

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
SECTION "J"

NON JURY TRIALS

Unless otherwise ordered in a particular case, counsel should prepare for a non-jury trial as follows:

(1) **All exhibits will be presented by electronic means.** Counsel may use a laptop or iPad to connect to the Court's electronic evidence system, either at counsel table or at the podium. There is also a document camera ("Elmo") contained in the podium.

(2) **Not less than five working days before trial**, counsel should prepare and submit to the Court t **one copy** of a single **Bench Book** (joint bench book of all un-objected to exhibits. Duplicate exhibits should be eliminated. Excess or unnecessary pages should be eliminated. The Court will admit all un-objected to exhibits at the commencement of the trial. The bench book should contain:

(a) An Index of all "un-objected to" exhibits, listing and numbering all exhibits sequentially and without reference to the offering party;

(b) All un-objected to exhibits are to be included in the single Bench Book (with multiple volumes if necessary) with each

exhibit tabbed, numbered, and paginated.

Photographs of large exhibits and posters are to be included in the Bench Book. While oversized exhibits and posters may be used during trial, they will not be kept by the Case Manager.

(c) A second volume, containing the "objected to" exhibits shall also be filed.

These exhibits should be labeled by the offering party. Separate, but brief memoranda stating the reason for the objections and responding to the objections of other counsel must be submitted to the court by the offering party not less than five working days before trial at noon; counsel should bring sufficient copies of any "objected to" exhibits on the day of trial to insert into the "un-objected to" book if they are admitted by the Court over the objections.

(d) Any discovery that will be used as an Exhibit must be specifically identified; for example, the exact Interrogatory and the corresponding Answer.

(e) Each page of the Bench Book should be individually and sequentially Bates labeled.

(f) Deposition transcripts should not be included as exhibits. Instead, the parties may simply offer a

deposition in lieu of the witness appearing live.

(3) By not less than five working days before trial at noon, the parties are to submit a hard copy of the entire transcript of any deposition (including video and audio depositions) which will be used in lieu of live testimony at Trial. If the parties do not seek to introduce the entire deposition, they should designate which portions they seek to introduce in a letter to the Court. All colloquy and objections (which can be resolved among the parties) are to be removed in the transcripts, video, and audio (if applicable). Any objections which cannot be worked out by the parties must be highlighted in the subject transcript and brief memoranda addressing "why the objections should be sustained or not" must also be submitted to the court by not less than five working days before trial at noon. After the court rules on the objections, the parties are to have the video and audio depositions (if any) edited accordingly so that any references to "objections" are deleted, and there is no dead space in either the video or audio presentation. Judge Barbier generally does not allow depositions to be read aloud or a video deposition to be played during a bench trial (except for purposes of impeachment). The judge will typically have read the depositions prior to commencement of the trial.

(4) By not less than five working days before trial at noon, the parties are to file their proposed findings of fact and conclusions of law. Judge Barbier prefers a format consisting of

short, separately numbered paragraphs.

(5) **Unless otherwise ordered, not less than five working days before trial at noon**, the parties are to file any motions in limine (excluding Daubert motions, which are due earlier in accordance with the scheduling order). If you intend to oppose a motion in limine, you should contact chambers to advise that you will file an opposition, and clarify the deadline for such. In non-jury cases, the Court often may defer ruling on a motion in limine until the time of trial.

(6) **Not less than five working days before trial at noon**, the parties are to file any pretrial memorandum of law, which are strictly optional.

(7) **Not less than five working days before trial at noon**, the parties are to exchange **final "will call" witness lists** so that arrangements may be made for their presence at trial. The parties should, in good faith, advise the Court and opposing counsel of the identities of witnesses that will be called to testify live at trial.

(8) At the commencement of trial, counsel must provide the Court's case manager with three copies of their final witness lists.

(9) The Court's Case Manager is to be notified at least five working days prior to trial of any special equipment that will be needed by counsel during trial or if more than two tables will be

needed to seat counsel. Additionally, it is **highly recommended** that counsel contact the Case Manager during the week prior to trial to **schedule a meeting during which the Case Manager can instruct counsel or their staff on the use of the Court's electronic trial equipment.** This equipment will be necessary for the electronic presentation of exhibits. The Court will not operate the equipment for counsel during trial and will not give instruction on the use of equipment on the morning of trial.

(10) **Bench Trials commence at 8:00 a.m.** unless otherwise ordered. Counsel should insure that their witnesses are present so that the Court is not required to recess the trial due to the absence of a witness.