

## TRIAL PROCEDURES SUPPLEMENTAL TO LOCAL RULES

Hon. Victoria S. Kaufman  
Courtroom #301

1. **Trial Briefs**: Unless otherwise ordered by the Court, plaintiff's trial brief shall be filed and served at least thirty (30) days before the trial date, defendant's trial brief shall be filed and served at least twenty-one (21) days before the trial date and any reply brief by plaintiff (which is not required) shall be filed and served at least fourteen (14) days before the trial date. Courtesy copies of the trial briefs must be delivered to chambers, Suite 354, on the same date as the relevant trial brief is filed. The parties are encouraged to include a brief statement of the pertinent facts in their briefs, with citation to exhibits.

2. **Direct Testimony By Declaration**: Unless otherwise permitted by the Court, parties are required to submit all direct testimony by declaration, under penalty of perjury, unless:

- A. the witness is adverse or refuses to give testimony by declaration;
- B. the testimony is offered to impeach or rebut; or
- C. the Court, either on its own or upon the request of a party at or prior to the last scheduled pre-trial conference or trial-setting conference, waives this requirement.

If a party is unable to obtain a declaration of a witness, counsel for the party shall file a declaration stating the name of the witness and a detailed summary of the expected testimony and why counsel was unable to obtain the witness' declaration.

**Plaintiff shall file and serve its declarations at least thirty (30) days before the trial date. Defendant shall file and serve its declarations at least twenty-one (21) days before the trial date. Plaintiff shall file and serve any reply declarations at least fourteen (14) days before the trial date.**

If a portion of a witness' declaration concerns an exhibit to be admitted into evidence at trial, the exhibit must be attached to the declaration.

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

The declaration of a witness for a party will be admissible at trial, subject to timely objections. Witnesses whose declarations are offered **must** be present at the trial and subject to cross-examination when the declarations are offered into evidence (unless the parties agree otherwise).

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Unless the parties stipulate in the pre-trial order to the admittance of an exhibit, foundation for admittance of exhibits (other than for impeachment or rebuttal purposes) shall be established in the 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.

**Any evidentiary objections to plaintiff's initial declarations shall be filed and served at least twenty-one (21) days before the trial date. Any evidentiary objections to defendant's declarations must be filed and served at least fourteen (14) days before the trial date. Any evidentiary objections to plaintiff's reply declarations shall be served at least seven (7) days before the trial date.**

Courtesy copies of the declarations and evidentiary objections must be delivered to chambers, Suite 354, on the same date as the relevant declarations and evidentiary objections are filed.

**Important:** The failure to file declarations timely may result in the dismissal of the case, the entry of a default judgment, or the imposition of monetary sanctions.

3. Exhibits: All trial exhibits shall be numbered and marked as required by Local Rule 9013-2(b). **At least seven (7) days before trial, each counsel shall deliver to chambers the original and one copy of a notebook containing all trial exhibits.** The original exhibits shall be tagged as required by Local Rule 9013-2(b). Counsel shall deliver to chambers an "exhibit register," on the form available from the Clerk's Office, at the same time. Counsel shall exchange all exhibits on or before the date of the delivery to chambers. The Exhibit Books shall include all exhibits anticipated to be used at the trial, including all rebuttal exhibits. Exhibits to be used for impeachment only need not be included. At trial, counsel shall have sufficient conformed sets of exhibits for opposing counsel's witnesses and for each party in the proceeding. Counsel shall also have copies of exhibits used for impeachment purposes or rebuttal for opposing counsel, witnesses and, with respect to impeachment exhibits not included in the two Exhibit Books delivered to chambers, the Court.

4. Continuance/Postponement of Trial: As a general rule, scheduled trials will not be continued prior to or at trial. Motions/Stipulations for continuance of trial must be submitted in writing at least two (2) court days prior to the scheduled trial date. The parties will be contacted by the judge's law clerk or judicial assistant as to whether the continuance has been granted or denied.

5. Settlement: In the event of a settlement prior to trial, the parties shall immediately contact and advise the judge's law clerk.

6. Service: Service of briefs, declarations and evidentiary objections discussed herein shall be on counsel for the opposing party, or if the opposing party is appearing *pro se*, on the opposing party.