

TRIAL CONDUCT AND COURTROOM DECORUM
Magistrate Judge Sheila K. Oberto

The purpose of this protocol is to emphasize, not supplant, certain portions of the ethical principles applicable to the lawyer's conduct in the courtroom and to preserve the dignity of the courtroom and the judicial process. This protocol is also intended to further efficient and orderly fact-finding and to ensure that each party who comes before the court has a right to a fair trial:

1. Please be on time for each court session. Trial engagements take precedence over any other business. If you have matters in other courtrooms, please arrange in advance to have them continued or have a colleague handle them for you.

2. Please stand at the podium at all times when addressing witnesses. Except upon express permission of the Court, all communications to the Court shall be made from the counsel table or from the lectern. Counsel shall not approach the bench, a witness, the Court Reporter's table or the Courtroom Clerk's desk without the permission of the Court.

3. Please stand and do not pace when addressing the judge, jury or witnesses, exclusive of opening statement and closing statement as permitted by the Court.

4. Please do not appeal to emotion or prejudice during an opening statement to a jury. Confine yourself to a concise summary of the important facts that you expect to prove or your position on facts relied upon by opposing counsel.

5. Exhibits:

- (a) Court time may not be used for marking exhibits. Please do this in advance of the court session.
- (b) In addition to counsel's copies, please provide copies of exhibits for the judge and place copies on the witness stand (for witness) before the commencement of the trial.
- (c) Any exhibit not previously marked for identification should first be handed to the Courtroom Clerk to be marked before it is tendered to a witness for examination or placed on a viewing screen.
- (d) Any exhibit offered in evidence should, at the time of such offer, be handed to opposing counsel, unless it has been pre-marked and a copy is already in the possession of opposing counsel.
- (f) Counsel shall arrange with the Courtroom Clerk for the use of chalkboards, tripods, video recorders, overheads, or other visual aids sufficiently in advance so that they may be set up while the Court is not in session.

- (g) Diagrams, charts, drawings and other demonstrative or visual evidence shall, whenever practicable, be prepared by witnesses before testifying. Please make every effort to avoid using time during the presentation of evidence for these purposes.
 - (h) If you intend to question a witness about a group of documents, please place all the documents in the group before the witness (in the witness trial binder) prior to commencing the examination.
 - (i) Please offer only relevant, redacted portions of a deposition transcript in accordance with Rule 32 of the Federal Rules of Civil Procedure.
 - (j) All documents/items referenced during the course of the trial must be identified and marked with an exhibit sticker, regardless of whether they are intended to be admitted at trial or not. This includes all documents/items used to impeach and/or refresh a witness's recollection. Documents/items not intended to be admitted need not be pre-marked prior to trial, but once referred to during the course of the trial, must be identified and marked using the next exhibit number/letter in that party's sequential order. Counsel are cautioned that if a document has any conceivable basis for admission, that document/item must be pre-marked and listed prior to trial.
6. Witnesses:
- (a) Only one attorney for each party shall examine or cross-examine a witness. The attorney stating objections during direct examination shall be the attorney conducting the cross-examination.
 - (b) Refer to all persons, including witnesses, other counsel, and parties, by their surnames and not by their first or given names.
 - (c) In examining a witness, counsel generally shall not repeat or echo the previous testimony or answers given by a witness or comment on, or express approval or disapproval of the answer given by the witness.
 - (d) The examination and cross-examination of each witness shall be limited to questions addressed to the witness. Counsel shall refrain from making statements, comments or remarks prior to asking a question or after a question has been answered.
 - (e) All persons at counsel table are prohibited from making gestures, facial expressions, audible comments, or the like during the examination of a witness, as

manifestations of approval or disapproval during the testimony of witnesses, or at any other time.

7. Objections are to be limited to stating "objection" and the basis for the objection ("Objection, leading") or the number of the Federal Rule of Evidence relied upon (e.g., "Objection, Rule 403"). Do not explain or argue the grounds for objections in the presence of the jury unless asked to do so by the Judge. "Speaking Objections" are not allowed and will be overruled.

8. Please address all remarks to the Judge, not opposing counsel, and refrain from making disparaging or acrimonious remarks toward opposing counsel or witnesses.

9. Gum chewing and non-court related reading (such as newspapers or magazines) are prohibited while court is in session. Beepers, cellular telephones and other noise-making electronic equipment must also be placed on silent or turned off while Court is in session.

10. Counsel should try to anticipate problems that will arise during trial and take them up with the Court and opposing counsel out of the presence of the jury. Appropriate motions in limine in advance of trial are encouraged. If during trial it becomes necessary for an attorney to confer with the Court at the bench, the Court's permission should be obtained.

11. Counsel shall not make motions (e.g., a motion for a mistrial) in the presence of the jury. Such matters may be raised at recess.

12. Upon obtaining prior permission of the court, motions, the opening statement, or closing argument may be divided among counsel if a party has more than one trial counsel, if different subjects are addressed by counsel.

13. In opening statements and closing arguments to the jury, counsel shall not express counsel's own personal knowledge or personal opinion concerning any matter in dispute.

14. Offers of, or requests for, a stipulation should be made privately, outside of the presence of the jury.

15. Counsel shall not, in the jury's presence, refer to any matter, witness, exhibit, or testimony that has been excluded by an order granting a motion in limine, or to which an objection was sustained, and/or motion to strike has been granted.

16. Prior to the close of each business day, counsel shall provide opposing counsel with a list of witnesses counsel intends to call the next day.

17. Professionalism and civility are mandatory in this courtroom.