

CIVIL JURY TRIALS BEFORE JUDGE ROSSITER

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 morning and afternoon.

Placement of counsel at counsel tables: Plaintiff's counsel shall utilize the tables closest to the jury box and the 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 the Court.***

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. Use these microphones for questioning and making objections. Note that the microphones can be muted for client conferences by pushing the button on the base of the microphone.

Courtroom audio: Be aware that when you speak in the courtroom during trial ***and during breaks*** it is broadcast to Judge Rossiter's chambers.

Number of jurors: Judge Rossiter generally uses an eight-person jury in a civil case. No alternate juror(s) will be utilized. *See also* NECivR 48.1.

Jury selection: The Court 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 will provide notice of the expiration of such time and, if requested, will provide notice when five (5) minutes are left.

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

Preliminary jury instructions: The Court reads to the jury a standard set of preliminary jury instructions designated Instruction No. 1 after voir dire and before opening statements. A copy of Instruction No. 1 is provided to counsel ten days before trial.

Final jury instructions: The Court 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 to the Court 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.

The Court 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 the Court has considered the remarks made at the informal conference.

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

Closing argument: Generally, counsel for each party is allotted a total of thirty (30) minutes a party for closing argument. Plaintiff may reserve up to ten (10) minutes for rebuttal (one-third of their time). In no event may the plaintiff's rebuttal time exceed half of the time actually used. Rebuttal must be true rebuttal and should not raise new issues or points of argument not addressed in plaintiff's first argument. The Courtroom Deputy will monitor time and will provide notice of the expiration of such time, and if requested, can provide notice when five (5) minutes are left.

Trial Briefs: *See* NECivR 39.2.

Objections: The Court does not allow speaking objections. For objections based upon lack of foundation, objecting counsel should state what foundation is lacking. If counsel desires a bench conference, state your request and allow time for the court reporter to set up her equipment at sidebar. ***Bench conferences should be kept to a minimum.***

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

Exhibits: *See* NECivR 39.3.

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 are also encouraged to become familiar with the equipment prior to trial by contacting the Courtroom Deputy for training. Before trial, counsel should test any audio, video or electronic presentations to assure that no trial delays occur due to avoidable technical issues. The Courtroom Deputy will generally

control any electronic publishing of exhibits to the jury from the bench, upon Judge Rossiter's instruction.

Use of 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 be reached at all times. Jury questions will normally be taken up on the record with counsel present.

No recross-examination: The Court does not permit recross-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: The Court allows jurors to take notes but does not permit jurors to ask or submit questions during trial.