

**MISSOURI CIRCUIT COURT  
TWENTY-SECOND JUDICIAL CIRCUITS  
DIVISION 19  
JURY TRIAL GUIDELINES  
AND DIVISION RULES**

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**COURTROOM RULES AND DECORUM**

1. The plaintiff's attorney shall occupy the counsel table closest to the jury. The defense attorney shall occupy the other counsel table.
2. Unless excused by the Court, counsel and persons at counsel tables shall stand when Court is opened, recessed, or adjourned; when the jury enters or retires from the courtroom; and when addressing or being addressed by the Court.
3. Counsel shall speak loudly, slowly and clearly and shall advise their witnesses to do likewise. This ensures that the court reporter is able to make a complete and accurate record of the proceedings.
4. Counsel shall address all witnesses (except children), opposing counsel and members of the jury panel by their last names, with appropriate titles; and they shall advise witnesses not to address counsel by their first names. This rule does not require that witnesses must refer to one another in any certain manner in their testimony.
5. Signaling to a witness on the stand by counsel or anyone in the courtroom will not be tolerated.
6. Other than examination of the witness, Counsel shall address all remarks to the Court, not to opposing counsel. In particular, if a question or response draws an objection, Counsel shall respond to the Court, not to opposing counsel.
7. Counsel is expected to treat opposing counsel, all court personnel, and all witnesses, including adverse witnesses, professionally and with courtesy.
8. Counsel and persons at counsel table shall not express or convey a personal opinion, through verbal or non-verbal reactions, regarding witness testimony, counsel presentation or rulings of the Court.

9. Suggestions of counsel looking to the comfort or convenience of jurors should be made to the court out of the jury's hearing.
10. Counsel shall seek permission of the Court to approach a witness for the first time. If permission is granted, it need not be obtained again unless withdrawn by the Court. Counsel shall request permission before approaching the bench.

### **JURY INSTRUCTIONS**

As required by Local Rule 53, and unless otherwise directed by the Court, the party with the burden of proof on a claim or defense shall provide their proposed jury instructions to the Court, and to all parties, not later than the conclusion of voir dire. Proposed converse or responsive jury instructions shall be provided to the Court not later than the morning after receiving the other party's proposed jury instructions. Parties shall submit a hard dirty copy of each instruction proffered. The dirty copy shall contain citations of authority and indicate the submitting party. In addition to providing hard copies, the parties shall provide to the Court, prior to opening statements, their proposed instructions on a compact disc, flash drive, or by email to the Court at **Christopher.McGraugh@courts.mo.gov**. Plaintiff shall also provide a proposed numerical order that the instructions should be numbered and read to the jury. **All instructions shall be submitted in 14-point font, Times New Roman on Microsoft Word.**

### **JURORS AND VOIR DIRE**

1. **Number of Jurors and Seating:** The size of the jury panel will depend on the nature of the case and length of the trial. Generally, the Court finds 36 sufficient for most civil cases lasting one week or less, and 48 sufficient for most criminal cases. Criminal cases involving drugs, guns, sex or children usually require a jury panel of 48 or more. In the Division 21 courtroom, the members of the jury panel are seated from the observers' right, flowing to the left, beginning in the back row of the jury box, moving down, then to the back row of the chairs, then to the right side benches and then to the left side benches.
2. **Juror List:** Counsel will be provided with a jury panel list as soon as possible. Counsel may take notes on the list during voir dire. Unless otherwise ordered, neither counsel nor the parties may view the prospective juror questionnaire and list except just prior to and during voir dire. Counsel and the parties shall return their prospective juror questionnaire and list to the courtroom clerk at the conclusion of voir dire.
3. **Rule 69.025:** The Court will give all parties an opportunity to conduct a reasonable inquiry as to whether a prospective juror has been a party to litigation by a review of Case.net. Counsel can access Case.net on their personal computers by connecting to the internet through the Courts wireless system (Wi- Fi). Counsels are strongly encouraged to have their Case.net search conducted while voir dire proceeds so that jury selection is not delayed.

4. Voir Dire Examination: In criminal cases, the Court will open voir dire by reading MAI-CR300.02 and inquire as to the jury panel member's eligibility to serve as set forth in Section 494.425 RSMo. In civil cases, the Court will open voir dire by explaining its purpose and describing the voir dire procedure to the jury panel and the nature of the case. When appropriate, the Court will inquire of the jury panel whether the length of trial creates a hardship for any of them and will rule on any request for a hardship excuse at that time. At the request of counsel, the Court will also inquire into any specific area relevant to the case. Voir dire will then be conducted by counsel. Counsel shall conduct their voir dire examinations at or near the podium unless otherwise permitted by the Court. If a juror indicates a desire to approach the sidebar to answer a question, counsel may request this of the Court but should not invite the juror to the sidebar.
5. Jury Selection: At the completion of voir dire, the members of the jury panel will be excused from the courtroom and be available for further questioning on an individual basis during the strikes for cause process. After the strikes for cause are made, the peremptory strikes will be made by the parties. Plaintiff shall submit peremptory strikes to the Defendant(s) and Defendant(s) shall notify the Court of a Batson challenge to Plaintiff's peremptory strikes **before** Defendant(s) make peremptory strikes. The Court will hear and rule on the Defendant Batson challenges prior to Defendant making peremptory strikes. Defendant(s) will then make peremptory strikes. Plaintiff will notify the Court of reverse Batson challenges to any Defendant peremptory strikes. The Court will then hear and rule on reverse Batson challenges.

## TRIAL

1. Time of Trial: Trials begin at 9:00 am, and all efforts will be made to conclude for the day not later than 5:30 p.m. The parties are expected to be prepared to begin promptly, so the jury is not kept waiting.
2. Pretrial Motions: Subject to Local Rule 33, all motions, including motions *in limine*, may be scheduled by contacting the courtroom clerk. These matters should be scheduled as soon as possible and preferably no later than the week before trial. Unless otherwise specifically scheduled, such motions shall be scheduled by the courtroom clerk for 1:30 pm on the Thursday preceding the day the trial is scheduled. Prior to presenting any motion to the court, counsel shall make a good faith effort to resolve disputed issues with opposing counsel. Upon request, the Court will also be available to resolve matters prior to the scheduled start time of the trial day, during the lunch break, or at the conclusion of the trial day. Counsel shall likewise be available at least 30 minutes prior to the scheduled start time of the trial day for the purpose of attending to necessary matters.
3. Witnesses: Counsel shall provide a witness list to the Court, court reporter, and opposing party prior to trial. Counsel are urged to share with all other parties, the identity and order of witnesses expected to testify, no later than the beginning of each day of trial. Counsel is expected to have witnesses available to testify one after the other and to fill the entire trial day. Only one attorney for each party shall examine or cross-examine each witness. The attorney stating the objections, if any, during direct examination shall be the attorney recognized for cross-examination and vice versa. The interrogation of each witness may consist of: (a) direct examination; (b) cross-examination; (c) redirect examination; and (d) recross-examination.

4. **Juror Note-Taking:** The Court may at the request of a party, or on its own motion, allow note-taking by jurors during the trial. The request shall be made prior to the commencement of jury selection.
5. **Objections:** Counsel should state only the legal grounds for the objection and should withhold all further comment or argument unless the Court requests elaboration. Counsel should instruct their witnesses not to answer a question while an objection is pending.
6. **Stipulations:** Offers of, or requests for, a stipulation should not be made within the hearing of the jury unless made by previous arrangement between counsel and the Court.
7. **Sequestration Rule:** If counsel wishes to exclude potential witnesses from the courtroom during trial, counsel must advise the Court prior to opening statement. Once in place, the rule will remain in place for the entire trial. Each attorney is charged with the duty of seeing that the witnesses comply with the rule. If any witness violates the rule, whether willfully or otherwise, such witness shall not be permitted to testify, except by consent of opposing counsel or unless the Court, in its own discretion, finds that justice requires such testimony be received. The sequestration rule doesn't apply to parties or experts.
8. **Dress Code:** Counsel and parties shall appear in Court in business formal attire. Open shirts and no socks are not considered appropriate attire.

### **EVIDENCE/EXHIBITS**

1. Exhibits should be marked for identification prior to trial. An exhibit list shall be provided to the Court, court reporter, and opposing party prior to trial. Plaintiff should use numbers and defendant should use letters. Counsel shall attempt to stipulate to the admission of as many exhibits as possible prior to trial.
2. Counsel is responsible for all exhibits before, during and after trial
3. Any paper or exhibit not previously marked for identification shall be marked and handed to opposing counsel for review, before it is tendered to the Court or a witness for examination.
4. Any party offering interrogatories and answers as evidence shall first provide to the Court and the opposing party a written list which separately sets out in full each interrogatory together with response thereto.
5. The placement of easels, screens, large exhibits, demonstrative evidence and/or equipment used to display exhibits and demonstrative evidence shall be determined by counsel and the Court prior to the start of trial. Counsel shall seek permission from the Court before asking a witness to step down from the witness chair and utilize exhibits or demonstrative evidence.

6. If either party intends to use any depositions or portions thereof in lieu of calling a live witness, counsel shall review the deposition with opposing counsel and attempt to resolve all objections to the deposition, or portions contained therein, prior to date of trial. Any remaining objections must be presented to the Court for a ruling well in advance of the proposed use of the deposition, so that the Court can rule on any objections in time for counsel to make the necessary edits without wasting jury time. Once the deposition portions that a party intends on using as evidence at trial has been identified, after objections have been presented and ruled on by the Court, the party offering the deposition portion into evidence shall present the Court and all parties, a written deposition delineations setting forth the name of the deponent along with all page and line numbers of the portions of the deposition being offered into evidence.
7. Use of exhibits during opening statements is permitted as long as there is consent from opposing counsel and notice to the Court in advance.
8. At the conclusion of trial, counsel shall withdraw their exhibits on the record. Any exhibits which are not withdrawn shall be retained by the Court for thirty (30) days. If said exhibits are not claimed by counsel within said time, they will be discarded.

### **CLOSING ARGUMENTS**

In civil causes tried before a jury, the plaintiff shall have the privilege of opening and closing the argument. The plaintiffs opening argument shall be made after all the evidence is in and after the instructions has been read to the jury. Before argument of counsel begins, the Court will determine how much time will be allowed each side for argument, each side being allowed the same length of time. The plaintiff may apportion the time allowed between the initial and reply closing arguments as he or she may choose, provided counsel shall not consume more than half of the time in the reply argument. In those cases in which the Court decides that the defendant has the affirmative of the issues, defendant shall have the privilege of opening and closing the argument in like manner and under the same restrictions as provided above. Before argument of counsel begins, the Court may, in its discretion, change the order of argument as above prescribed in a particular cause. The Court may, in its discretion, allow the argument in a particular cause to extend beyond the allowed time if the circumstances in the opinion of the Court render it proper to do so. In criminal causes argument of counsel shall be in the order prescribed in Rule 27.02 (n).

### **POST-TRIAL JUROR CONTACT**

No attorney or client, their agents or representatives, shall contact any member of a jury which has heard evidence in any cause in this circuit; provided, however, the Court in its discretion may grant permission to attorneys or clients to discuss a case with jurors immediately after the return of a verdict; provided further, the Court may also allow contact with jurors if necessary for purposes of a timely after-trial motion filed under Missouri Supreme Court Rules

These guidelines are in accordance with the Local Rules of the 22<sup>nd</sup> Judicial Circuit. It is suggested that counsel be familiar with these rules.