

CIVIL TRIAL CONDUCT AND DECORUM

These protocols are to emphasize, not to 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. They also are intended to further efficient and orderly fact-finding. It behooves all of us working in this system to attain these goals and it is hoped the following is received in that spirit.

Your compliance with the following requests is expected and will be 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. During the pretrial conference, provide the courtroom deputy and judge a list including the names of all persons at counsel table. Each day before trial, provide the courtroom deputy and judge a list of witnesses to be called and exhibits to be used that day.
3. Please stand and do not pace when you address the judge, jury, or witness.
4. Stand at the podium at all times when addressing witnesses. Except upon express permission of the Court, all communications to the Court shall be made from a position at counsel table or from the podium. Counsel shall not approach opposing counsel, the bench, a witness, the court reporter's desk or the clerk's desk, or otherwise move from the counsel table or podium without the permission of the Court.
5. In opening statements to the jury, do not appeal to emotion or prejudice. Confine yourself to a concise summary of the important facts you expect to prove or your position on the facts that the opposition has undertaken to prove.
6. Exhibits
 - (a) **Court time may not be used for marking exhibits.** This must be done in advance of the court session. **Before trial, counsel should meet and agree upon exhibits which may be admitted and provide a joint list to the courtroom deputy.** Counsel shall attempt to resolve any objections prior to trial. Counsel must discuss what foundation is required for any particular document or piece of evidence or whether they are stipulating to the admissibility of a document or other evidence without a witness.

(b) Provide a copy of all properly marked exhibits for the judge as required by the Exhibit Procedure.

(c) Sufficiently in advance of trial, counsel shall make arrangements with the courtroom deputy for the use of note boards or other visual aids 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. Effort should be made to avoid using time during the presentation of evidence for these purposes.

(e) All exhibits shall be shown to, and examined by, opposing counsel prior to their being offered.

(f) Hand all papers intended for the Court or witness to the courtroom deputy who will, in turn, pass them to the judge or witness.

(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, and the defense will highlight in blue those portions it wishes to offer. See detailed **Deposition Designation Procedures** on the Court's website at [www.azd.uscourts.gov / Judges' Information / Orders, Forms & Procedures](http://www.azd.uscourts.gov/Judges%20Information/Orders,Forms%20&%20Procedures) for the Hon. Roslyn O. Silver.

(h) If you intend to question a witness about a group of documents, have all the documents before the witness when you start examination.

(i) Refer to this Court's **Exhibit Procedures** at [www.azd.uscourts.gov / Judges' Information / Orders, Forms & Procedures](http://www.azd.uscourts.gov/Judges%20Information/Orders,Forms%20&%20Procedures) for the Hon. Roslyn O. Silver for detailed information and instructions.

7. Witnesses

(a) Only one attorney for each party shall examine or cross-examine each witness. The attorney stating objections, if any, 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 or given names.

(c) In examining a witness, generally counsel 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. Counsel shall refrain from making statements, comments, or remarks prior to asking a question or after a question has been answered.

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

(f) 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 absolutely prohibited.

8. Objections are to be limited to stating “objection,” and setting forth the basis for the objection (e.g., “leading” or “hearsay”) and/or the number of the Federal Rules of Evidence relied upon (e.g., “Objection: Rule 403”). Do not state or argue the grounds for objections in the presence of the jury unless asked to by the judge. The Court may permit a side bar conference.

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

10. Gum chewing and reading of newspapers or magazines (except as part of the evidence in a case) are not permitted while court is in session. Similarly, all electronic devices which make noise must be turned off or muted upon entry into the courtroom.

11. Counsel should try to anticipate problems which will arise during the trial and take them up with the Court and opposing counsel out of the presence of the jury. 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 mistrial) in the presence of the jury. Such matters may be raised at the first recess.

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

14. Professionalism and civility are not aspirational but mandatory.