

MASON MUNICIPAL COURT

JURY TRIAL MATTERS

Final Pretrial

Final Pretrials will occur two Tuesdays prior to the date of the Jury Trial at 12:30 p.m. in court and on the record. The defendant and trial counsel must be present at final pretrial. Please note: cases not resolved or continued at final pretrial will be set for jury trial on the second following Friday; and, *in order to make best use of both the juror's time and court resources, the court will not accept negotiated pleas after the final pretrial.* Additionally, a waiver of the right to a trial by jury will not be accepted unless signed by the defendant.

Jury Trial

Counsel shall be present in Court one half hour before the time of commencement of the trial for setup and any pretrial discussions with opposing counsel and the Court at 8:00 a.m.

Jury selection shall start promptly at 8:30 a.m. unless otherwise directed by the Court. The morning session will end at approximately noon with a 15 minute recess at 10:30 a.m. Afternoon session will start at 1:00 p.m. and continue to the conclusion of the trial with a recess at 2:45pm. The Court does use the noon recess for consultation with counsel. Brown bagging is suggested. We have a refrigerator for your use.

Voir Dire questions to the jury shall be gauged to determine the jurors' ability to be fair and impartial, and shall not be used to advocate the merits of the case. Jury questionnaires are available at 8:00 a.m. on the day of trial at the office of the Clerk of Court. Questions answered on the questionnaire should not be repeated unless asked as a predicate to further inquiry on the juror's answer.

Further rules on *voir dire*:

- 1) The case may not be argued in any way while questioning jurors.
- 2) Counsel may not engage in efforts to indoctrinate jurors.
- 3) Jurors may not be questioned concerning anticipated instructions or theories of law. This does not prevent general questions concerning burden of proof.
- 4) Jurors may not be asked what kind of verdict they might return under any circumstances.
- 5) Questions are to be asked collectively of the entire panel whenever possible.

Challenges for cause and peremptory challenges shall be made outside the presence of a jury after a panel of a sufficient number of potential jurors has been examined by the attorneys. This initial examination shall be limited to twenty

(20) minutes for each side. Substitutions for jurors excused from the jury box shall be made from those who have already been examined and shall be limited to five minutes per substitution.

_____ Jurors will not permitted to take notes. Jurors are not permitted to ask questions.

_____ Jury instructions: Requests for instructions and jury interrogatories must be submitted to the Court and opposing counsel at least two (2) days prior to trial. Requests upon issues that could not reasonably be foreseen in advance may be submitted at least twenty-four (24) hours prior to final argument. Each requested instruction or interrogatory must be numbered and presented on computer disc or by e-mail in a format compatible with MS Word together with a hard copy. Instructions must contain a citation of authority upon which counsel relies. Standard OJI instructions do not have to be submitted.

_____ The Jury Charge will be submitted to the jury both verbally and in writing.

_____ All exhibits are to be marked before trial and a list of exhibits prepared. Two copies of the completed list of exhibits shall be placed in the custody of the bailiff. (Exhibit forms and stickers are available from the bailiff.) Plaintiff's exhibits are marked with numbers. Defendant's exhibits are marked with letters. Joint exhibits are marked with Roman numerals.

_____ Parties shall exchange all exhibits to be used in their respective cases in chief, two days before commencement of trial at the latest. Any exhibit not exchanged will be excluded unless the exhibit was furnished to the proponent by the opposing party in discovery. Any exhibit not exchanged will not be admitted as an exhibit in the proponent's case in chief.

_____ Demonstrative Evidence: Photographs, sketches, models, diagrams or demonstrative evidence of any kind to be used during trial, must be exhibited to opposing counsel at least two (2) days prior to trial. This restriction does not refer to writings or sketches on a board, overhead transparency or flip chart made by a witness during testimony or counsel during argument. Objections to such exhibits must be submitted to the Court for decision prior to trial. Any demonstrative evidence used in conjunction with testimony must be of adequate size to be easily viewed by jurors from the jury box. The Court suggests counsel visit the courtroom in advance of trial to become familiar with the devices available and obtain any training or support necessary to properly and efficiently use audio/video equipment.

_____ Stipulations made at the pretrial conference or prior to trial shall be made a matter of record immediately after opening statements.

_____ Depositions: If counsel intends to use all of part of depositions, interrogatories or admissions as substantive evidence, he/she will specify to opposing counsel and

the Court at the final pretrial conference those portions that will be used. Opposing counsel must make objections to the use of any portion of the interrogatory, deposition or admission prior to trial. The Court will rule on such objection before the document is read or viewed.

_____ Where a necessity for the using of a deposition develops unavoidably after the final pretrial conference, leave to use such deposition will be granted. Counsel will so advise the Court and counsel as soon as the necessity to read a deposition becomes apparent.

_____ *Motions in Limine* shall be filed and served at least five (5) days before final pretrial. Opposing party shall furnish any response to the Court at least two (2) days before final pretrial. A copy of the motion and response shall be delivered to the Judge in chambers. Motions as to issues that could not be reasonably foreseen prior to trial may be submitted during trial.

_____ The Mason Municipal Court uses a digital recording device to make a record of proceedings. We do not use live stenographers and we do not have the capacity to provide same-day transcripts. Counsel are encouraged to provide private stenographers for that purpose, at their cost.

_____ Counsel are responsible for insuring that all transcripts and video depositions are filed with the Clerk's office prior to trial. This rule requires counsel to contact the Clerk's office prior to trial to insure the availability of depositions. Counsel are cautioned to view the videos before filing and test the videos before trial to insure that there is "sound" on the video.

_____ Attorneys are required to exhibit professional demeanor at all times during the course of the trial.

_____ The time limits imposed in this Order may not be extended except with leave of the Court.

_____ **THE PROVISIONS OF THIS TRIAL ORDER WILL PREVAIL OVER ANY CONFLICTED PROVISIONS OF THE MASON MUNICIPAL COURT RULES OF COURT.**