

INDIVIDUAL TRIAL PRACTICES OF JUDGE PAUL G. GARDEPHE

Chambers

United States District Court
Southern District of New York
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Courtroom

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1. Pretrial Practices

A. Criminal Cases. In criminal cases, any voir dire requests, requests to charge, motions in limine, or trial memoranda should be filed 30 days prior to trial. Two courtesy copies and, in the case of voir dire requests or requests to charge, an electronic copy in Microsoft Word format on CD-ROM, should be delivered to chambers that same day.

B. Civil Cases. In civil cases, please refer to Judge Gardephe's Individual Rule of Practice 10.

2. Trial Dates and Times

A. Trial days will generally run from 9:00 a.m. to 5:00 p.m. The Court will be available to meet with counsel from 9:00 a.m. to 9:30 a.m. Testimony will begin at 9:30 a.m. A one-hour luncheon recess will be taken at 12:30 p.m. or 12:45 p.m.

B. At any time after a civil case has been placed on the 48-hour Ready Trial calendar, counsel shall notify the Court and their adversaries in writing of any potential scheduling conflict, including, but not limited to, trials and vacations, that would prevent a trial at a particular time.

C. Counsel shall notify the Court and all other counsel in writing, at the earliest possible time, of any scheduling problems involving out-of-town witnesses or other exigencies.

3. Witnesses

The Court expects witnesses to be available when needed. Do not run out of witnesses. Witnesses will be taken out of order if the next witness is unavailable. Where possible, the Court will endeavor to take a medical doctor's testimony at a time convenient to the doctor, even if it means interrupting the testimony of another witness. Failure to have witnesses available during trial may result in preclusion of their testimony.

4. Exhibits

A. All exhibits should be pre-marked, and no trial time will be taken for this purpose. Plaintiff/Government shall mark exhibits as numbers and defendants shall use letters.

B. Counsel are responsible for marking their own exhibits. Counsel must give two copies of each exhibit to the Court (one for the Judge; the other for the Law Clerk) before using it at trial. The Court/Law Clerk copies of pre-marked exhibits should be assembled sequentially in a looseleaf binder, or in separate manila folders labeled with the exhibit numbers and placed in a suitable container for ready reference. For criminal trials, the binder or folders should also include the Section 3500 material.

C. Counsel must exchange copies of their trial exhibits before the trial begins.

D. If a party wishes to publish an exhibit to the jury prior to deliberations, it must use video equipment or provide a copy of each such exhibit for every juror.

E. Counsel are responsible for maintaining custody of all original exhibits. The Court does not retain them, and the Courtroom Deputy Clerk is not responsible for them.

5. Depositions

Counsel shall provide two copies to the Court of any deposition excerpts that are intended to be offered into evidence. Copy the relevant pages only, staple the extracts from each deposition, and offer each as an exhibit.

6. Court Reporter

A. When referring to an exhibit, cite it by number or letter so that the record is clear as to what is being discussed. Counsel are directed to provide to the court reporter – prior to trial – the spelling of proper names or places that are likely to be discussed in testimony.

B. When depositions or documents are read, the reader should proceed slowly enough for the court reporter to record what is being said and cite the applicable page and line number. Depositions are to be read stating the word “Question” and then reading the question, then stating the word “Answer” and stating the answer.

7. Sidebars

Sidebars during jury trials are discouraged and generally not permitted. Counsel are expected to anticipate any problems that may require argument and raise those issues with the Court in advance of the time that the jury will be hearing evidence.

8. Jury Selection

The jury will be selected by the struck panel method. Peremptory challenges are exercised simultaneously.

9. Objections

There should be no speaking objections. If the Court does not understand the basis for an objection, the Court will inquire, and counsel should respond with an explanatory word or phrase, such as “hearsay,” “leading,” or “asked and answered.”