

CIVIL JURY TRIALS BEFORE MAGISTRATE JUDGE NELSON

Trial hours: Trial hours will usually be from 9:00 a.m. to 12:00 p.m. and 1:30 p.m. to 4:30 p.m. with fifteen (15) minute breaks in the morning and afternoon.

Placement of counsel at counsel tables: Plaintiff's counsel should utilize the tables closest to the jury box and Defendant's counsel shall utilize the tables farthest from the jury box.

Questioning: Counsel should generally question from the podium, unless the Court otherwise directs. Counsel should always refer to and address witnesses and parties by their surnames absent prior permission from Magistrate Judge Nelson.

Table microphone: Microphones are placed on each podium, and table microphones are placed on each counsel table. The microphones should be pulled directly in front of and approximately six inches away from counsel. The microphones should be used for questioning and making objections. Note that the microphones can be muted for private conferences by pushing the button on the base of the microphone.

Number of jurors: Magistrate Judge Nelson generally uses a twelve-person jury in a civil case, unless counsel agrees to fewer. No alternate juror(s) will be utilized. *See also* NECivR 48.1.

Jury selection: Magistrate Judge Nelson will conduct a limited examination of the jury panel. *See* NECivR 47.1(a). Generally, counsel also receive twenty (20) minutes per party to conduct voir dire. *Id.* The Courtroom Deputy will monitor time and provide notice of the expiration of such time and, if requested, will provide notice when five (5) minutes is remaining.

Opening statements: Generally, counsel receive up to thirty (30) minutes for opening statements. The Courtroom Deputy will monitor time and provide notice of the expiration of such time and, if requested, will provide notice when five (5) minutes is remaining.

Preliminary jury instructions: Magistrate Judge Nelson reads to the jury a standard set of preliminary jury instructions after voir dire and before opening statements.

Final jury instructions: Magistrate Judge Nelson requires counsel to meet and confer (without Court involvement) to formulate (to the extent possible) a complete set of joint proposed instructions. At least two weeks before trial, counsel must file and email Word versions of the following to chambers: (1) a joint set of proposed instructions that all parties agree may be given to the jury; (2) a joint proposed verdict form; and (3) if necessary, a set of proposed set of jury instructions from each party addressing any issues about which the parties were unable to agree. Any proposed instructions submitted should not be abstract propositions of law but should be jury-ready instructions that are carefully tailored to the

facts of the particular case and when possible, should be based upon the Eighth Circuit Model Civil Jury Instructions, the Nebraska Civil Jury Instructions, or other applicable pattern jury instructions.

Magistrate Judge Nelson will conduct an informal (off the record) conference on final jury instructions in chambers sometime during the trial. A formal (on the record) conference will follow in the courtroom after Magistrate Judge Nelson has considered the remarks made during the informal conference.

Final substantive jury instructions are given after closing arguments. *See* Final Pretrial Conference Order and NECivR 51.1 for submission of proposed instructions.

Closing argument: Generally, counsel receive up to thirty (30) minutes for closing argument. Plaintiff may reserve up to fifteen (15) minutes for rebuttal, but it must be true rebuttal and should not raise new issues or points of argument. The Courtroom Deputy will monitor time and provide notice of the expiration of such time, and if requested, will provide notice when five (5) minutes is remaining.

Trial Briefs: *See* NECivR 39.2.

Objections: Magistrate Judge Nelson does not allow speaking objections. For objections based upon lack of foundation, objecting counsel should state what foundation is lacking. Counsel desiring a bench conference should make a request and allow time for the Court Reporter to set up necessary equipment at sidebar. Bench conferences should be kept to a minimum.

Witnesses: *See* NECivR 16.2(a)(2)(D).

Exhibits: *See* NECivR 39.3. Counsel shall provide to chambers a complete copy of exhibits in either an electronic format, e.g. thumb drive, or three-ring binder upon delivery of the exhibit list to the Clerk of Court.

Evidence presentation: Unless good cause exists, counsel shall use the courtroom multimedia systems, including the video presenter, and their own laptops for displaying exhibits on the jury monitors. Counsel should become familiar with the equipment prior to trial by contacting the Courtroom Deputy for training. The Courtroom Deputy will generally control any electronic publishing of exhibits to the jury from the bench, upon Magistrate Judge Nelson's instruction.

Use of Video Depositions: *See* NECivR 30.1 and 32.1.

Jury matters following submission: Counsel shall be available for return to the courtroom on short notice, until after the jury has returned its verdict. Counsel shall keep the Courtroom Deputy advised of where they can always be reached. Jury questions will normally be taken up on the record in the courtroom with counsel and the parties present.

No re-cross examination: Magistrate Judge Nelson will generally not allow re-cross examination. Cross examination should be limited to the scope of the direct examination, and redirect examination limited to the scope of the cross examination.

Juror note taking/juror questions: Magistrate Judge Nelson allows jurors to take notes but does not permit jurors to ask or submit questions during trial.