



**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**  
**501 I Street**  
**Sacramento, California 95814**

**Chi Soo Kim**  
**United States Magistrate Judge**

## **CIVIL JURY TRIAL PROCEDURES**

This document describes some of the general procedures that are typically used in civil jury trials before Judge Kim. The Court retains the authority to change these procedures at any time to conform to the needs of a particular case.

### **A. Jury Selection Procedures**

- The jury will consist of **9 jurors** with **no alternate jurors**. Any request to deviate from this practice must be made in writing.
- The box will be filled with **15 potential jurors**.
- At the Court's discretion, each side will typically be given **20 minutes** to conduct additional voir dire after the Court performs its voir dire.
- Following voir dire by the parties, the Court will hear challenges for cause at sidebar or outside the presence of the jury.
- If **fewer than 15 potential jurors** remain in the box after challenges for cause are finished, the Court will refill the box until it contains **15 potential jurors**. The Court will then inquire about the new potential jurors' responses to questions asked by the Court during its voir dire. Attorneys for all parties will then be permitted to briefly conduct additional voir dire only as to any new jurors.
- Each side will be given **3 peremptory challenges**, which will be made in writing on a peremptory challenges sheet. Peremptory challenges may be used as to any of the 15 potential jurors in the box. If there are two consecutive passes (e.g., pass by Plaintiffs and pass by Defendants), the jury will be empaneled.

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## B. Jury Instructions

- **Proposed jury instructions must be filed jointly in a single document** and arranged in the order the parties propose the Court give the instructions. The document shall include a table of contents with page numbers at the beginning of the document. Where a party objects to an instruction, that instruction should be included in the proposed jury instructions with the opposing party's objection noted. Along with the contested proposed instruction, the opposing party may provide a brief statement of the legal basis for its objection with citation to legal authority and propose an alternate jury instruction, as appropriate. At the time of filing, the parties shall also e-mail a copy of the proposed jury instructions as a Word document to [cskorders@caed.uscourts.gov](mailto:cskorders@caed.uscourts.gov).
- The parties should use the most current version of the Ninth Circuit Model Civil Jury Instructions, which are available on the Ninth Circuit website, where possible. If a model instruction is used, the parties shall clearly reference the number of the model instruction. Any modifications to a model instruction must be plainly identified to the Court. Any language a party proposes to be removed from a model instruction must be designated with a ~~strike through~~ and language proposed to be added to a model instruction must be underlined. The parties shall provide citation to legal authority in support of proposed changes. All blanks in model instructions shall be completed and all brackets removed.
- The Court will give the following Ninth Circuit Model Civil Jury Instructions as **preliminary** instructions to the jury:
  - 1.2 & 1.3 – Duty of Jury (modified, no written copies)
  - 1.5 – Claims and Defenses
  - 1.6 or 1.7 – Burden of Proof
  - 1.9 – What is Evidence
  - 1.10 – What is Not Evidence
  - 1.12 – Direct and Circumstantial Evidence
  - 1.13 – Ruling on Objections
  - 1.14 – Credibility of Witnesses
  - 1.15 – Conduct of the Jury

- 1.16 – Publicity During Trial
- 1.17 – No Transcript Available to Jury
- 1.18 – Taking Notes
- 1.19 – Questions to Witnesses by Jurors During Trial (Option 1)
- 1.20 – Bench Conferences and Recesses
- 1.21 – Outline of Trial

The above listed preliminary jury instructions should not be included in the parties' proposed jury instructions except where the parties are requesting a modification to an instruction.

- The Court may also give additional preliminary instructions as appropriate. If there are other specific preliminary instructions that the parties request be given beyond the above listed, such instructions must be included with the parties' proposed jury instructions.
- The Court will give the following Ninth Circuit Model Civil Jury Instructions with the Court's **final** instructions to the jury:
  - 1.4 – Duty of Jury
  - 1.5 – Claims and Defenses
  - 1.6 or 1.7 – Burden of Proof
  - 1.9 – What is Evidence
  - 1.10 – What is Not Evidence
  - 1.12 – Direct and Circumstantial Evidence
  - 1.14 – Credibility of Witnesses
  - 2.4 – Deposition in Lieu of Live Testimony (if applicable)
  - 2.13 – Expert Opinion (if applicable)
  - 5.1 – Damages—Proof
  - 5.3 – Damages—Mitigation
  - 3.1 – Duty to Deliberate
  - 3.2 – Consideration of Evidence—Conduct of the Jury

1.17 – No Transcript Available to Jury

2.16 – Evidence in Electronic Format (if applicable, e.g., for videos)

3.3 – Communication with Court

3.5 – Return of Verdict

The above listed final jury instructions should be included in the parties' proposed jury instructions submitted to the Court.

- Final jury instructions will be given after closing argument.
- Upon beginning their deliberations, the jurors will be provided with a written copy of the final jury instructions.

### **C. Exhibits**

- The exhibits lists submitted by the parties must use the following table format.

Ex. No.	DESCRIPTION OF EXHIBIT	DATE OFFERED	DATE ADMITTED
	Note: sufficient detail required to enable other parties to identify the exhibit, including bates numbers, if applicable.		

- The Final Pretrial Order will provide further instructions on exhibits, including instructions regarding courtesy copies of exhibits to be provided to the Court before trial.
- Pursuant to Federal Rule of Evidence 107, illustrative aids a party may seek to use during trial must be marked with an exhibit label and provided to the Court. Illustrative aids that the Court allows a party to use during trial will be entered into the record.

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#### **D. Miscellaneous**

- Trial is generally held from 9:30 a.m. – 4:30 p.m. every day.
- During jury deliberations, trial counsel and pro se parties must be within 30 minutes of the courthouse to ensure that they can promptly return to the courthouse.
- Parties should review the Final Pretrial Order issued in their case for further information and instructions.
- Two binders containing courtesy copies of the Joint Pretrial Statement, witness lists, exhibit lists, proposed voir dire questions, proposed jury instructions, proposed verdict forms, motions in limine, and optional trial briefs must be delivered to the Clerk's office by noon the day after the filing deadline for such documents. Parties do not need to provide courtesy copies of the motion in limine oppositions.

These courtesy copies must be double-sided, three-hole punched at the left margin, and marked with the ECF stamp (case number, document number, date, and page number) on the top of each page. These binders shall include labeled side tabs, and be clearly marked "Chambers Copy – Do Not File" with Judge Kim's name, the case number, and the case name.