

TRIAL PROCEDURES SUPPLEMENTAL TO LOCAL RULES

Hon. Erithe A. Smith
Courtroom 5A

Effective as to all adversary proceedings

Trial Briefs: Unless otherwise ordered by the Court, trial briefs are required. Pursuant to Local Bankruptcy Rule 9013-2(a), trial briefs shall be filed seven (7) calendar days prior to trial. Courtesy copies of the trial briefs should be delivered to Judge Smith's Chambers on the same date.

Testimony: Based on Local Rule 43-1 of the District Court for the Central District of California, attorneys are **required** to submit all direct testimony **by declaration** unless:

- i) the witness is adverse or refuses to give testimony by declaration; or
- ii) the testimony is offered to impeach or rebut.

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.

Witnesses whose declarations are offered shall be present for cross-examination when the declarations are offered into evidence (unless the parties agree otherwise).

Plaintiff shall file and serve its declarations on counsel for the defendant thirty (30) days before the trial date. Defendant shall serve its declarations on counsel for the plaintiff twenty-one (21) 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.

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.

Exhibits: Pursuant to Local Bankruptcy Rule 9070-1(a), the Court shall be given a bench copy of exhibits to be offered into evidence (other than exhibits offered for impeachment or rebuttal purposes) on or before trial. Counsel shall have a conformed set of exhibits for opposing counsels', witnesses. Counsel shall also have copies of exhibits used for impeachment or rebuttal for opposing counsel, witnesses and the court. If the number of exhibits exceeds ten (10), they shall be placed in a binder properly indexed, numbered and tabbed. An exhibit register shall be provided with each set of exhibits.

Continuance/Postponement of Trial: As a general rule, scheduled trials will NOT be continued prior to or at trial, except in extraordinary circumstances and in the interest of justice. Motions/Stipulations for continuance of the 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 as to whether the continuance has been granted or denied.

Settlement: In the event that the adversary matter is settled prior to trial, the parties shall immediately contact and advise the Judge's law clerk.