

TRIAL CONDUCT AND DECORUM
Judge John C. Hinderaker

The purpose of this protocol is to emphasize, not supplant, certain portions of the ethical principles applicable to the lawyer's conduct in the courtroom and to preserve the dignity of the courtroom environs and the judicial process. This protocol is also intended to encourage efficient and orderly fact-finding. Your compliance with the following will be appreciated:

1. Be on time. Trial engagements take precedence over any other business. If you have matters in other courtrooms, arrange in advance to have them continued or have a colleague handle them for you.
2. Stand at the lectern and do not pace when addressing the judge, jury, or witnesses.
3. Do not approach opposing counsel, the bench, a witness, the court reporter's table, or the clerk's desk without the Court's permission.
4. Do not appeal to emotion or prejudice during opening statement to a jury. Confine yourself to a concise summary of the important facts that you expect to prove or your position on facts the opposition has undertaken to prove.
5. Exhibits:
 - a. Do not use court time for marking exhibits. This must be done in advance.
 - b. Provide copies of exhibits for the judge before trial begins.
 - c. Counsel shall arrange with the clerk for the use of chalkboards, tripods, video recorders, overheads, or other visual aids sufficiently in advance so they may be set up while the court is not in session.
 - d. Diagrams, charts, drawings, and other demonstrative or visual evidence shall, whenever practicable, be prepared by witnesses before testifying. Avoid using time during the presentation of evidence for these purposes.
 - e. All exhibits shall be shown to opposing counsel before being offered.
 - f. If you intend to question a witness about a group of documents, try to have all of the documents in front of the witness when you start the examination.
 - g. Do not offer depositions wholesale; offer only relevant, redacted portions of the transcript and always in accordance with Rule 32 of the Federal Rules of Civil Procedure. Plaintiff will highlight in yellow those portions it wishes to offer. The Defense will highlight in blue those portions it wishes to offer.

6. Witnesses:
 - a. Only one attorney for each party shall examine or cross-examine a witness. The attorney stating objections during direct examination shall be the attorney recognized for cross-examination.
 - b. Refer to all persons, including witnesses, other counsel, and parties, by their surnames and not by their first names. Everyone has a title: Mr., Ms., Dr., etc.
 - c. In examining a witness, counsel generally shall not repeat or echo the previous testimony or answers given by a witness.
 - d. The examination and cross-examination of each witness shall be limited to questions addressed to the witness. Refrain from making statements, comments or remarks before asking a question or after a question has been answered.
 - e. Counsel shall admonish all persons at counsel table that gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses, or at any other time, are prohibited.
7. Objections are to be limited to stating “objection” and the basis for the objection (“Objection, leading”) or the Federal Rule of Evidence relied upon (“Objection, Rule 403”). Do not explain or argue the grounds for objections in the presence of the jury unless asked to do so by the judge.
8. Address all remarks to the judge, not opposing counsel; do not make disparaging or acrimonious remarks toward opposing counsel or witnesses.
9. Gum chewing or reading of newspapers or magazines are not permitted while court is in session. Cellular telephones and any other noise-making electronic equipment must be turned off while in court.
10. Counsel should try to anticipate problems and evidentiary issues that will arise during trial and take them up with the judge and opposing counsel outside the jury’s presence. Appropriate motions in limine in advance of trial are encouraged. If it becomes necessary for an attorney to confer with the judge at the bench during trial, ask to approach for a bench conference.
11. Counsel shall not make motions (e.g., a motion for a mistrial) in the presence of the jury. Such matters must be raised at recess or at sidebar.
12. Offers of, or requests for, a stipulation should be made privately, not within the hearing of the jury.
13. Professionalism and civility are not aspirational but mandatory in this courtroom.