

CIVIL BENCH TRIAL PROCEDURE

DISTRICT COURT DEPARTMENT 9

Be prepared for trial before the trial begins. We generally have full trial days. The court will issue a more precise schedule for the trial days approximately two weeks before trial begins.

The court will not delay the progress of the trial because counsel is disorganized with witnesses or is unprepared to proceed with closing argument at the end of evidence presentation.

Please make sure that any computer that you have at counsel's table has a privacy screen.

Trial Continuances

Any motion to continue trial must comply with EDCR 7.30.

Transcripts

The court strongly encourages the parties to obtain daily transcripts of the trial. Although the presiding judge will be taking notes of the trial, the judge is not a scribe. Transcripts ensure that the court's recollection is correct and will significantly decrease the time for issuance of the court's decision. Counsel requesting daily transcripts must notify the court recorder at calendar call.

Motions in Limine

Under EDCR 2.47, motions in limine must be filed at least 45 days before trial but under the court's scheduling orders issued on or after July 21, 2022, motions in limine must be filed by order at least 60 days before trial. Motions must be heard no later than 14 days before trial and will typically be decided on the papers. The court disfavors motions in limine requesting the court and parties to follow court rules. These motions waste time and resources. The court will not hear untimely motions or motions without a complete EDCR 2.47(b) affidavit. EDCR 2.47(b) requires an affidavit detailing:

- (1) A personal or telephone conference occurred or an explanation why a conference impossible. Impossible means something more than being unable to reach opposing counsel the day the motions were due. Department 9 requires the 2.47 conference at least one week prior to the filing of motions in limine.
- (2) Attempts made to resolve the matter.
- (3) What was resolved, what was not resolved and the reasons counsel could not reach a resolution. The reasons why a matter was unable to resolve the issue should be stated with specificity. Indicating "counsel could not agree" fails to comply with the rule.

Audio-Visual Equipment

The courtroom is equipped with an ELMO and television monitor. A request for any other equipment must be submitted to District Court IT immediately following calendar call. Any additional equipment brought in by counsel must work in the available court space without blocking the view of the judge or opposing counsel. If you plan to admit a DVD or audio

recording you must provide a way for the court to view the exhibit outside of trial. If using laptops or other equipment for trial, please make arrangements with IT to come in early, set up and test equipment. Make sure to have a paper back-up of any PowerPoint slides or other electronic presentations. Trial will not be delayed for equipment failure.

You can reach the IT Dept. at CourtHelpDesk@ClarkCountyCourts.us.

Exhibits

Counsel must meet and discuss exhibits prior to calendar call (EDCR 2.67). It is the responsibility of the plaintiff to schedule the EDCR 2.67 conference. Exhibits are due at the calendar call pursuant to EDCR 2.69 and as set forth in the court's scheduling order. All exhibits must comply with EDCR 2.27, and:

- (1) All documents and records should be reviewed by both sides well in advance of trial. All redactions and arguments regarding records should be done in advance of trial. No document should be marked as an exhibit unless both sides have gone through the exhibit. If this is not done, parties run the risk of having their records excluded.
- (2) Preferably, all parties will submit joint exhibits. Parties need not stipulate to admission of all exhibits, although stipulations, to the extent possible, are preferred in order to streamline trial.
- (3) **Exhibit Identification/Labeling:**
 - a) **Joint Exhibits:** Label the tabs/proposed labels with **numbers**. (i.e. 1, 2, 3, 4...)
 - b) **Plaintiff's Exhibits:** Label the tabs/proposed labels with **numbers**. (i.e. 1, 2, 3, 4...)
 - c) **Defendant's Exhibits:** Label the tabs/ proposed labels with **Letters** (i.e. A, B, C, D... X, Y, Z, A1, A2, A3...).
 - d) **Bates Stamp:** Each page **must** be bates stamped in numeric order for ease in locating a specific page of an exhibit. **THE NUMBERS MUST BE IN AT LEAST 14-POINT FONT.** If an individual exhibit has more than one (1) page and is not Bates stamped or identified by number on each page, it **must** be bound in some fashion, either by staples, brads, Acco fastener, etc.
 - (e) **Proposed Exhibit Labels:** The clerk's exhibit binder(s) must be pre-marked with a proposed exhibit label on the lower right, back side of the last page of the exhibit; indicating either Joint, Plaintiff, Defendant, and the exhibit number/letter and case number **#**. The label must be adhered to either on the first page of a single page exhibit, or on the lower right back-side of the last page of multiple page documents, or on the back side of any exhibit to avoid covering up any pertinent information or part of a photograph. The court will not accept both joint and separate exhibits; in other words, a particular exhibit is either joint or it is separate, but it cannot be both joint and separate.
- (4) Counsel must provide the court three identical copies of exhibits as follows:
 - a) Exhibits must be one-sided, three-hole punched and placed in three-ring binders with dividing tabs. **BINDERS MAY NOT BE LARGER THAN 4 INCHES.** When possible, no single exhibit should be divided between binders. Binders must indicate clearly on the spine the case name, the volume number, and the numbers of the exhibits contained in that binder.

- b) Exhibits must be tabbed with either consecutive numbers or letters with no subparts – each exhibit should have its own individual number or letter in order.
- (5) Exhibits must be accompanied by an exhibit list (EDCR 2.69(a)(2)). The list must be in a table format with the exhibit number or letter; a description of the exhibit, and bates stamp numbers should accompany each set of exhibits; and columns labeled “Stipulated,” “Date Offered,” “Objection,” and “Date Admitted.” The parties must indicate on the list exhibits stipulated as admitted. The court encourages the parties to agree on admission of exhibits prior to trial when possible, as this streamlines the process for the court clerk. A sample form is attached.
 - (6) The court will not admit only part of an exhibit. If counsel intends to admit a single page of a larger document, it should be submitted as a separately numbered exhibit.
 - (7) Amendments to the exhibits after submission must be handled with the court clerk on the morning of trial, prior to the start time for the trial. The clerk will not address changes to exhibits after the submission of the exhibits. If an exhibit is changed, counsel must provide three complete copies of the amended exhibit.
 - (8) Exhibits that do not comply with these requirements will not be accepted by the court.
 - (9) If counsel admits any exhibits that require electronic equipment for viewing (CDs, DVDs, etc.), counsel must provide the necessary equipment for viewing during the trial. Laptops must be clear of all extraneous files.
 - (10) Photographs, CD/DVD/Flash Drives, and receipts must be identified separately. **DO NOT PLACE SEVERAL PHOTOGRAPHS OR RECEIPTS ON ONE SHEET OF PAPER**, unless counsel stipulate to the admission of ALL of the items on the page.
 - (11) PowerPoint Presentation: If counsel intends to use a PowerPoint presentation, please provide a paper copy to the court as this will be marked as a court’s exhibit. If there are overlying projections or video files embedded into the PowerPoint presentations, please provide an electronic copy (CD, DVD, or Flash drive) instead of a paper copy.
 - (12) Larger versions of exhibits may be used as demonstrative exhibits.
 - (13) The court clerk will contact counsel to schedule a time to meet with counsel to mark the exhibits (only if they are voluminous). **Counsel are to provide the original exhibits to the court clerk, along with a copy for the judge and a copy for the witness (but the court clerk’s copy is the official record).**
 - (14) Please note, all exhibits and depositions not offered and/or admitted at trial may be returned to counsel at the conclusion of the trial.

Any questions regarding exhibits should be addressed to Kelli Wise, the court clerk, at WiseK@clarkcountycourts.us.

Objections

Counsel must make an objection contemporaneously to when the issue arises, and the objection must be made with reasonable specificity. The court does not allow speaking objections. If an objection is made, counsel should state the basis for the objection, and opposing counsel will respond. If counsel or the court require further discussion parties will approach the bench. The court does record bench conferences in civil cases. If a further record needs to be made, it is the counsel's responsibility to make their record during the next available break.

Depositions

If counsel intends to use depositions during trial, the original depositions must be submitted to the court clerk at calendar call per EDCR 2.69(5), unless the court has instructed other arrangements for the submission date. If depositions will be read in lieu of live testimony, counsel must provide a reader who is not participating in the trial. Pursuant to NRCP 32(c), the party offering the deposition must submit to the court a copy of the deposition with the portions being offered highlighted. Deposition designations must be provided and all objections to designations resolved prior to the start of trial. The court will set a hearing pursuant to EDCR 2.69(d), if requested by counsel, to resolve any issues regarding depositions before trial begins.

Civil Trial Memoranda

The court encourages parties to submit civil trial memoranda and briefs regarding factual and legal issues that may arise during the trial. Trial memoranda must be filed and served upon opposing counsel at the time of or before submission of the memoranda to the court pursuant to EDCR 7.27. The document should discuss issues you see in the case and your position. This should not be a document asking the court to rule on issues or a second chance at filing late motions in limine. Electronic courtesy copies are preferred, and may be submitted to the department law clerk at Dept09LC@ClarkCountyCourts.us.

If an issue does need to be decided while trial is occurring, it is rare that a trial brief needs to be filed, generally we can discuss issue on the record and no writing is necessary. If an issue does need briefing, the court will request it.

Witnesses/Conflicts/Remote Testimony

Please make sure to check availability of your witnesses and any scheduling conflicts for trial before calendar call. Once set at calendar call, trials will not be continued for non-emergency conflicts of witnesses, parties, or attorneys. Known conflicts that require a continuance should be addressed by way of a written motion.

Please have your witnesses prepared according to our schedule so we do not have to take excessive recesses. While the court understands unexpected issues come up, counsel should have a few witnesses in line to testify during their case in chief.

Parties should expect to have witnesses appear and testify in-person. Department 9 does not typically allow remote testimony for evidentiary hearings, show cause sanctions hearings, prove-up hearings, and trials. A request for remote appearance at such matters would rarely be granted for a party witness. Any request to have a witness appear and testify by remote audio visual means must be made by motion at least 60 days before trial with the requisite showing of "good cause" under Part IX-B of the Nevada Supreme Court Rules.

Experts

Experts are allowed to sit in the courtroom while other experts are testifying; however, no expert may opine on any topic they were not noticed on or any topic outside their expertise.

