

**JUDGE LEONARD D. WEXLER**

Senior United States District Court Judge  
944 Federal Plaza  
Central Islip, New York 11722  
(631) 712-5640

Courtroom Deputy Clerk: Eric L. Russo  
(631) 712-5645

**PRE-TRIAL/TRIAL RULES**

**1. Exhibits**

- A. All exhibits must be exchanged **before** jury selection.
  - I. By “*exchanged*,” the Court means actually turned over to the opposing side. If it is not physically turned over, you cannot offer it as evidence during trial.
  - II. If an exhibit cannot be physically turned over, advise the Court, in writing with a copy to your adversary, and explain the reason why it cannot be turned over.
- B. As much as possible, parties are to mark all exhibits as evidence and advise the Court which exhibits have been deemed marked as evidence.
  - I. Plaintiff exhibits shall be designated by **numbers** and defendant exhibits shall be designated by **letters**.
- C. No publication of exhibits to the jury during trial is allowed unless permission by the Court is granted.
  - I. All exhibits entered into evidence will be given to the jury at the time of deliberation.

**2. Witnesses**

- A. All witnesses must be identified in the Pre-Trial Order (see the Court’s Individual Rules as to what should be included in this order).
  - I. If a witness or expert witness is not identified in the Pre-Trial Order, you cannot call them during trial.
- B. If a witness becomes unavailable after the Pre-Trial Order is completed, advise

the Court, in writing with a copy to your adversary, immediately.

- C. A party may not call an adverse party as a witness.
  - I. For example: Plaintiff's counsel cannot call a named defendant as a witness in their case. Counsel will have an opportunity to question that witness during cross-examination, if they are called as a witness in the Defendant's case. If defense counsel does not call a named defendant as a witness, Plaintiff will then be allowed to call them as witness at a later time during trial.

#### 4. Expert Reports

- A. All expert reports, which includes those prepared by all treatment providers, treating experts and/or testifying experts, must be turned over **prior** to jury selection.
  - I. If it is not turned over, you **will not** be permitted to call the expert during trial.
  - II. If you do not have a copy of the expert's report, you must list what the expert will testify about and deliver it to opposing counsel prior to jury selection.
  - III. If you fail to turn this information over, the expert, whether treating or testifying, **will not** be permitted to testify during trial.

#### 5. Depositions

- A. If you intend to read the depositions of a party or witness on your case, you must advise your adversary, **prior** to jury selection, as to which portions you intend to read during trial.
  - I. If you fail to advise your adversary as to which portions you intend to read during trial, the Court **will not** permit you to read them.
- B. If you read portions of a deposition and your adversary calls that party or witness, you **may not** cross-examine them on the portions you read during your case.

**6. Promptness**

- A. The Court intends to start trial sessions at the time designated.
  - I. A party has a right to come late, but you are placed on notice that the Court will start the trial at the time designated, with or without you.
  - II. If there is an emergency or other problem, advise the Court and we will wait for you. If you fail to call the Court, the Court will assume you are coming late and start without you.

**7. Full Work Days**

- A. The Court expects to work a full day, from **9:30 AM to 5:00 PM**.
  - I. Other hours will be designated as needed, or requested by the parties.
  - II. Upon request from the parties, the Court will take a witness(es) out of turn and designate a specific time for them to testify.
  - III. Parties are put on notice that they are **required** to have a witness(es) available to testify for the **entire** day.
    - a) The Court **will not** break from trial because there are no witnesses available to testify.
- B. Any matters that need ruling by the Court during trial must be taken up **prior** to the scheduled commencement of trial for that day.

**8. Time Limits**

- A. The Court places time limits on openings, closings, direct-examination and cross-examination as outlined below. Counsel is directed to adhere to these limits, unless the Court grants permission for a longer period of time.
  - I. Openings: No more than **twenty (20) minutes** for each side.
  - II. Closings: No more than **twenty (20) minutes** for each side.
    - a) Plaintiff's counsel will be permitted to make a rebuttal closing statement for no more than **five (5) minutes**.
  - III. Direct-Examination: Cannot exceed **one (1) hour**.
  - IV. Cross-Examination: Cannot exceed **one (1) hour**.

**9. Leading**

You **must** lead your witness on all matters which the parties have not disputed. You **may not** lead your witness on material issues in dispute.

**10. Hypothetical Questions**

No hypothetical questions are allowed without prior permission of the Court.

**11. Expert Witnesses**

- A. Ask the witness for his/her qualifications;
- B. Ask about the ultimate issue and his/her reason(s) for their opinion(s);
- C. Do not anticipate questions by your adversary at this time.
  - I. Let your adversary raise its' issue and you will then have the opportunity to explain/clarify during redirect-examination.
- D. Do not have the expert explain the details of how he/she arrived at his/her opinion; i.e.: books read, tests performed, statistics found, etc.

**12. Questioning**

On an important question you may ask the question **twice, no more.**

- A. You may not ask the same question in a different way.
- B. Parties are permitted to approach the witness without asking permission from the Court during trial.

**13. Objections**

**NO SPEAKING OBJECTIONS.**

- A. Object to the question by your adversary and wait for a ruling.
  - I. If you want a sidebar, you may ask for one.
  - II. No cross-conversation between counsel and the Court before the jury will be tolerated.
- B. If counsel does not object, the Court will generally not interfere with the proceedings unless the question is a waste of time or unfair.

**Any further questions about trial procedure or courtroom technology can be made to the Courtroom Deputy, Eric L. Russo, at (631) 712-5645.**