

TRIAL CONDUCT AND DECORUM
Magistrate Judge Michael T. Morrissey

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 promote efficient and orderly fact-finding. Your compliance is appreciated.

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 to have them continued or have a colleague handle them for you.

2. At the final pretrial conference, give the magistrate courtroom clerk (clerk) and judge the caption of the case, the names and addresses of all persons at counsel table, and all witnesses to be called.

3. Stand and do not pace when addressing the judge, jury, or witnesses.

4. Stand at the lectern at all times when addressing witnesses. Except upon express permission from the Court, all communications with the Court must be made from counsel table or from the lectern. Counsel shall not approach opposing counsel, the bench, a witness, the court reporter's table, or the clerk's desk without the Court's permission.

5. 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.

6. Exhibits:

- (a) Court time may not be used for marking exhibits. This must be done before the court session.
- (b) Provide copies of exhibits for the judge at the start of the trial.
- (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 when 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. Effort should be made to avoid using time during the presentation of evidence for these purposes.
- (e) All exhibits shall be shown to opposing counsel before being offered.

- (f) Hand all papers intended for the Court or witness to the clerk who will pass them to the judge or witness.
- (g) If you intend to question a witness about a group of documents, make an attempt to have all of the documents in front of the witness when you start the examination.
- (h) Do not offer entire depositions; offer only relevant, redacted portions of the transcript and comply with Rule 32 of the Federal Rules of Civil Procedure. Plaintiff must highlight in yellow those portions of the transcript it wishes to offer. Defendant must highlight in blue those portions of the transcript it wishes to offer.

7. Witnesses:

- (a) Only one attorney for each party may examine or cross-examine a witness. The attorney stating objections during direct examination will be the attorney who conducts cross-examination.
- (b) Refer to all persons, including witnesses, other counsel, and parties, by their surnames and not by their first or given names.
- (c) When examining a witness, counsel should avoid repeating or echoing the witness' previous testimony or answers.
- (d) The examination and cross-examination of each witness must be limited to questions addressed to the witness. Counsel shall refrain from making statements, comments or remarks before asking a question after a question has been answered.
- (e) Counsel shall admonish all persons at counsel table that gestures, facial expressions, audible comments, or the like, which manifest approval or disapproval during the testimony of witnesses, or at any other time, are prohibited.

8. Objections are limited to stating "objection" and the basis for the objection ("objection, leading") or the number of the Federal Rules 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.

9. Address all remarks to the judge, not opposing counsel, and do not make disparaging or acrimonious remarks toward opposing counsel or witnesses.

10. Gum chewing, eating, and reading are prohibited while court is in session. Cellular telephones and other noise-making electronic devices must be turned off while in court generally and when court is in session.

11. Counsel should anticipate problems that may arise during trial and address them with the Court and opposing counsel outside of the jury's presence. Appropriate motions in limine in advance of trial are encouraged. If during trial it becomes necessary for an attorney to confer with the Court at the bench, the Court's permission should be obtained.

12. Counsel shall not make motions (e.g., a motion for a mistrial) in the presence of the jury. Such matters may be raised at recess.

13. Offer of, or request for, a stipulation should be made privately, not within the hearing of the jury.

14. Professionalism and civility are not aspirational but mandatory in this courtroom.