibits admitted in evidence before the case is submitted to the jurors for their deliberations.
- e. **Discovered material.** Originals of all deposition transcripts to be used at trial must be lodged with the courtroom clerk at the first appearance in this department for trial. The attorneys must meet and confer to make a good-faith effort to resolve admissibility issues related to depositions and other discovery responses prior to trial.
- f. **Large Exhibits.** The Court suggests that larger exhibits be photographed and the photograph be submitted as an exhibit for ease of reference.

5. WITNESSES:

- a. **Scheduling witnesses.** The attorneys must arrange for the timely appearance of witnesses during the presentation of their cases, and ensure that an adequate number of witnesses are available to fill each court day. The plaintiff must give at least twenty-four hours notice to the defendant of the time the plaintiff proposes to end its case in chief so that there will be no scheduling lapse between the end of the plaintiff's case and the calling of the defendant's first witness. Prolonged lapses of time for witness availability may result in

sanctions, including the witness being excluded, or the court determining that the side who is presenting witnesses has rested.

The attorneys must bring any scheduling problems to the judge's attention immediately.

- b. **Arranging for interpreter.** If an interpreter is needed for a witness or party, the proponent of the witness must make all arrangements for an interpreter in advance of the witness's appearance on the stand. The Court does not provide interpreters in civil cases.
- c. **Excluding witness from courtroom.** The judge excludes witnesses, other than parties, from the courtroom before opening statements unless the attorneys stipulate otherwise.
- d. **Examining and approaching witnesses.** The attorneys must examine each witness either from the lectern or from behind the counsel table where they may either stand or sit. They may approach a witness only after requesting leave to do so.

6. OBJECTIONS:

- a. **Form of objections.** The attorney must make objections in proper form, i.e., they must simply state the objection and the legal grounds. The attorney must not offer argument in support of an objection unless the judge grants permission to do so. No speaking objections.
- b. **Judge's rulings on objections.** The attorneys must direct all objections, arguments, and requests during trial to the judge, not to opposing counsel. Whenever the judge grants permission to argue, the judge and the attorneys will meet at the sidebar without the reporter. After the sidebar conference, the judge will rule on the objection on the record. Attorneys who wish to make a further record must request at the sidebar the opportunity to do so at the next recess, and say nothing further.

7. PARTY REPRESENTED BY MULTIPLE COUNSEL:

Only one attorney for a party is allowed to present an opening statement, only one may present a closing argument, and the same attorney who conducts direct or cross-examination of a witness must also conduct any redirect or re-cross and make any and all objections.

8. JURY TRIAL:

In jury trial the following additional policies apply:

a. **Voir Dire.**

- (1) The judge will conduct the initial voir dire of prospective jurors in accordance with Code of Civil Procedure §222.5 using applicable questions contained in California Rules of Court, Standards of Judicial Administration § 3.25. The judge will also consider questions requested in and appended to a party's Civil Trial Ready Conference Statement. At the Trial Readiness Conference and again before voir dire, the judge will confer with attorneys and advise them of the questions and areas to be covered during voir dire.
- (2) After the Court inquiry, counsel will have the opportunity to voir dire the prospective jurors, subject to the following:
 - a. Avoid repeating or rephrasing questions already asked.
 - b. Avoid pre-instructions, pre-argument, and suggestive questions.
 - c. All challenges for cause will be made at side bar.

- d. Counsel shall address jurors from the lectern or counsel table.
- (3) If the attorneys wish to use a juror questionnaire in voir dire, they must submit the proposed questionnaire with the trial readiness conference statement. The Court may or may not agree to utilize a juror questionnaire. If one is to be used, after review and revision, the judge will return the questionnaire to the attorneys, who must make sufficient copies for distribution to the entire jury panel. The attorneys must insure the confidentiality of the jurors' information at all stages of the questionnaire process, including photocopying the responses.
- (4) The attorneys must arrange and pay for photocopying of the questionnaire with a copy for the Court and supervise such copying to verify it is kept confidential and any electronic information is deleted from the photocopier.
- (5) All questionnaires to be returned to the Clerk at conclusion of voir dire.
- b. **Method of jury selection.** The judge uses the "six-pack" method of jury selection, calling eighteen prospective jurors to fill the jury box. The judge and the attorneys examine all eighteen, and then the judge will entertain challenges for cause to any of the jurors. If the judge grants a challenge with respect to any of the first twelve jurors, replacement jurors are selected from the six-pack, beginning with juror thirteen. Peremptory challenges are then entertained for jurors one through twelve. Replacements are drawn from the remaining members of the six-pack in numerical order. Throughout the selection process, prospective jurors are seated in the order in which their names are drawn.
- c. **Challenges for cause.** Challenges for cause must not be made until all prospective jurors in the jury box have been fully examined by the judge and the attorneys. They must be made at the sidebar, out of the hearing of the prospective jurors.
- d. **Jury instructions and verdict forms.** The attorneys must submit proposed jury instructions and special verdict forms with the Civil Trial Readiness Conference Statement. After the jurors are sworn, but before opening statements, the judge will instruct jurors as to preliminary matters, drawing principally on CACI. After all parties have rested, and before final argument, the judge will instruct the jurors concerning the applicable law. After argument, the judge will instruct the jurors concerning their deliberations. The judge will provide the jurors with copies of all instructions when they retire for deliberations. The attorneys must meet and confer before the Trial Readiness Conference in an effort to resolve any disagreements about the jury instructions and the verdict form. Before final argument, the judge will confer with the attorneys to determine the final form of verdict form to be given to the jurors.
- e. **Sidebar conferences.** The judge rarely calls the attorneys to the sidebar or grants requests for sidebar conference. Such requests must be made only if absolutely necessary. Possible problems must be anticipated and discussed at the Trial Readiness Conference, so as not to interrupt the flow of testimony and keep the jurors waiting. Sidebar conferences are not reported. An attorney who wishes to place any matter on the record will have the opportunity to do so at the next break in the trial.
- f. Jury trials will generally be held Monday, Tuesday and Wednesday from 9:00 a.m. to 12:00 Noon, and 1:30 p.m. to 4:30 p.m.

- g. Jurors will be given notebooks and pencils to enable them to take notes. The Court will caution them about note taking.
- h. During court sessions, counsel is not to ask the reporter to mark the reporter's notes. Counsel is free to discuss the case with jurors after trial – with a juror's permission. Counsel must not criticize a juror for the verdict or reveal evidence which was not admitted at trial.

9. NON-JURY TRIAL:

At the conclusion of a non-jury trial, the judge may take the case under submission and decide in chambers or may rule from the bench. An attorney who wishes to submit a trial brief or a memorandum of points and authorities must request permission to do so and establish the time in which it is to be provided to the Judge, if allowed by the Court.

10. DEMEANOR

- a. All persons shall refrain from engaging in any conduct that exhibits racial, ethnic, or gender bias in court proceeding toward counsel, court personnel, witnesses, parties, jurors, or any other participants.
- b. Counsel should not sit on railing in the courtroom.
- c. Good advocacy requires that personality differences remain outside the courtroom, unobserved by jury, court, and staff. Courtesy to all is required.
- d. Counsel will advise parties and witnesses that head nodding, grimaces, unnecessary gestures, etc., are not tolerated. Counsel is to refrain from the same.