

INSTRUCTIONS TO ATTORNEYS GOVERNING TRIAL IN THIS COURT

PLEASE READ CAREFULLY:

1. Be on time for each court session. Trial engagements take precedence over any other business. If you have matters in other courtrooms, arrange in advance for an associate to handle them for you or to have such matters continued.

2. Stand whenever you address the Court for any purpose, including making objections. Address remarks to the Court. Do not address the deputy or law clerk, the reporter or opposing counsel. If you want to speak to opposing counsel in the presence of the jury, seek permission to talk to him or her off-the-record. All requests to reread questions or answers or to place exhibits in front of the witnesses shall be addressed to the Court.

3. While Court is in session, do not leave counsel tables to confer with anyone, including investigators or witnesses, in the back of the courtroom or outside the courtroom unless permission is granted in advance.

4. When opposing counsel has the floor, do not distract the Court or jury by conversing audibly with your client or co-counsel, ostentatiously passing notes, rummaging through papers or other conspicuous conduct. Counsel should not by facial expression, nodding or other conduct, exhibit any opinion, adverse or favorable, concerning any testimony that a witness is giving. Counsel should admonish his or her client and witnesses likewise to avoid such conduct.

5. In your opening statements to the jury, do not argue the case and do not discuss the law. Confine yourself to a summary of the important facts. Do not describe in detail what particular witnesses will say. Unless the case is unusually complex, each party will be limited to ten (10) minutes.

6. Stand when you question witnesses. Counsel with physical disabilities will be excused from this requirement. Do not pace about the courtroom when questioning witnesses; remain at the lectern unless given permission to approach the witness, chalkboard, diagram or like. When permission is given, return to the lectern when the purpose for which permission was granted is finished.

7. Do not face or otherwise appear to address yourself to the jury when questioning a witness. Except children, address witnesses by their surnames, for example, Mrs. A., Sergeant B. or Doctor C.

8. Do not greet or introduce yourself to adverse witnesses. Commence your cross-examination without preliminaries.

9. Never assert your personal opinion as to the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused. Likewise, counsel should never assert personal knowledge of a fact not in evidence.

10. Where a party has more than one lawyer, only one may conduct the direct or cross-examination of a given witness.

11. If a witness is on the stand at the time of a recess or adjournment, have the witness return to the stand and be ready to proceed when Court resumes.

12. Do not run out of witnesses. If you are out of witnesses and there is more than a brief delay, the Court may deem you have rested.

13. You should not use court time for marking exhibits. This must be done before each court session.

14. Each party will provide the Court and opposing party with one set of all exhibits, charts, summaries and diagrams to be used at trial, with a completed list of such exhibits. Copies of the exhibit and current witness lists are to be given to the court reporter and deputy clerk prior to commencement of the trial. Voluminous exhibits will be reduced by elimination of irrelevant portions or by using summaries.

15. In advance of each court session, counsel for the party going forward at the session should advise opposing counsel of the exhibits he or she intends to introduce at that session.

16. If you intend to question a witness about a group of exhibits, have all documents with you at the lectern when you begin the examination.

17. Whenever, in your opinion, a particular exhibit is admissible, it should be moved into evidence. The practice of holding all exhibits until the end of a session or the end of your case and moving them all in is not favored. To the extent parties have agreed upon the admission of exhibits or the foundational requests for certain exhibits, such exhibits should be moved into evidence before the commencement of the trial.

18. Whenever possible, counsel should refer to an exhibit by number. Witnesses should be asked to do the same.

19. The Court does not favor taking time to pass an exhibit among the jurors for viewing when it is admitted. This procedure should be used sparingly and reserved for truly significant exhibits. Moreover, when this procedure is permitted by the Court, counsel should have a copy of the exhibit for each juror (if it is capable of reproduction).

20. When you object in the presence of the jury, make your objection brief and to the point. State only your objection and the legal ground for the same. Do not argue the objection or the ruling of the Court in the presence of the jury.

21. Do not make motions, for example, motions for mistrial, in the presence of the jury. Such motions may be raised at the first recess without waiving any rights by the delay.

22. In final argument of jury cases, do not appeal to any juror to put himself or herself in the position of a party.

23. The jury should hear the instructions on the law of the case from the Court, an impartial source. In your final argument, you may tell the jury what you believe the substance of the Court's instruction on a particular subject will be, but do not read or quote any instruction.

Thank you for your cooperation.

LEE R. WEST

United States District Judge