

HANDOUT/PROCEDURE FOR COUNSEL CIVIL BENCH TRIALS DISTRICT COURT - DEPT XXXI

Judicial Executive Assistant: TRACY L. CORDOBA ▪ 671-3634 ▪ cordt@clarkcountycourts.us

Court Recorder: LARA CORCORAN ▪ 671-0897 ▪ corcoranL@clarkcountycourts.us

Courtroom Clerk: STEPHANIE RAPEL ▪ 671-0638 ▪ rapels@clarkcountycourts.us

TRIAL BRIEFS (EDCR 7.27)

If the trial of the case will involve significant issues not adequately addressed by the parties in connection with dispositive motions or other pretrial motions, the parties may prepare trial briefs addressing such issues and submit to the Court **any time prior to the close of trial** in accordance with EDCR 7.27. The original must be filed and a copy must be served to opposing party(ies). Parties may deliver an unfiled copy to the Court if the brief is provided in open court.

DEPOSITIONS

All original depositions anticipated to be used in any manner during the trial (other than in lieu of live testimony) **must** be delivered to the Clerk at or prior to the Calendar Call. Depositions **MUST** be sealed, certified, copies or they will NOT be accepted. Depositions are not marked as exhibits, nor are they admitted; however, original depositions that Counsel intends to use for impeachment purposes are “published” during trial proceedings. As a courtesy to the Court, if a party intends to use a deposition extensively, it is helpful to provide a mini/tote script of the deposition for the Court to review during the testimony.

If written and/or audiovisual deposition testimony is anticipated to be used in any manner in lieu of live testimony (in whole or in part) the parties **shall** discuss the designations at the EDCR 2.67 Conference and determine what is agreed-upon. Any designation (by page/line citation as well as a copy of the actual deposition pages) of the portion(s) of the testimony to be offered must be served on all parties, with a courtesy copy to the Court, **two (2) judicial days prior to the Calendar Call**. Any counter-designations (by page/line citation as well as a copy of the actual deposition pages) of testimony must be served on all parties, with a courtesy copy to the Court, **one (1) judicial day prior to the Calendar Call**. If there are any objections to the designations or counter-designations, then the parties need to provide the Court (at or before the Calendar Call) with copies of the deposition excerpts which show on each page which excerpts are objected to, who is objecting, and the basis. If the parties anticipate that deposition testimony in lieu of live testimony is to be used, in whole or in part, for more than one (1) witness, then the parties must notify the Court in writing at least seven (7) days prior to the Calendar Call and set forth how much time is needed prior to trial to hear the objections. If there are multiple depositions or it’s a complex case, this deadline may be sooner so that the Court can address any issues in a timely fashion prior to the Calendar Call. **Non-compliance with these rules will result in the Deposition(s) not being able to be used in whole or in part during the trial and/or other sanctions being imposed.**

COURT RECORDER

Court Recorder must be notified, (702) 671-0897, a minimum of three (3) judicial days, in advance, if Counsel is requesting to have any or all of the proceedings recorded. If Counsel would like to have daily transcripts or CDs of the trial prepared, the Court Recorder **must** be notified a **minimum** of two (2) weeks **prior to the start of trial**. Failure to notify with advance notice may result in the delay of the production of transcripts and/or CDs.

AUDIO VISUAL/WITNESS APPEARANCES

Pursuant to Administrative Order 22-07 and the Nevada Supreme Court's RULES GOVERNING APPEARANCE BY AUDIO-VISUAL TRANSMISSION EQUIPMENT, if a party wishes a witness to appear at trial audiovisually, the party must comply with Supreme Court Rule Part IX (A and B) and file an **Audiovisual Transmission Equipment Appearance Request form**, (forms located on the Court's website, www.clarkcountycourts.us) as well as comply with the terms therein, at least five (5) Judicial Days prior to the Trial date unless the Court provides a different time-frame. If the Audiovisual appearance is objected to, the parties must notify the Court and schedule time to have the objection heard.

AUDIO VISUAL EQUIPMENT AND COURTROOM EQUIPMENT

If Counsel anticipates the need for special electronic equipment during the trial, a request must be submitted to the District Court Help Desk following the Calendar Call, but no less than three (3) judicial days before the commencement of trial. Please contact the Court Help Desk via E-Mail to courthelpdesk@clarkcountycourts.us. Please check with the Department for non-audio/visual needs prior to the Calendar Call to ensure you have all materials you anticipate needing.

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Each side **shall** provide the Court, **two (2) judicial days prior to the start of trial**, a detailed, proposed Findings of Fact and Conclusions of Law (FFCL) which is to include citations. The **detailed**, proposed Findings of Fact and Conclusions of Law shall include all elements of each Cause of Action alleged by Plaintiff and the basis for Defendant's Affirmative Defense. If the case sets forth specific elements of damages, then these must be set out as well. The proposed FFCL must also be served upon all parties and a hard copy provided to the Court prior. Also, please email (in Word format) your Findings of Fact and Conclusions of Law to Dept. XXXI JEA, Tracy Cordoba, at cordt@clarkcountycourts.us, with all parties copied in the email.

EXHIBITS

In accordance with EDCR 2.67, Counsel shall meet, review, and discuss exhibits prior to commencement of the trial. All exhibits **must** comply with EDCR 2.27 and be prepared in accordance with Dept. XXXI Exhibit Guidelines which are attached. **Exhibits (either hard copy or electronic) are due at - or before - the Calendar Call unless other deadlines are discussed with the Judge and stipulated to at the Pre-Trial Conference.**

Any demonstrative exhibits including exemplars, power point slides, etc. anticipated to be used either by counsel or any of the witnesses, must be disclosed to opposing Counsel and the Court prior to Calendar Call. If any demonstrative exhibits are oversized or involve set up, etc., the proposed demonstrative exhibit(s) must either be brought to the Court's attention at the Calendar Call, or via a written motion filed prior to the Calendar Call. Demonstrative exhibits are not marked as exhibits. Counsel shall be prepared to stipulate or make specific objections to individual proposed exhibits at the EDCR 2.69(d) conference set by the Court or as otherwise directed by the Court.

1. **Counsel is encouraged to submit Joint Exhibits which may, or may not, be stipulated to for admittance.** If separate sets of exhibits are submitted, duplicate exhibits **MUST** be removed. Notify the Court Clerk of any stipulation(s) prior to start of trial.

2. Unless parties are using electronic exhibits, **two (2)** sets of exhibits, which **MUST** be three-hole punched and **MUST** be submitted in three-ring binders **no larger than four (4) inches**, are to be submitted to the Court (one for the witness stand and one for the Court Clerk/official record). Do not mark or place a sticker on the exhibit itself, as the Court Clerk will mark it. If there are a large amount of exhibits, please discuss this with the Court at the time of the Pre-Trial Conference.

3. Exhibits submitted in binders **MUST** be separated by tabs. Label the tabs with **numbers (1-500) for Plaintiff's Exhibits** and **letters (A-Z, AA) for Defendant's Exhibits**. An exhibit with more than two (2) pages should be Bates-stamped. (**In order to accommodate the parties, the Court will allow the Bates stamp numbering to either reflect the exhibit tab number and then the individual page (i.e. 2-0001, 2-0002, etc.) or, if it is too costly to re-number the exhibits to reflect the tab number before the individual page number, then the Court allows the pages to bear a Bates stamp number which does not reflect the exhibit number (e.g. 0001, 0002 etc.) Regardless of which format counsel chooses to use, each page of the tabbed exhibit **MUST** be Bates-stamped if that exhibit contains more two pages.

If there are more than 500 exhibits for Plaintiff, and/or more than 75 exhibits for Defendant, contact the Courtroom Clerk **no later than five (5) judicial days prior** to the Calendar Call so a block of numbers can be assigned. If **Joint Exhibits** are submitted, label tabs with **numbers**.

- The rules for photographs are different than the rules for documents. The Clerk's Office requires that photographs **MUST** be identified separately within each exhibit tab. If a party chooses to place more than one photo under an exhibit tab, each photo **MUST** bear both an exhibit number-tab designation, as well as a letter reference for that specific photo. For example, if there are three (3) photos listed under Exhibit 7 for Plaintiff, then those photos must be designated as 7-A, 7-B, 7-C, etc. and this designation should be consistent within the exhibit list at the front of the binder.
- **DO NOT** place several photos on one sheet of paper. For example you **may not** place two (2) 4x6 photos on the same piece of paper. Instead, they must be on two (2) separate sheets of paper separately labeled.
- Documents and photos should be identified separately. **DO NOT** include photos and documents within the same exhibit tab.
- If a party has an exhibit that contains both documents and photographs, please contact the clerk prior to the Calendar Call for guidance on how that should be designated.

****NOTE: Please ensure all social security numbers, credit card numbers, bank accounts, etc. are redacted prior to submission****

4. Submit an Exhibit List to the Courtroom Clerk, via email (listed above). Place a copy of the Exhibit List in **each** of the binders. The exhibits on the list shall be **numbered** for the Plaintiff(s), and **lettered** for Defendant(s) unless a block of numbers has been assigned to each party as noted previously. The exhibit list should contain five (5) columns labeled: "#¹"; "Description" (short description of exhibit including Bates stamp if applicable); "Offered"; "Objected"; and "Admitted." (See attached Exhibit List example for guidance.) **If it is a Joint Exhibit List, please use numbers.**

5. Large blow-ups of exhibits may be used as **demonstrative exhibits**. These are not marked as exhibits and usually do not go to the jury. However, if Counsel wants a larger version of an exhibit to go to the jury, it must be approved by the Court, marked separately and admitted.

Hard copy Exhibits are to remain in the binders during trial. Counsel **must** use their own copies of exhibits with the overhead projector (ELMO) or other media.

ELECTRONIC EXHIBITS - If a party is anticipating that electronic exhibits will need to be utilized, the parties **must** contact the Courtroom Clerk (listed above) at least two (2) weeks prior to the

¹ Although the Defendant's set of proposed exhibits is lettered, counsel can either use the "#" symbol or designate the column as "Letter".

Calendar Call, unless it is a complex or document intensive case which may result in an earlier deadlines, so that there is sufficient time to schedule an appointment to validate the electronic exhibits **prior** to the Calendar Call. **(Please see the attached Electronic Exhibit Guidelines/Protocols for further information and contact information.)**

EXHIBIT GUIDELINES/INSTRUCTIONS (From Clerk's Office)

Below is a brief synopsis of the procedures/protocols regarding electronic exhibits. Please read the attached **Proposed Electronic Exhibit Protocol** **in its entirety** to ensure exhibits are submitted correctly.

EXHIBIT OPTIONS:

Option 1 -- SFTP

This would be used for smaller trials that aren't too voluminous. The Clerk's Office practice right now has been a threshold amount of 100 pages. **Anything over 100 pages - counsel must be responsible for printing.** Anything 100 pages or under, the Clerk's office can assist counsel by printing out exhibits for the hearings/trials.

- If 100 pages or less, the parties would send an e-mail to: DCevidence@clarkcountycourts.us and copy the Courtroom Clerk Supervisors: Michelle Jones (jonesm@clarkcountycourts.us), Shelley Boyle (boyles@clarkcountycourts.us), Tondalaya Goodwin (goodwint@clarkcountycourts.us), and Madalyn Riggio (riggiom@clarkcountycourts.us) requesting to e-mail exhibits or obtain the SFTP link. The Courtroom Clerk Supervisors will respond back to the attorney and provide them with further instructions. The Court Clerks will then print the exhibits and have them ready for the hearing/trial.

****If the totality of exhibits are not too voluminous, hard copy exhibit binders are also acceptable if all parties are in agreement and approved by the Court****

Option 2 -- Electronic Exhibits

This option is used for larger trials with voluminous paper exhibits.

- **Please contact the Courtroom Clerk after the FIRM trial date has been set at the Pre-Trial Conference (regardless of what position the FIRM setting is) to provide the estimated number of exhibits you plan to use so that a range of numbers for the exhibits can be provided to each party. Feel free to confer with each other in advance to decide blocks of exhibit numbers for each party to use. (Example: Plaintiff 1-1000, Defendant #1 2000 -2999, Defendant #2 3000-3999, and so on).**
- After the block of exhibit numbers has been assigned to each party, the submission of the electronic exhibits would need to be coordinated with Courtroom Clerk Supervisors. Counsel **must** send an e-mail to: DCevidence@clarkcountycourts.us and copy the Courtroom Clerk Supervisors: Michelle Jones (jonesm@clarkcountycourts.us), Shelley Boyle (boyles@clarkcountycourts.us), Tondalaya Goodwin (goodwint@clarkcountycourts.us), Madalyn Riggio (riggiom@clarkcountycourts.us), and the Courtroom Clerk, Stephanie Rapel (rapels@clarkcountycourts.us) to arrange for the submission and validation of Hard Drives. **Electronic exhibit drives, as defined below, must be submitted for validation at least**

two (2) weeks prior to the Calendar Call to ensure compliance with 2.67, 2.68, and 2.69 unless it is a complex or document intensive case which may result in an earlier deadline.

In summary, this is what is required:

TWO (2) electronic storage drives - per set of exhibits

(Two (2) electronic storage drives of the Joint Exhibits, Two electronic (2) storage drives of Plaintiff's exhibits, and Two (2) drives of Defendant's exhibits)

Drive 1 - "Golden Drive" – All exhibits in PDF format **and** the exhibit list

Drive 2 - "Working Drive" – Exhibits only - no exhibit list should be attached.

Two (2) sets of the printed copy of the exhibit list – please print in easily readable font.

****One (1) ADDITIONAL BLANK electronic storage device is required for any admitted exhibits**** All admitted exhibits will be copied to this device to go back with the jury.

****Please note, Section 4 of the Protocol Regarding Electronic Exhibits instructs as follows: "The file name for each proposed electronic exhibit shall be numerical, i.e. 1047.pdf". The Exhibit List should reflect the exhibits exactly as they are labeled in the thumb drives (ex. 537.pdf, 538.pdf, 539.pdf)****

Excel documents should be converted to a PDF document or submitted separately. Videos must also be submitted separately on a separate USB drive(s). Please discuss video submissions at the Pre-Trial Conference.

NOTES:

- The drives should **NOT** have any subfolders.
- Label the drives.
- No leading zeroes in the file names of the PDF, nor on the exhibit list. Exhibits are to be named with only the <number>.<file extension>. For example, **(12345.pdf)**
 - **Electronic exhibits cannot be admitted in portions.** If an exhibit is hundreds or thousands of pages long, and you wish to move only a select few into evidence, please designate that group as a separate exhibit.

Parties **must** agree upon which method (electronic or hard copy exhibits) will be provided to the Court. Exhibits (electronic or hard copy) **must** be submitted to the Court prior to or at Calendar Call in accordance with EDCR 2.67, 2.68, and 2.69.

Proposed Order Regarding Electronic Exhibits for Trial

1. Whenever a party determines and the Court orders that the submission of documentary and/or photographic evidence will be made in electronic format in a particular case, the submission of the proposed exhibits will be made pursuant to this order.
2. The proposed electronic exhibits shall be submitted in portable document format (.PDF).
3. Photographs must have at least a 1 inch border at the top of the page for the clerk to be able to affix the indicator documenting the admission of the photo. If the court deems the quality of the photograph is not of sufficient quality for demonstrative purposes, the photo shall be re-submitted in traditional format.
4. Prior to trial each party will be assigned a range of exhibit numbers for use in naming exhibits. The file name for each proposed electronic exhibit shall be numerical, i.e. 1047.pdf. Each page within the proposed exhibit will be internally and sequentially numbered beginning with the trial exhibit number and the page number will be placed on each page of the proposed electronic exhibit in the lower right hand corner in the following format "1047-001". No letters will be used as exhibit numbers for identifying proposed electronic exhibits.
5. The proposed electronic exhibits shall be submitted on a single electronic storage device, except when the integrity of the proposed electronic exhibit would be corrupted by being on a single electronic storage device or the volume of the proposed electronic exhibit(s) cannot practically be stored on a single electronic storage device. The electronic storage device must have space available for additional storage of electronic data in at least an amount equal to the storage required for the proposed electronic exhibit(s). External hard drives must have a minimum read speed of 33 MBps and minimum write speed of 25 MBps.
6. An exhibit list in substantially the same form as the attachment hereto shall be provided in paper form as well as electronic in Excel format. The electronic (Excel) version of the exhibit list is to be named "Exhibit List" and is to be located on the master electronic storage device only. The font size shall be 12 and the font style to be used is Times New Roman. The list must include the following information in tabular format for each proposed electronic exhibit (please note that traditional "physical" evidence is not to be listed on the electronic exhibit list and should be submitted on a separate exhibit list):
 - a. The exhibit number for the proposed electronic exhibit consistent with paragraph 4 above
 - b. The identification of the electronic storage device on which the proposed exhibit is stored or a space for the clerk to make notation in the event the Exhibit was submitted in traditional form
 - c. A description of the proposed electronic exhibit
 - d. Any numeric or alphanumeric designation used on the proposed electronic exhibit during discovery or other pretrial proceedings
 - e. Whether a stipulation to the admission of the proposed electronic exhibit exists
 - f. A space for the clerk to make notation on the date the proposed electronic exhibits is offered
 - g. A space for the clerk to make notation on objections made to the proposed electronic exhibits at the time it is offered for admission
 - h. A space for the clerk to make notation on the admission of the proposed electronic exhibits
7. Absent good cause shown, no exhibits not included in the proffered electronic storage device will be accepted electronically.
8. The proposed electronic exhibit shall exactly match the admitted electronic exhibit. Any change between the proposed electronic exhibit and the admitted electronic exhibit will require the submission of the exhibit as a supplemental proposed electronic exhibit by offering counsel with a new proposed exhibit number in conformance with paragraph 4.

9. The party offering the proposed electronic exhibits shall provide the clerk with two identical sets of the proposed electronic exhibits on separate electronic storage devices. In the event of a jury trial, an additional blank electronic storage device will be required to copy all of the admitted electronic exhibits onto for use by the jury (see paragraph 12). The clerk will maintain one of the electronic storage devices as a master without modification.
10. Prior to the clerk admitting the electronic storage devices, the clerk will perform a virus check on each device in the presence of counsel or their designee.
11. Following admission of a proposed electronic exhibit, the clerk will electronically move the admitted electronic exhibit to a subfolder for all admitted exhibits wherein the clerk will electronically affix an indicator documenting the admission of the proposed electronic exhibit in the case and identifying the case number and date of admission. The admitted electronic exhibit will be protected from any additional attempts to modify the admitted electronic exhibit.
12. Prior to the commencement of deliberations by a jury, if the trial is a jury trial, the party proffering the electronic exhibits will provide a laptop computer and additional monitor with only an operating system and associated programs, an adobe program to permit viewing of the admitted exhibits, and no internet or other research capability. The laptop will be subject to inspection by Court I.T. staff and counsel for compliance prior to it being provided to the deliberating jury.
13. Upon completion of the trial, the clerk will transmit the electronic storage device to the vault for retention in accordance with Part XI of the Supreme Court Rules.

****DO NOT PLACE EXHIBITS IN BINDERS WIDER THAN FOUR (4) INCHES AS THEY ARE DIFFICULT TO HANDLE****

EXHIBIT INDEX EXAMPLE

PLAINTIFF'S TRIAL EXHIBITS

CASE NO: A123456

MARY SMITH

vs.

JANE DOE

PLAINTIFF'S COUNSEL _____ DEFENSE COUNSEL _____

# ²	DESCRIPTION	DATE OFFERED	OBJECTION	DATE ADMITTED
1	Contract signed October 17, 2009			
2				
3	Bank Statement dated September 13, 2009			
4				
5				
6				
7a	Color Photo – Front of house			
7b	Color Photo – Close-up of front of house			
7c	Color Photo – Cracked wall on north east side of house			
8				
9				
10	Estimate for: John Smith Restoration dated July 16, 2009 - (Bates numbers 10-0009 - 10-00011) Alternatively the Bates numbers could read (0009-0011) as noted herein as long as the exhibit list matches the exhibit tab numbering and each page is Bates-stamped			
11				
12				
13				
14				
15				
16				
17				
18				

² NOTE NUMBERS ARE TO BE USED IF THE EXHIBITS ARE JOINT OR IF THEY ARE FOR PLAINTIFF'S PROPOSED EXHIBITS. IF EXHIBITS ARE NOT JOINT, DEFENDANT'S EXHIBITS ARE TO HAVE LETTER DESIGNATIONS IN THE FIRST COLUMN RATHER THAN THE NUMBERS SHOWN IN THIS EXEMPLAR