

JURY TRIAL PROCEDURES OF JUDGE ROBERT J. COLVILLE

It is hoped that consistent compliance with, and application of, the following procedures by the court and counsel will serve to ensure the fair, just, and efficient resolution of trials conducted in the undersigned's courtroom.

The court recognizes that jury trials are fluid in nature and that deviations from these procedures may be unavoidable. Counsel are expected, however, to advise the court of a perceived need for departure from these procedures and obtain court approval before assuming that the same will be permitted.

The court thanks counsel for their anticipated courtesy and cooperation.

PRELIMINARY CONFERENCE

If you have reason to anticipate that a difficult question of law or evidence will arise during trial, counsel should, as early as practicable, alert the court and opposing counsel and, if appropriate, submit to the court a memorandum of law on the issues prior to commencement of trial, or as soon thereafter as possible.

COURT SEATING

Counsel and parties, if desired, shall sit at counsel table. Witnesses shall sit in the spectator section only, unless otherwise authorized by the court. Plaintiff's counsel sits at the table closest to the jury, Defense counsel sits at the table furthest from the jury.

DECORUM OF COUNSEL

Counsel will dress in an appropriate professional manner. The trial shall at all times be conducted in a dignified and formal manner. Counsel's demeanor should be, at all times, one of courtesy and professionalism. Counsel shall not raise their voice any higher than is necessary to be clearly heard by the court, witnesses, and the jury. Counsel should always address the court and not one another. Colloquy between counsel is permitted only to expedite the trial and should always be avoided in the presence of the jury. Of course, counsel should never act or speak disrespectfully to the court or opposing counsel in any manner. Counsel shall not exhibit familiarity with the parties, witnesses, jurors, opposing counsel, or the court. The use of first names should be avoided. Jurors should not be addressed individually or by name.

Counsel and the court shall fully comply with the Code of Civility adopted by per curiam Order of the Pennsylvania Supreme Court, December 6, 2000 (No. 256 Supreme Court Rules, Docket No. 1), a copy of which is attached.

TRIAL SCHEDULE

Unless otherwise indicated, trial will begin promptly at 9:00 a.m. Morning meetings between counsel and the court will conclude prior to 8:55 a.m. and, accordingly, must be requested and scheduled appropriately. Testimony is presented from 9:00 a.m. to approximately 12 noon. There will be a 45 minute lunch break, after which, trial will promptly resume. There will be a 15 minute morning break and a 15 minute afternoon break. Unless otherwise indicated, trial will recess between 4:30 p.m. & 5:00 p.m.

I will conduct an evening meeting with counsel at the end of testimony each day to go over any issues that will arise during the next day of trial. Counsel must be prepared to stay until all matters are resolved. Any issues that may arise during the next day of trial must be raised at this time. I will be strongly disinclined to ask the jury to wait for the court and counsel between 9:00 a.m. until 4:30 p.m. on account of evidentiary or other legal issues.

At the evening meeting, any party who will be presenting evidence the next day must identify the witnesses who will be called and the evidence that will be presented. Offers of proof should be requested at that time.

OPENING STATEMENTS

As early as practicable, an attorney should advise other counsel of any exhibits that the attorney will be using in the opening statement. Opposing counsel may then request the court to consider any objections to the use of the exhibits.

The purpose of the opening statement is to state briefly what counsel expects the evidence to show. Brief reference to the law will be permitted but only to the extent that it will aid the jury in understanding what counsel expects to prove. It is not proper to use the opening statement to argue the case. Upon violation of any of these rules, the court may, sua sponte, interrupt the opening statement and admonish counsel.

EXAMINATION OF WITNESS

Counsel may feel free to move about the courtroom freely as they question a witness. Counsel should request permission to approach a witness, the first time they approach only. Opposing counsel may, likewise, move freely about the courtroom, if necessary to see an exhibit or otherwise adequately observe testimony. Opposing counsel's movement, however, should be conducted, in all respects, to minimize disruption or distraction from the proceedings.

Witnesses should be treated with fairness and consideration; they should not be shouted at, ridiculed, argued with, or abused in any manner.

Counsel should not by facial expression, nodding, or other conduct exhibit any opinion, adverse or favorable, concerning any testimony that is being given by a witness. Counsel should admonish his or her own clients and witnesses similarly to avoid such conduct.

Witnesses and parties should be requested to wear proper attire to court.

EXHIBITS

Particularly in cases where a substantial number of exhibits will be utilized, the court requests that before the beginning of trial, counsel prepare an exhibit book containing each exhibit that counsel plans to show to a witness, to introduce through a witness, or to otherwise introduce into evidence. (This does not include the portions of medical records and other voluminous records that will not be specifically referred to.) One copy of the exhibit book shall be given to me. Another copy should be placed on or near the witness stand for the witnesses to use. The inclusion of an exhibit in the exhibit book does not impose any obligation to introduce the exhibit and the failure to do so cannot be commented on by the other counsel.

PUBLISHING EXHIBITS AND/OR DOCUMENTS TO THE JURY

Once admitted into evidence, exhibits may be published to the jury, unless a specific objection is raised by opposing counsel. If not yet admitted into evidence, exhibits shall be published to the jury only upon prior request to, and approval of, the court.

Easels, dry-erase boards, and chalkboards are available to, and may be utilized at the convenience of, counsel. At the close of each counsel's questioning of a witness, all easels and boards utilized should be removed to the least intrusive location reasonably available.

OBJECTIONS DURING TRIAL

When within the hearing of the jury, an attorney raising an objection shall state "objection," and then state the basis for the objection as briefly as practicable, or immediately request a sidebar. I may rule at that time or conduct a sidebar. If I rule immediately, an attorney who disagrees with my ruling, and either believes that I do not understand the issue or wishes to place an explanation or brief argument on the record to preserve the issue, should request a sidebar. Non-objecting attorney's shall allow the court to rule upon the objection before asking the next question, or shall formally withdraw the question to which the objection was raised.

Sidebar discussions shall be conducted in a professional and dignified manner. Counsel's voice shall, at all times, be maintained at a volume that does not permit the jury to hear counsel's comments. Counsel's satisfaction or dissatisfaction with opposing counsel's argument or the court's rulings at sidebar shall not, in any manner, be conveyed to the jury by any conduct or comment of counsel.

READING PORTIONS OF PLEADINGS, ANSWERS TO INTERROGATORIES, ANSWERS TO DEPOSITIONS, ETC. AS ADMISSIONS

An attorney who wishes to read admissions to the jury shall endeavor to present a list to other counsel that fully describes what will be read not later than the beginning of the evening meeting on the day before the attorney intends to read the admissions.

DEPOSITIONS FOR USE AT TRIAL

A party using depositions at trial shall endeavor to have all objections resolved no later than the evening meeting on the previous day. An attorney using a videotape deposition is responsible for instructing the operator beforehand as to what will be played and for ensuring that the operator has the equipment in place at such time so as not to interfere with the trial schedule.

MISCELLANEOUS

During the course of the trial, the court reporter is responsible to the court. Counsel should not issue instructions to or make requirements of the reporter. Counsel should direct their requests to the court and, if appropriate, the court will issue instructions to the reporter.

During jury deliberations, counsel shall let the tipstaff know where they are, and shall be available with their clients, to return to the court as quickly as practicable, and preferably within 5 minutes notice.

From the time the jury is selected until it is discharged, counsel shall avoid any and all forms of contact with the individual jurors, and shall advise their parties and witnesses to do the same.

Robert J. Colville, Judge