

Trial Procedures

Judge Robert N. Kwan

I. COMPLIANCE WITH LOCAL RULES OF COURT

All parties and counsel (including pro se parties) are expected to know and fully comply with the Local Bankruptcy Rules of the United States Bankruptcy Court for the Central District of California (“LBR”) governing pretrial and trial proceedings. This includes but is not limited to:

- LBR 1001-1(c) which states the LBR apply to all parties including those appearing without counsel, or pro se parties.
- LBR 7016-1 which requires that all parties meet and confer at least twenty-eight (28) calendar days before the trial or pre-trial conference and a proposed joint pre-trial order must be lodged not less than fourteen (14) calendar days before the trial or pre-trial conference. Parties and counsel responsible for a failure to submit a timely joint pretrial order will be subject to the imposition of sanctions.
- LBR 9013-2 which outlines the requirements for trial briefs and trial exhibits.

The court will not start a trial without entry of a satisfactory pretrial order.

II. TRIAL DATES

A trial date will normally be set at the pretrial conference. If the court dispenses with the requirement of a pretrial conference, a trial date will be set at a status conference. See LBR 7016-1(a).

This court generally sets trials estimated to take two days or less to begin on a Thursday. If necessary, a second trial day will follow on Friday. Unless otherwise ordered by the court, trial days will start at 9:00 a.m. and will end at 4:30 p.m. with a lunch break from 12 noon until 1:30 p.m.

Trials estimated to take three days or more shall be specially set by the court at a pretrial conference.

In estimating the amount of trial time needed, the parties should be mindful of the court’s requirement that direct testimony of witnesses is submitted by declaration as discussed below.

III. TRIAL CONTINUANCES

Trial dates are considered firm and will be continued only upon a showing of compelling reasons and in the interest of justice. A stipulation or properly

noticed motion must be submitted and supported by declaration(s) under penalty of perjury stating the justification for a continuance. Even if a stipulation or motion for continuance has been submitted, the court expects full compliance with its pretrial and trial procedures unless and until the trial date is continued by order of the court.

IV. TRIAL BRIEFS

Trial briefs are optional, but are encouraged because they are helpful to this court in its trial preparation. See LBR 9013-1(a). Any trial briefs shall be filed at least seven (7) calendar days before trial.

V. TRIAL TESTIMONY

All direct testimony shall be by declaration unless: (1) the witness is adverse or refuses to give testimony by declaration; or (2) the testimony is offered to impeach or rebut.

The parties may request permission of the court to offer direct testimony orally to supplement matters covered in the declarations or to present portions of the testimony in the declaration orally, and the court may grant such a request in the interest of justice.

Witnesses whose declarations are offered shall be present for cross-examination when the declarations are offered into evidence (unless the parties agree otherwise). Failure to comply with this requirement may result in the striking of such declarations from the record.

Plaintiff(s) shall file and serve its/their declarations on the other parties at least 30 days before the trial date. Defendant(s) shall serve its/their declarations on the other parties at least twenty-one (21) calendar days before the trial date.

Evidentiary objections to any declaration must be served and filed at least seven (7) calendar days before the trial date. Failure to timely object to a declaration may be deemed to be a waiver of such objection.

Unless the parties stipulate in the pretrial order to the admission of an exhibit, foundation for the admission of an exhibit (other than for impeachment or rebuttal purposes) shall be established in the trial declarations, although the court may allow oral testimony for this purpose. Exhibits referenced in any declaration shall be offered into evidence when the declaration is offered into evidence.

Deposition testimony and discovery documents to be offered as evidence at trial are to be submitted in compliance with LBR 7027-1.

VI. TRIAL EXHIBITS

All trial exhibits shall be numbered and marked for identification with tags in compliance with LBR 9013-2(b).

At least three court days before trial, each party (including pro se parties) offering exhibits into evidence (except exhibits offered for rebuttal or impeachment purposes) shall deliver a bench copy of their exhibits to chambers and shall deliver a conformed set of exhibits for opposing counsel. On the day of trial, each party shall deliver their original set of exhibits to the court clerk before trial begins. Each party shall have sufficient copies of exhibits used for rebuttal or impeachment purposes for opposing counsel, witnesses and the court as required by LBR 9013-2(b). If there are more than ten (10) exhibits, the exhibits shall be placed in a binder properly indexed, numbered and tabbed.

Each party offering exhibits into evidence shall provide their exhibit register with each set of exhibits as required by LBR 9013-2(b).

VII. MOTIONS IN LIMINE

Motions in limine, if any, shall be filed and served no later than fourteen (14) calendar days before the trial date and noticed for hearing on the trial date. Any opposition to a motion in limine shall be filed and served no later than seven (7) calendar days before the trial date. Motions in limine filed pretrial will be heard at the commencement of trial.

VIII. SETTLEMENT

If a matter is settled before trial, the parties shall immediately advise the judge's law clerk, 714-338-5450. See LBR 9019-1. Although the parties have notified the court that the case has been settled, the court expects full compliance with its pretrial and trial procedures unless and until the trial date is vacated by order of the court.

IX. TRIAL RULINGS

The court may issue oral findings of fact and conclusions of law at the conclusion of the trial, or it may set a further hearing at which time it will announce its decision, or it may take the matter under submission for written decision. In most cases, the court will set a post-trial hearing date two to four weeks after the conclusion of the trial for the purpose of announcing a decision.