

CIVIL JURY TRIAL PROCEDURE DISTRICT COURT DEPARTMENT 9

Be prepared for trial before the trial begins. We generally have full trial days. 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. Since Courtroom 5A does not have a built in jury box, we want to ensure that potential jurors/jurors will not be able to view your computer screen.

On the first day of jury selection, please arrive at least 30 minutes before start time for resolution of any pre-trial issues. The venire will be brought in promptly at the start time given for jury selection.

If an issue arises after trial has recessed for the day, it is counsel's responsibility to let everybody know via email and all parties will need to be in court the following day 30 minutes before the jury is supposed to arrive, in order to discuss the issue.

Trial Continuances

Any motion to continue trial must comply with EDCR 7.30.

Transcripts

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 for attorney use. 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, jury or opposing counsel. If you plan to admit a DVD or audio recording you must provide a way for the jury to view the exhibit during deliberation. 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 and the jury. 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 and during jury deliberation. Laptops must be clear of all extraneous files.
- (10) Please have a clean laptop to go back with the jury if you intend for jurors to view videos.
- (11) 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.
- (12) 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, which does not go back to the Jury. 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.
- (13) Larger versions of exhibits may be used as demonstrative exhibits. These are generally not marked as exhibits and usually do not go to the Jury.
- (14) 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 and a copy for the judge and a copy for the witness (but the court clerk’s copy is the official record).**

(15) 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.

Proposed Jury Instructions and Verdict Forms

Counsel shall meet and discuss jury instructions and verdict forms prior to calendar call as provided in EDCR 2.67. Both are due at calendar call. The court must also be sent an electronic copy in Word format. Jury instructions should be e-mailed to both the law clerk at Dept09LC@ClarkCountyCourts.us and Teri Hoskin, the JEA, at HoskinT@ClarkCountyCourts.us.

Jury Selection

The court follows the modified “Arizona Method” of selecting a jury. The presiding judge initially conducts voir dire of the entire panel. After questioning, the judge meets with counsel at the bench to discuss whether any prospective jurors should be excused for cause. Prospective jurors initially passing “cause” challenges are then seated in the jury box in the order of their badge numbers.

Counsel are then permitted to conduct voir dire examination of the jury either in mass or on an individual basis. After initial questioning, the judge meets with counsel at the bench to discuss whether any of these prospective jurors should be excused for cause. Once counsel’s prospective jurors are passed for cause, the parties may exercise their peremptory challenges by passing a form between the parties. Excusals for cause and peremptory challenges are discussed only at the bench and later placed on the record. Excused jurors are not informed as to the reason for their discharge.

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.

Jury Notebooks

Even with the use of audio-visual equipment, the court highly encourages the use of jury notebooks in document-intensive cases. Counsel should stipulate to all the contents of the notebooks. Jury notebooks generally should include photos of witnesses and copies of documents that will be referred to frequently in trial. For exhibits not stipulated to, counsel proposing the admission of the exhibit may bring enough copies for each notebook to give copies to the jurors at the time the exhibit is admitted. Please provide eleven juror notebooks one judicial day prior to trial.

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.

Publication to the Jury/Demonstrative Evidence

Counsel may publish to the jury during opening statement, examination of witnesses and closing argument (1) any admitted exhibit; (2) any demonstrative evidence or not admitted exhibits with the agreement of counsel; (3) any demonstrative evidence or not admitted exhibits with permission of the court.

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.

QUESTIONS FOR PANEL

1. To qualify to serve as a juror, you must be a citizen of the United States. Please raise your hand if you are not a citizen of the United States?
2. Also, to qualify as a juror, you cannot be a convicted felon whose rights have not been restored. In Nevada, anyone who has served their sentence and been released from prison or discharged from probation is immediately restored their right to serve on a civil jury. Is there anyone here who is a convicted felon who has not had their rights restored?
3. Is there anyone who has difficulty understanding the English language? (If yes, then)
What is your native language?
How long have you been in the United States?
Do you work outside of the home?
If so, what do you do for work?
And do you have to use English at work?
What percentage of what I have said thus far, have you understood?
4. We anticipate this case is going to last around _____ days. I recognize that serving on a jury is almost always a personal or financial hardship. For that reason, financial hardship is not generally considered an excuse to serving as a juror. However, you might be confronted with unique hardships, such as a medical issue, that would impact your service in this particular trial at this particular time. Is there anyone who feels that serving would present a physical or medical hardship?
5. Is there anyone who has an extraordinary reason why he or she cannot serve as a juror, or feels that for some other reason (pre-paid trip or surgery etc.), serving on this jury would present them with any other kind of severe or undue hardship?
6. Are any of you acquainted with me or any of the court staff?
7. Are any of you acquainted with the plaintiff or the plaintiff attorneys or anyone who works with their office?
8. Are any of you acquainted with the defendant or his/her attorney, or anyone working within that office?
9. Are any of you acquainted with any of the witnesses whose names were read by the plaintiff or the defense?
10. Do any of you know any other member of the jury panel?
11. As a juror, you will be asked to listen to witnesses, review evidence, and make a determination, based on the facts. You are the "finders of the facts." My job is to make sure that the trial is fair, and to instruct you on the law, that you will apply to the facts.

Some of you may disagree with how some of our laws are written. It would be a violation of a juror's duty, however, if he or she tried to render a verdict based upon what he or she believed the law to be, if it was different from my instructions. Do any of you feel that you would not be able to follow all of the instructions of the Court on the law, even if the instructions differ from your personal opinions or feelings of what the law should be?

12. I don't believe that I've heard anything about this case in the media. Does anyone believe that they may have heard something about this case, either in the media or otherwise, prior to coming here today?
13. Is there anyone who has a sympathy, prejudice, or bias, relating to age, religion, race, gender, or national origin, that they feel would affect their ability to be open-minded, fair, and impartial jurors?
14. Are there any of you, who believe that for any other reason you would be unable to be fair and serve as jurors in this particular case?

INDIVIDUAL VOIR DIRE

1. Last three numbers of your badge number and your name
2. How long have you lived in Clark County?
3. How far did you go in school?
 - a. If you have attended college or technical school, what area did you study?
4. Are you employed?
 - a. If yes, what do you do for a living?
 - b. If you are retired or unemployed, what sort of work have you done in the past?
5. Are you married or in a significant relationship?
 - a. If yes, what does your spouse/significant other do for a living?
6. Do you have children?
 - a. If yes, what are their ages and genders?
 - b. If you have adult children, what sort of work do they do?
7. Have you or anybody close to you ever been the plaintiff or a defendant in a lawsuit?
 - a. Were you satisfied with how the case was handled?
 - b. Is there anything about that experience that would cause you not to be fair and impartial in this case?
 - c. Is there anything about that experience that would cause you not to be fair and impartial in this case?

8. Have you ever served as a juror before? (If yes)
 - a. How many times?
 - b. When?
 - c. Where?
 - d. Civil or Criminal?
 - e. Without telling us what the verdict was, was the jury able to reach a verdict?
 - f. Were you the foreperson?

9. If the case involves a car accident:
 - a. Have you ever been involved in a car accident before, where you suffered injuries? If yes:
 - i. What type of injuries did you suffer?
 - ii. Did you file a lawsuit as a result of that accident?
 - iii. Were you satisfied with how your claim was resolved?
 - iv. Is there anything about how your accident was handled that would affect your ability to be fair and impartial in this case?

 - b. Have you ever been sued as a result of a car accident?
 - i. Is there anything about how that suit was handled that would affect your ability to be fair and impartial in this case?

10. Is there anything about the nature of this case or anything that you heard here today that would make it difficult for you to sit as a juror in this case?

11. Can you set aside any sympathy you may have for either side and base your verdict solely on the evidence and instructions on the law presented during trial?

12. Can you base your verdict solely on the evidence presented at the trial and wait to form an opinion until you've heard all the evidence?

13. Can you be fair to both sides in this case?

