

**IN THE CIRCUIT COURT FOR THE TWENTY-THIRD CIRCUIT COURT
KENDALL COUNTY, ILLINOIS**

	<p>14 MR 1 FILED IN OPEN COURT SEP 17 2014 BECKY MORGANEGG CIRCUIT CLERK KENDALL CO.</p>
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**CIVIL JURY TRIAL GUIDELINES AND PRACTICE
STANDING ORDER**

The purpose of these guidelines is to establish a consistent pretrial and trial procedure for the just resolution of all civil matters set for jury trial. If special circumstances exist warranting modification, those cases will be handled according to the specific needs presented. It is the intention of the court that all court personnel, including the judges, be of assistance to all attorneys and litigants who have business before the court. If you have questions concerning these guidelines, the scheduling of matters before the court, or other matters with which we are permitted to be of assistance, please ask.

1. INTRODUCTION

- a. One week each month is designated for jury trials, and this is the only time during the month when jurors are summoned for jury trials. There may be many cases set for jury trial, including civil cases, as well as felony, misdemeanor and even traffic cases.

Jury Trial Guidelines

- b. Cases set for jury trial are usually set several months in advance with no interim dates. It is expected that counsel will manage their cases in a manner consistent with the Rules of the Supreme Court and the Local Rules of the 23rd Circuit, and be prepared for trial as scheduled. Any problems or other issues concerning the trial of the case should be brought to the attention of the court, on the court's regular court call, well in advance of the Jury Trial Assignment Date.
- c. All cases set for jury trial will also be assigned a Jury Trial Assignment Date, which is at 1:00 p.m. on the Wednesday (or Thursday, if Wednesday is a legal holiday) preceding the Monday of the jury week. At this time, trial counsel will appear before the Presiding Judge for the purpose of determining the day(s) on which each trial will occur, and the judge assigned to preside over the trial. Trial counsel will then be directed to the judge assigned to preside over the trial for any further preliminary matters.

2. PRELIMINARY MATTERS

- a. All written discovery should be completed or supplemented not less than 90 days before the beginning of the trial. The obligation to supplement discovery as required by Supreme Court Rules 213 and 214 continues. All depositions should be completed not less than 60 days before the beginning of the trial. Any discovery disputes are to be brought to the court's attention not less than 30 days before the beginning of the trial. These may be set on the assigned judge's regular motion call.

Jury Trial Guidelines

The Jury Trial Assignment Date or the first day of trial is not the time for these matters to be addressed.

- b. All motions *in limine* and rulings on evidence depositions are to be brought before the court not less than 30 days before the beginning of the trial. While these may initially be set on the judge's motion call, in the event that any such hearing will exceed 15 to 20 minutes, then it is likely that the hearing will need to be specially set, which may require more lead time for the preparation and scheduling of such matters.
- c. Exhibits should be marked and exchanged no later than the Jury Trial Assignment Date. Additionally, on the first day of trial, each trial counsel should provide the courtroom Clerk and the court with a numerical list of each party's exhibits.
- d. Jury instructions are to be prepared and exchanged between counsel in advance of the Jury Trial Assignment Date. All proposed instructions shall be tendered to the court on the Jury Trial Assignment Date. The failure to prepare and exchange proposed instructions in advance, or to tender proposed instructions to the court on the Jury Trial Assignment Date is not looked upon favorably. An initial conference may occur on that date with the judge assigned to the case, or at another time as directed by the judge.
- e. Counsel shall also prepare and exchange witness lists and a summary of the case (in civil cases) before the Jury Trial Assignment Date, and tender the lists and a summary of the case to the judge assigned to the case.

- f. The court only provides court reporters for Felony cases, and electronic reporting is used in all other proceedings. A party may hire their own court reporter if they so desire, but the court reporter must be in the courtroom at the designated time for the beginning of the trial, as the trial will not be delayed for the appearance of a private court reporter.
- g. The court does not presently provide televisions, displays, projectors, DVD players or other equipment for use during trial. Counsel is responsible for having such equipment available for their case-in-chief, and is also responsible for the proper set-up and operation of the equipment. If the equipment is used for more than one day, arrangements may be made with court security for the equipment to be secured for the evening. Similarly, easels, and large exhibits may be left overnight.
- h. In the event that counsel anticipates any hotly contested issues during the course of the trial, they should advise the court in advance.
- i. Whether this is your first or merely your most recent trial, counsel is encouraged to review *Conduct of a Jury Trial* authored by Justice (ret.) Warren D. Wolfson, a copy of which is attached.

3. **JURY SELECTION AND TRIAL**

- a. Unless directed otherwise, trial counsel is expected to appear at 8:30 a.m. on the first day of trial.
- b. A list of potential jurors and juror profiles are typically provided to counsel shortly before 9:00 a.m., and counsel will be given no more than 15 minutes to review the

Jury Trial Guidelines

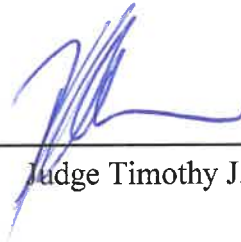
juror profiles before the jurors are brought to the courtroom for the beginning of *voir dire*.

- c. The court will conduct a general *voir dire*, and upon the conclusion of the general *voir dire*, counsel will approach the court and advise it of any requests to dismiss jurors for cause.
- d. The parties will alternate the start of *voir dire* for each of the venire panels of four, as well as the alternates, beginning with the plaintiff or the State.
- e. Peremptory challenges are exercised in open court by counsel.
- f. Each side will advise the court when the panel is accepted.
- g. Backstriking is permitted.
- h. Counsel is strongly encouraged to avoid repetitive questions to each member of a venire panel, and to each panel.
- i. At the conclusion of *voir dire*, all juror lists and profiles are to be returned to the courtroom clerk.
- j. If the trial is expected to last for more than one day, the court will ask the jurors whether they are willing to begin earlier than 8:30 a.m. each day and go later than 4:30 p.m. each day of testimony.
- k. To assist the trial judge with daily scheduling, trial counsel for each party should advise the court of their anticipated witnesses, and the estimated length of their testimony. (See the next item.)

Jury Trial Guidelines

1. During the course of the trial day, the court will take a mid-morning and mid-afternoon break, as well as a lunch break. Ideally these breaks will occur between the testimony of witnesses, or at other times when it may be necessary for the court to hear certain matters outside of the jurors' presence. One of the chief complaints of past jurors is that there is too much time spent waiting, and trial counsel is encouraged to assist the court with time management.

Enter: September 17, 2014



Judge Timothy J. McCann

CONDUCT OF A JURY TRIAL¹

1. Do not argue with each other in the presence of the jury. All remarks should be made directly to the Court.
2. Try to anticipate evidentiary issues or problems. The Court prefers to deal with them in advance. Any authority which supports your position would be appreciated.
3. Do not offer to stipulate in the presence of the jury.
4. When you make an objection, please state your legal grounds briefly, and in a non-argumentative way. If you feel argument is necessary, ask for a sidebar conference. The Court will assume, until the contrary is demonstrated, that requests for sidebar conferences are non-frivolous.
5. An attorney must rise to address the Court or jury. If you wish to question a witness from a seated position you must obtain permission of the Court.
6. If you have any doubt that an area of inquiry may be in violation of an *in limine* order, don't make the inquiry without first requesting a hearing out of the jury's presence.
7. When an objection to a question is made, the questioner should wait for a ruling on that objection before proceeding to another question.
8. If you have not heard an answer given by a witness, or if for some other reason you wish an answer repeated, please direct your request to the Court for the reading of the answer.
9. Do not instruct a witness during the course of testimony. If you feel the witness needs instruction, such as to speak more loudly or to answer in a responsive way, direct your request to the Court.
10. If you expect an objection to an exhibit, please make your initial offer of that exhibit out of the presence of the jury.
11. If you want to go off the record, ask me for permission to do so. Do not instruct the court reporter to begin writing or stop writing.

¹Adapted from and used with the permission of Justice (ret.) Warren D. Wolfson.

Conduct of a Jury Trial

12. Please do not, for any purpose, instruct a witness to leave the witness stand. If you want a witness to leave the stand during his / her testimony, ask me for permission. In that way, the opposing party will have the chance to make a timely objection.
13. Whenever possible, pre-mark your exhibits and show them to opposing counsel. Let the Court know in advance whether there will be an objection to the offer of exhibits.
14. List the witnesses you expect to call. Include addresses. Give the Court one copy of the list and give opposing counsel another copy. The jury will not be told which party expects to call any witnesses.
15. Treat the court clerk, deputy sheriff, bailiff and court reporter courteously.
16. During *voir dire*, don't attempt to "sell" the prospective juror on your version of the case by asking questions that don't go to bias or prejudice. It is argumentative to do so, also, you may be embarrassed when objections to your questions are sustained on the Court's own motion or on that of other counsel.
17. During *voir dire*, don't ask "exchange" questions (*i.e.*, if we prove this will you give that?) This is true argument and does not go to bias or prejudice.
18. During the opening statement, don't use documents or other physical evidence without prior consent of the Court.
19. In order to keep sidebar conferences to a minimum, discuss any important adverse rulings with the judge at the next recess or at noon, and certainly before the witness involved completes his testimony and leaves the courtroom. Do not argue with the Court after it has made a ruling.
20. The court reporter can only effectively listen to one voice at a time. Take turns talking. Don't overlap by asking the next question before the witness completes the answer to the previous one. Instruct your witnesses to avoid overlapping. After a sidebar or chambers conference, allow time for the court reporter to return to her chair before starting to speak again.
21. Show other counsel documents and physical evidence before showing them to the witness.

22. Move that your exhibits (previously marked for identification) be received into evidence as the trial proceeds. Don't wait until the end of your evidence to do this. If you wait, the witness who is needed for additional foundation testimony for your exhibits may have already left the courtroom, or the country.
23. If you want an exhibit circulated through the jury, request the Court's permission to publish it to the jury. If the Court approves, hand the exhibit to the bailiff who will do it. Exhibits must have been received in evidence before they will be published to the jury.
24. Don't continue questioning a witness, or talk, during the time documents or other evidence are being circulated among the jurors.
25. Don't refer to matters in front of the jury that have been discussed outside their presence as in a sidebar conference or chambers conference.
26. Refer to documents and other physical evidence on the record by their exhibit numbers.
27. Learn to disagree without being disagreeable.
28. Before reading from a deposition, give the beginning and ending pages and lines you propose to read. Then give other counsel an opportunity to read them and object if necessary. When you read, indicate in each instance whether you are reading a question or answer. Give yourself and the reporter a break by reading slowly.
29. If you use a deposition to impeach a witness, do not continue to hold the deposition after you complete the impeachment.
30. Do not inquire of jurors if they want to serve
31. If a documentary exhibit is going to be referred to repeatedly, or at any length, prepare enough copies for each juror, the judge, and the court reporter. It makes it easier for everyone to follow the presentation.
32. If you are the proponent of a lay, independent or controlled witness and your opponent objects because your witness is offering undisclosed subject matter or opinions, be prepared to show the Court where that opinion or subject matter has been disclosed, either in your answers to interrogatories, or specify by page in the deposition or report.
33. Bring your instructions at the time set by the Court.