

**TRIAL GUIDELINES**  
**Judge David M. Ondrey**  
**Geauga County Court of Common Pleas**

The purpose of these trial guidelines is to assist counsel and parties in preparing for trial and in presenting his or her case. Although some of the items are directed to jury trials, the guidelines, where appropriate, are intended to be applicable to bench trials or hearings. If you believe that a guideline is not practical or needs to be modified for a particular matter or if you have a question regarding a guideline, please bring it to the Court's attention prior to trial.

Counsel and parties are expected to be familiar with and comply with the Trial Guidelines. and

**GENERAL**

1. Counsel and parties are expected to be present and ready to begin the hearing or trial at the time scheduled. For jury trials, counsel and parties shall be present at least thirty (30) minutes before the scheduled beginning time.
2. It is not unusual that more than one trial or hearing is scheduled for the same day. Court staff will **not** inform you whether your case is primary. As soon as we become aware that another case is likely to proceed and your case will not be going forward, we will inform all counsel and *pro se* parties as soon as possible. **You must assume that your case is primary** and will be heard on the scheduled day unless you are advised otherwise. Do not inquire of the bailiff or other court personnel whether your case is primary.
3. Motions for continuances must be in writing and should state whether opposing counsel has been consulted and if opposing counsel consents. If a continuance is being sought because of a scheduling conflict, evidence of the conflicting event must be attached. In the case of matters in other courts, the other court's hearing notice must be attached to the motion for continuance.
4. Please instruct parties and witnesses to dress appropriately. Shorts, t-shirts, sweatshirts, etc., are not acceptable, nor is the wearing of outdoor coats, jackets, or hats in the courtroom.
5. Cellular phones and similar devices shall be shut off.
6. Examination of witnesses shall be done either from the lectern or from counsel's table. Counsel will only approach the witness stand to hand an exhibit to a witness or to point out something in an exhibit. Exhibits, photographs, notepads, etc. will **not** be placed on the rail of the jury box during a jury trial.
7. Refer to counsel, parties, and witnesses as Mr., Mrs., Miss, or Ms. Except for children, first names should be avoided.
8. Please refrain from attempting to influence the jury or the Court by means of facial expression, noises, sighing, stage whispers, editorial comment, or the ever-popular glance to the heavens.
9. During short-term recesses and breaks, do not leave the second floor without informing the Court's Bailiff, Reporter, or Secretary that you are doing so.
10. Only one attorney per party shall approach the Bench for a sidebar conference. Please keep your voice down and turn away from the jury.
11. When objecting, please don't state the grounds unless asked. Opposing counsel are not expected to respond to an objection unless requested to do so. Although counsel are normally expected to stand when addressing the Court, it is not necessary to do so when objecting.

## WITNESSES

1. Please have **four** copies of your witness list available the day of the trial, one for the Judge, one for the Bailiff, one for the Court Reporter, and one for opposing counsel. The witness list should have the correct spelling of the witness's name and a current residence or business address, if known.
2. It is counsel's duty to have witnesses present to avoid any delay in the proceedings. If a witness cannot be available until a certain time or must leave, make arrangements with the Court and opposing counsel to take a witness out of turn. Do not expect an early recess because trial went faster than anticipated and you have run out of witnesses.
3. Be sure and instruct witnesses to answer audibly and to say "Yes" or "No" not "yeah" or "uh-huh".
4. For bench trials, written curriculum vitae, marked as an exhibit, will usually suffice for the qualifications of an expert witness.
5. Advise the Court in writing in advance of trial if counsel believes it may be necessary to *voir dire* a witness as to qualifications or for any other reason.
6. When questioning or reading from a deposition transcript, refer the Court and opposing counsel to the page and the line numbers.
7. If a witness is expected to use scientific or technical terms, it would be helpful to supply the Court Reporter with a glossary of those terms.
8. Any party intending to offer an audio recording as evidence shall provide a verbatim transcript of all statements made by any persons contained within the recording. If any party intends to offer an audio recording of only a part of a conversation or statement, the party shall provide a verbatim transcript of the entire statement or conversation to the Court and opposing counsel. The verbatim transcript shall contain a certification by the person transcribing the statement or conversation that the verbatim transcript is a true record of the statement or conversation contained within, and the transcriber shall further state his or her place of employment, address, and telephone number.
9. Any party intending to offer an audio recording as evidence shall deliver a CD or DVD of the recording and fifteen (15) copies of the transcript to Court Reporter no later than four (4) hours prior to offering of the recording at trial.

## EXHIBITS

1. Please have **four** copies of your Exhibit Index available the day of the trial, one for the Judge, one for the Bailiff, one for the Court Reporter, and one for opposing counsel. You are not required to offer exhibits in sequence, nor must you offer all of the exhibits that you have listed. However, if you have failed to list an exhibit, you may be precluded from offering it unless there is a good explanation for the omission.
2. Exhibits must be marked before trial or hearing. Plaintiff's exhibits are marked in **numerical** sequence; Defendant's in **alphabetical** sequence.
3. A copy of each exhibit **shall** be provided to opposing counsel before trial. Because exhibits have been exchanged before trial, it is not necessary to interrupt trial so opposing counsel can review an exhibit. Exhibit books are preferred, but not mandatory.
4. It is expected that you have met with witnesses and reviewed documents before entering the courtroom. The trial or hearing is not the time to ask a witness if he or she has brought the subpoenaed documents and then attempt to sort through what has been produced. Be sure

that you have informed records custodians that they may bring duplicates so that original documents don't have to be left with the Court.

5. It is this Court's practice to wait until a party is about to rest before ruling on admission of exhibits. If counsel believes it is critical to address admission of a specific exhibit prior to that time, please inform the Court in advance.
6. After examination of a witness, be sure that all exhibits are given to the Court Reporter.
7. Diagrams, charts, summaries, "blow-ups", etc. shall be shown to opposing counsel before they are shown to the Court or a jury. Demonstrative exhibits may be used during opening statements or closing arguments, but they must be shown to opposing counsel beforehand.
8. It is not this Court's practice to publish or pass around exhibits during the trial. The jury will have the exhibits in the jury room, which provides ample opportunity to examine the exhibits.

## **JURIES**

1. The purpose of *voir dire* is to obtain a fair, impartial, and unbiased jury:
  - a. The case may not be argued in any way while questioning the jurors during *voir dire*.
  - b. Counsel shall not engage in efforts to indoctrinate jurors.
  - c. Jurors may not be questioned concerning anticipated instructions or theories of law.
  - d. Jurors may not be asked what kind of verdict they might return under any circumstance.
  - e. Counsel shall not make bargains, deals, or agreements with the jurors.
  - f. The Court will ask the prospective jurors basic background questions. Counsel shall not repeat the questions already asked by the Court.
  - g. Whenever possible, questions shall be asked collectively of the entire panel. Counsel will not ask the same question of each juror, individually.
  - h. Counsel will not be permitted to inquire as to favorite movies, last book read, and items of such nature. Similarly, counsel will not share anecdotes or personal history with prospective jurors.
2. Juror questionnaires are available prior to trial. You may preview the questionnaires, but copies will not be provided until the day of trial. You should not repeat questions that have already been answered on the questionnaire.
3. Jurors are permitted to take notes during trial. Specific instructions regarding note taking are given to the jurors before trial begins.
4. When proposed jury instructions are submitted, if the instructions are other than standard OJI, please provide citations to the statutes or cases that provide authority for the proposed instruction. Proposed jury instructions and jury interrogatories shall be submitted in writing and electronically, preferably in Microsoft Word format.
5. If proposed jury interrogatories are submitted, each interrogatory must be on a separate page and include appropriate signature lines for the jurors. Do **not** number the interrogatories. Interrogatories **must** address determinative issues and **must** be based upon the evidence presented. The Court will reject proposed interrogatories which are ambiguous, confusing, redundant, legally objectionable, unnecessary, or are not on separate pages with signature lines.