

UNITED STATES DISTRICT COURT
Eastern District of Pennsylvania

JUDGE SAVAGE'S TRIAL PROCEDURES

1. Scheduling of Cases

The Scheduling Order will set a date certain for trial or the date when the case will be placed in the trial pool. For cases in the trial pool, counsel must be prepared to commence trial upon 48 hours notice.

2. *Voir Dire*

Counsel must discuss *voir dire* questions and resolve any differences the day before jury selection. If they cannot agree, counsel must advise the deputy clerk that the judge must rule upon the disputed issues.

3. Trial Objections and Sidebars

Speaking objections are not permitted. Objections shall be made by reciting the appropriate rule number or a one word basis.

Sidebar conferences are discouraged and are rarely permitted. Only unanticipated issues will necessitate a sidebar conference.

4. Motions *in Limine*

Motions *in limine* must be filed by the deadline set in the Scheduling Order. Rulings upon such motions are usually made before or at the final pretrial conference.

5. Opening Statements and Summations

Time limits on opening statements and summations are generally not fixed. However, depending upon the issues in the case and the length of the trial, time limits may be imposed.

Rebuttal must not be a rehashing of closing argument.

6. Examination of Witnesses by More Than One Attorney

Only one attorney for a party may examine the same witness or argue the same legal point. More than one attorney for a party may examine different witnesses or argue different legal points.

7. Offers of Proof

Counsel must confer privately to resolve any unanticipated evidentiary issues that may arise during trial. Only if they are unable to reach agreement should counsel bring the matter to the deputy clerk's attention at the beginning of the day or during an appropriate break when the jury is not present.

8. Videotaped Testimony

Counsel must discuss in advance of trial all objections to the presentation of videotaped testimony to resolve all conflicts. If counsel cannot resolve their disagreements, they should present any outstanding disagreements at least 10 days prior to the final pretrial conference by providing a transcript of the testimony with the challenged question and answer highlighted, and a list setting forth each objection by page and line numbers and the basis for the objection.

The videotape must be edited prior to trial to eliminate pauses and speed-ups so there are no interruptions. Counsel must arrange with the deputy clerk a date and time before the trial date to test and learn to operate the courtroom equipment.

9. Reading of Material into the Record

There is no special practice or policy for reading stipulations, pleadings or discovery material into the record. Reading of material into the record may be done in a manner agreed upon by Judge Savage and counsel.

10. Preparation of Exhibits

At the final pretrial conference, the parties shall provide the Court with one copy of each exhibit and two copies of a schedule of exhibits which shall briefly describe each exhibit. At the trial, the parties must provide the court with an additional copy of each exhibit. Exhibits shall be arranged jointly and tabbed in a single three ring binder containing all exhibits numbered consecutively.

11. Offering Exhibits into Evidence

Exhibits are admitted into evidence at the close of each party's case-in-chief and not during testimony or after the exhibit is identified. Counsel should review the exhibits in advance so that agreed upon exhibits can be admitted quickly and disputed exhibits ruled upon at the conclusion of the party's case.

Exhibits may be published to the jury at the end of the party's examination of the witness or prior to a break. If the exhibit is necessary to explain the testimony, Judge Savage may permit it to be published during the testimony. Permission must be sought

prior to the witness taking the stand.

12. Proposed Jury Instructions and Verdict Forms

Counsel must meet and discuss proposed jury instructions for the purpose of submitting agreed-upon jury instructions and verdict forms. Proposed instructions should cover only the substantive issues regarding the elements of each cause of action and each defense. Basic instructions, such as the burden of proof, credibility and procedure, should not be submitted. Counsel are expected to cooperate in the preparation of the joint proposed instructions. Failure to cooperate in the process will result in the imposition of sanctions.

Submitting a proposed point does **not** constitute a waiver of objection. Counsel are instructed to work on proposed instructions regardless of counsel's position with respect to a point's applicability. If the Court sustains an objection to a particular instruction, it will not be submitted to the jury. Objections to jointly submitted points will be discussed and ruled upon at the charging conference.

If counsel cannot agree, proposed alternative instructions must be submitted with authority for each instruction. If a model jury instruction is used, the party submitting it shall state whether the proposed instruction is unchanged or modified. If a party modifies a model instruction, additions shall be underlined and deletions shall be placed in brackets.

13. Proposed Findings of Fact and Conclusions of Law

In a non-jury trial, the parties shall file a stipulation of uncontested facts. Each party shall submit proposed findings of fact and conclusions of law.

14. Exhibits in the Jury Room

After the jury has retired to deliberate, counsel shall review the exhibits to determine which exhibits will go out with the jury. If counsel cannot agree, they should request a ruling immediately after the jury retires to the deliberations room.

15. Availability of Counsel During Jury Deliberations

Counsel must be available upon fifteen (15) minutes notice during jury deliberations. As a practical matter, this means that counsel must stay in or near the courthouse.

16. Interviewing the Jury

After a verdict has been recorded and the jury has been discharged, counsel may

request to interview jurors. The jurors are told that they are permitted to talk to counsel if they desire, but they need not do so. Counsel shall respect the jurors' desire not to speak to them.

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