

INSTRUCTIONS TO COUNSEL REGARDING TRIAL PROCEDURE AND CONDUCT¹⁶

1. Efficient Use of Courtroom Time

You must always be on time. You must anticipate objections in order to avoid unnecessary bench conferences. When the jury is present, virtually every minute should be spent taking testimony.

2. Exhibits

A. You must pre-mark exhibits.

B. You should not formally move exhibits into evidence. Under Local Rule 107.5.b they are admitted when they are first mentioned during the questioning of a witness unless the opposing party objects or unless the party mentioning them asks that they be marked for identification only.

C. You may circulate exhibits to the jury without asking permission of the court provided you then continue with questioning.

D. If you plan to use exhibit books, you must first confer with opposing counsel about their contents and bring to the attention of the court any matters in dispute. You must provide copies for one lawyer per party, a copy for the witness, a copy for the judge, and (at your option) a copy for each juror.

3. Witnesses

A. You must treat witnesses with courtesy and respect and address them by their surnames (except persons under the age of 18).

B. You may not appear to address yourself to jurors when questioning a witness.

4. Prohibited Questions and Remarks

A. You may not ask a witness whether it “would surprise you to know” that a certain event occurred.

B. You may not ask “if I were to tell you that another witness testified to a certain fact, would you disagree with him?” (or “was she lying?” or “not telling the truth?”)

C. You may not remind a witness that he is under oath or ask whether he expects the jury to believe his testimony.

5. Movement In The Courtroom

A. You must stand when addressing the court.

B. You may (unless recording or amplification equipment otherwise requires) ask questions of a witness from any fixed location in the well of the court but you may not ask questions while pacing around the courtroom.

¹⁶These instructions are based in part on Local Rule 107. You must be fully familiar with all of the provisions of that Rule.

C. You may approach a witness to show an exhibit without prior approval of the court but may not do so for any other reason.

D. When addressing jurors, you must stand a respectful distance away from them.

6. Objections

You may not make speaking objections or, unless invited to do so by the court, argue rulings in front of the jury.

7. Opening Statements and Closing Arguments

A. Unless otherwise ordered by the court, no opening statement or closing argument (including rebuttal argument) shall exceed one hour.

B. You must show opposing counsel any exhibit or demonstrative aid you intend to display to the jury during opening statement or closing argument and any new demonstrative aid you intend to display during closing argument.

C. During closing argument you may not state your personal opinion as to the merits of your case, the credibility of a witness, or the culpability of a civil litigant, or guilt or innocence of an accused.

8. Exclusion of Witnesses Rule and Talking to Witnesses on the Stand

Local Rule 107.7 describes the meaning of the exclusion of witness (sequestration) rule. Local Rule 107.14 describes when counsel may talk to a witness on the stand.

9. Cell Phones and Other Electronic Devices

You must turn off (and instruct your clients and witnesses to turn off) all sound on cell phones and other electronic devices before entering the courtroom.

10. Food and Drink

You may not bring any food or drink (other than water) into the courtroom. If you want to use bottled water, you must pour it into the pitchers provided by the court.

11. Use of Courtroom Telephone Prohibited

You may not use the courtroom telephone unless authorized by the court.