

Standing Order Governing Criminal Pretrial & Trial Procedures

This Standing Order applies to all criminal pretrial and trial procedures. The purpose of these requirements is to promote a fair and expeditious trial. The Court will set a deadline for the filing of the pretrial filings described below.

1. *Joint Pretrial Statement.* The parties shall file on the docket a Joint Pretrial Statement with the following items, and also email the filing to Judge Chang's Proposed Order email account in MS Word format:

a. *Case Statement.* The parties shall confer and provide a concise agreed statement of the case to be read by the Court to the jury pool during jury selection. This is a neutral description of the case, with just enough information to introduce the case to the jury and to ask potential jurors whether they happen to know anything about the case.

b. *Trial Length / Number of Jurors.* State the estimated number of trial days, including jury selection and deliberations, premised on six-hour trial-testimony days (the six hours already accounts for lunch and breaks). Provided estimated sub-totals for the government's case and the defense case (if any is anticipated). Propose time limits for opening statements and closing arguments, per side. Propose the number of alternate jurors.

c. *Voir Dire Questions.* Attached to this Standing Order is the juror letter with standard background questions that the Court asks prospective jurors during *voir dire* (the background letter is provided to the jurors when they are in the Jury Department room). For additional questions, the parties must file a list divided into (a) agreed-upon questions and (b) proposed questions to which there is an objection. A short basis for any objection must accompany the list. Each side is limited to **15 proposed disputed questions**, unless a motion is filed before the pretrial conference that explains good cause for proposing more than the limit. Each side shall provide the other with proposed voir dire questions 5 business days before the due date of the Joint Pretrial Statement, and confer by 2 business days before the due date in order to generate this section of the Statement.

d. *Stipulations and Uncontested Facts.* In numbered paragraphs, set forth any stipulations and uncontested facts. No later than 5 business days before the pretrial conference, the parties must serve on each other proposed stipulations. No later than 2 business days before the due date, the parties must confer in good faith to arrive at as many stipulations and uncontested facts as possible.

2. *Witness Description Lists.* Each party shall file a list of witnesses (and email an MS Word version to Judge Chang's Proposed Order email account), including expert witnesses, divided into (a) witnesses who *will* be called; and (b) witnesses who *might* be called. For each witness, provide a *very* concise (one or two sentences) description of the witness and the witness's role in the case. For example: "Martha Washington is the case agent for the case. She also participated in executing the search warrant." Or: "George Washington is XYZ Corporation's Chief Operating Officer. He questioned the defendant about the allegedly fraudulent accounting entries." The names of witnesses on the lists will be read to the jury during jury selection to ensure that potential jurors do not personally know any witnesses.

3. *Exhibit Lists at Pretrial Stage.* Each party must submit an exhibit list (the Court will set a deadline in each case). The parties must use the **exhibit-file format and exhibit-naming convention** for the Jury Evidence Recording System (JERS). Information on JERS is attached to this Standing Order.¹ No later than 5 business days before the pre-trial conference, the parties must submit to chambers a USB storage device, DVD, or CD with all of the proposed exhibits. During the pretrial conference, the parties should raise any objections to exhibits that can be resolved before trial, in order to promote an expeditious trial and to avoid sidebars.

4. *Motions in Limine.* The motions in limine must be briefed as thoroughly as possible (the Court will set a briefing schedule in each case). The Court's goal is to be in a position to decide as many of the motions in limine *before* the pretrial conference by **relying on the briefs**; any remaining motions in limine will be decided at the pre-trial conference, if at all possible.

5. *Jury Instructions / Verdict Forms.* The parties must confer in order to attempt to agree on as many jury instructions as possible, as well as the verdict form. Where applicable, the Court generally prefers the Seventh Circuit's Pattern Instructions, but of course the parties may propose modifications to the Pattern and may propose additional, non-Pattern Instructions. The proposed jury instructions must state, on an instruction-by-instruction basis, the following information: the proponent of the instruction, the legal authority for the instruction, and whether there is an objection to the instruction. If an instruction is disputed, the proponent of the instruction should concisely explain the basis for the instruction, if more explanation is required beyond the identified legal authority (often citing to the Pattern or to a case will be explanation enough). Moreover, if an instruction is disputed, the objecting party must concisely state—**on the page immediately following** the instruction—the grounds for the objection, as well as any proposed

¹ Ideally, any exhibit in .pdf format will have undergone Optical Character Recognition (OCR) and be text-searchable.

modification or alternative. The same principles apply to proposed verdict forms. The jury-instructions filing also must be emailed to Judge Chang's Proposed Order email account in MS Word format (a deadline will be set in each case).

6. *Jury Selection.* As noted above, in the Jury Department, jurors are provided with a letter stating the general background questions each juror will answer during *voir dire*. Jurors will be seated in the jury box and in the gallery according to the random-order list. The Court will ask the background questions of *all* jurors. After each juror answers, the Court will ask the additional questions approved, during the pre-trial conference, for *voir dire*. After that questioning, counsel will have a chance to propose follow-up questions at a side-bar (though the Court will ask the questions). After that last round of questioning, counsel will exercise for-cause challenges. That will leave the qualified pool on which peremptory strikes will be made (double-strikes count against both sides). The first 12 non-struck jurors on the random-order jury list will comprise the jury. Then the parties will exercise their peremptory (or peremptories, if more than one) challenge for the alternate (or alternates, if more than one).

7. *Exhibits at Trial Stage.* Just as at the pretrial stage, when preparing exhibits for the trial itself, once again use the **JERS exhibit format and naming convention**. As stated in the JERS instructions, each party shall supply (a) the exhibits in digital format on a USB drive, DVD, or CD; and (b) the exhibits in paper copy (just 1 set), double-sided in three-ring binders. The exhibit binders should separate the exhibits with tabs that correspond to the exhibit number.

8. *Displaying Exhibits on the Video Monitors.* If you need instruction on the courtroom display technology equipment, please call the Systems Department (312.435.6045) within the Clerk's Office. Please note that the courtroom's evidence-display technology has separate controls for the counsel-table video monitors, the witness's monitor, and the jury's monitors. The judge will leave the counsel-table monitors set to display during the entire trial. Generally, the judge also will leave the witness's monitor set to display during the entire trial, because usually the other side does not have an objection to the witness being shown the proposed exhibit. But in order to give the other side time to object to even that step, the offering party should state something to the effect of, "Your Honor, I'd like to show Government's Exhibit 1 to the witness." If the opposing party objects to even showing the witness the exhibit, that is the time to object. Otherwise, the offering party may display the exhibit to the witness via the offering party's laptop or the document camera.

To publish the exhibit to the jury, preface your request with something to the effect of, "Your Honor, may we publish Government's Exhibit 1 to the jury?" The Court will ask whether there is an objection, and then if publication is allowed, the

Court will turn on the jury's video monitors. When done with that exhibit, say something to the effect of, "Your Honor, we're done with that exhibit," and the Court will turn off the jury's video monitors (and that also will be a signal to your co-counsel or assistant if you have someone putting on and off an exhibit via a laptop).

As we get deeper into the trial, we might be able to avoid turning off the jury monitors at certain points. For example, if you're asking a witness about an exhibit or set of exhibits already allowed into evidence and already published, you may signal that you're going to move onto an exhibit that's already been published (*e.g.*, "Your Honor, we're done with that exhibit, and I'd now like to show Government's Exhibit 1, which has already been published." The Court will ask whether there's any objection, and if not, the jury monitors will remain on.

9. *Witness Examinations / Jury Addresses.* In order to respect the jury's time, ***always*** have enough witnesses available so that we make use of the full trial day. All witness examinations must be conducted from the **podium** unless otherwise allowed by the Court. The only alternative site is the end of the jury box, but you must speak loudly enough for the witness, judge, jury, and court reporter to easily hear you, and speak **into the microphone** at the end of the jury box so that the audio-recording system can record you. Jury addresses must take place at the **podium** as well: even if you speak loudly for us to hear you, again the audio-recording system relies on the **microphones** to record what you say, and the recording is necessary for transcript preparation or to resolve a dispute over what a transcript says.

10. *Objections.* When you object, you must stand so that the Court and the witness are on alert that an objection will be made. Before trial, counsel should instruct their witnesses not to answer a question when they see the opposing lawyer stand and while an objection is pending. You must state a short, non-argumentative basis for the objection (*e.g.*, relevance, hearsay), and responses must be similarly short and non-argumentative. Ideally, there will be little or no need for a side-bar if objections and responses are succinct.

ENTERED:


EDMOND E. CHANG

Revised: January 27, 2015



CHAMBERS OF
EDMOND E. CHANG
JUDGE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS
219 SOUTH DEARBORN STREET
CHICAGO, ILLINOIS 60604

Dear Prospective Juror:

Welcome to the United States District Court for the Northern District of Illinois. Our system of justice depends on fair and impartial juries, and I thank you for your willingness to serve.

I will soon be asking you questions on your qualifications to serve as a juror on this case. All of these questions are intended to focus on your ability to be totally objective and completely free from prejudice about the issues, the witnesses, the parties, and their attorneys. Thus, even if the individual questions might not specifically cover some matter that in your judgment could (or would) adversely affect your ability to serve as a juror in this case, it will be extremely important that you advise me of that before the questioning process ends. Remember that honesty and candor are crucial to selecting a fair and impartial jury.

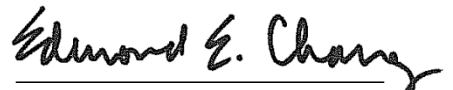
During the questioning period, I will first ask each of you to stand one at a time and to tell me, and the parties' lawyers, the following information:

1. Your name.
2. The name of the city, village, or town in which you live. (If you live in the City of Chicago, please tell us what part of the City.) Also, if you haven't lived at your current home for more than 5 years, please tell us where else you have lived in the past 5 years. And do you rent or own?
3. How far did you go in school and what degrees do you have, if any?
4. Your employment information for the past 10 years:
 - a. name and nature of the business or employer, and where located;
 - b. brief general description of your job duties.
5. Family information and their employment information:
 - a. If married, your spouse's employment information for the past 10 years.

- b. If you have children, their ages and current employment information (if any).
 - c. If any other adult lives in your household (e.g., any parent, brother, sister, boyfriend or girlfriend or anyone else), the same employment information about that person.
6. Your major hobbies or interests, including what materials you like to read. Where (if anywhere) do you get your news? What television programs, if any, do you regularly watch?

After you and your fellow prospective jurors have answered these questions, I will ask some follow-up questions.

Cordially,


Honorable Edmond E. Chang
United States District Judge

JURY EVIDENCE RECORDING SYSTEM (JERS)

1. Introduction to JERS

JERS is a computer system that the jury will use to review exhibits on a wide-screen video monitor, rather than reviewing paper copies. The jury room has the JERS computer, a touch-screen monitor for the jury to pick an exhibit to display, and the wide-screen monitor. JERS can display what otherwise would have been on paper (including photos), and JERS also can play audio and video files.

We're experimenting with this system to start moving toward as much digital presentation as possible, with all of its display and cost-reducing advantages. With JERS, the jury can zoom-in on parts of an exhibit, and for audio and video, there's no need for a party to supply the jury with a laptop for deliberations. We hope that in the future there will be other advantages, such as a text-search function. Thanks in advance for your patience as we continue to learn how best to use JERS.

JERS is not directly used to present evidence in court *during* trial; right now, it's just used to display exhibits during deliberations. But JERS does *indirectly* affect your trial preparation because you must supply your exhibits to the Court in digital format, and you must name your exhibits using a specific convention. This in turn affects your preparation even for the *pretrial conference*, because Judge Chang requires that the parties exchange proposed exhibits before the pretrial conference (more on this below, as well as in Judge Chang's Standing Order Governing Proposed Pretrial Orders).

2. File types usable with JERS

JERS accepts these common file types:

Documents and Photographs: .pdf, .jpg.

Video and Audio Recordings: .avi, .wmv, .mpg, .mp3, .wma, .wav

3. Exhibit-naming convention

To use JERS, both sides must use the following exhibit-naming convention, which also will serve as the file name for the digital file: the exhibit number, followed by an underscore, followed by a neutral description of the exhibit. The convention is thus:

<exhibit number>__<exhibit description>.<file extension>¹

Examples:

1_Financial Statement 2009 Annual.pdf
2_Contract 2010 Renewal.pdf
3_Photo Front Door.jpg
4_Audio Dec 11 2013 Phone Call.mp3
5_Video Traffic Stop.wmv

Use **consecutive numbers** to designate exhibits; do *not* use letters to distinguish exhibits. Also, do *not* use an “exhibit part,” such as 1A or 2A. Just use consecutive numbers (plus the neutral description). The neutral description cannot be more than 200 characters (hopefully, you’ll never come close to that limit).

You might reasonably wonder whether JERS will mix-up the parties’ exhibits because both sides are using numbers. We have tested this convention and it works because JERS itself adds a party prefix for each side (“Pla” (or “Gov” for government) and “Def”) when we import the files into JERS, party-by-party.

If there are **multiple parties** on a particular side, then you must coordinate with your co-plaintiff’s or co-defendant’s attorney to generate a consecutively numbered set of exhibits. In the rare case of dual juries, we’ll discuss how to handle the JERS submission.

If you’re using litigation-display software that imprints a “**digital**” exhibit **sticker** on documentary exhibits, that’s fine, though you should confine the exhibit sticker to the party designation (*e.g.*, Pla or Gov, and Def) and the exhibit number.

One last thing: a **physical object** of course will not be imported into JERS, but you should still assign a consecutively numbered exhibit designation to it, along with a neutral description. Then create a one-page .pdf with the exhibit number and neutral description on it, and submit those exhibits as part of the JERS disc. By creating this stand-in for physical objects, we accomplish two things: (1) we can print a comprehensive exhibit list before the trial for the Court and for the parties,

¹ The file-type extension (*e.g.*, .pdf, .wmv) is automatically added by your computer; it’s included here for completeness.

which we all can use to track whether an exhibit is allowed into evidence (including physical objects); and (2) the jury's exhibit list will be complete, and it will serve as a reminder of what physical objects were allowed into evidence.

4. Pretrial conference exhibits

In order to maintain consistency in the record, you must use the JERS exhibit-naming convention even at the pretrial-conference stage (please refer to Judge Chang's Standing Order Governing Proposed Pretrial Orders for more detail). Five business days before the pretrial conference, supply the exhibits to the Court (and to the other side) on a USB drive, DVD, or CD. Consistent with the Standing Order, you'll also be supplying to chambers three paper copies of only the *objected-to* exhibits, double-sided in three-ring binders.

5. Trial exhibits before the trial's start

After the pretrial conference, **do not renumber** the exhibits, even if during the pretrial conference the Court deemed some of them inadmissible. This will preserve consistency of exhibit numbering from the pretrial conference and throughout trial, and the record will be clearer.

Five business days before the trial, **supply the trial exhibits** to the courtroom deputy and to the other side, again on a USB drive, DVD, or CD. At this trial stage, you need not include exhibits that have been deemed inadmissible (you may include exhibits that still have a chance of being allowed, *e.g.*, if the other party opens the door to evidence deemed otherwise inadmissible). Consistent with the Standing Order Governing Proposed Pretrial Orders, you should continue to include even those exhibits that are not likely to be allowed directly into evidence, but to which the Court will likely need to refer (*e.g.* deposition transcripts for impeachment of will-call witnesses). The Court will run a test to ensure that the exhibits are imported correctly into JERS. For now, also supply **one copy of the exhibits in paper** form (hopefully soon we'll be able to dispense with this requirement, when we have increased confidence in JERS). This paper set will serve as the backup to JERS, in the event that JERS suffers a technical failure during deliberations.

6. Trial exhibits newly added during trial

When an exhibit is allowed into evidence during trial and the exhibit was not previously supplied on the JERS disc, not surprisingly the exhibit must follow the same exhibit-naming convention as described above. Counsel for the offering party must supply the exhibit in digital format as soon as possible (a thumb drive comes in handy for this), and the courtroom deputy will import it into JERS.

7. Close of Evidence

Before closing arguments, we'll confer on the record to ensure agreement on which exhibits were allowed into evidence during the trial. After jury instructions, the lawyers will confer with the courtroom deputy to examine the list of exhibits to be released to the jury for deliberations on JERS. The jury will **not be supplied with paper copies**, unless there is good cause for a particular exhibit (or if JERS breaks down).

Physical-object exhibits that the Court allows the jury to examine during deliberations will be provided to the jury as usual, via the court security officer.

8. Use of JERS by the jury

At the end of jury instructions, the Court will inform the jury that they will be using the JERS system. The jury will watch a video tutorial that explains how to use the system. Judge Chang will accompany the jury into the jury room to view the tutorial, but will instruct the jury that, like any other question during deliberations, the jury must ask questions about JERS in writing (and like any other jury question, the Court will share it with counsel before responding). The JERS computer is not equipped to allow the jury to access the internet, or indeed any other program other than JERS.

If JERS fails during deliberations, the jury will ask for help in writing. The systems staff will not be permitted in the jury room without the Court's express permission, and only after the jury has been escorted out of the jury room. If the problem is not fixable in a short time, the Court will provide the jury with the paper-copy backup of the allowed exhibits.