

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
KANSAS CITY DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
v.)
)
CHARLES DANIEL KOSS,)
)
 Defendant.)

Case No. 12-00133-01-CR-W-HFS

RULES OF JURY TRIAL

1. Court will normally convene at 9:00 a.m. and recess at or near 5:00 p.m. **Counsel and the parties should be in the courtroom by 8:00 a.m. on the first day of trial and 8:30 a.m. on each subsequent day** in order to take up any matters that need to be addressed before the jury is brought in at 9:00 a.m. The parties may expect morning, lunch, and afternoon breaks at appropriate times.

2. No food or drink is allowed in the courtroom, except for water in white, styrofoam cups. The Court will provide counsel and the parties with appropriate cups.

3. Each party shall be dressed appropriately for Court.

4. During trial, only the attorneys and participants sitting at counsel table at the beginning of voir dire will be allowed to sit at counsel table at any point throughout trial.

5. Unless excused by the Court, counsel and all participants at counsel table shall: (a) stand as Court is opened, recessed, or adjourned; (b) stand when the jury enters and retires from the courtroom; (c) address all remarks, other than examination of a

witness, to the Court instead of to opposing counsel; and (d) avoid disparaging personal remarks toward opposing counsel.

6. Except in unusual circumstances, counsel should stand when addressing the Court, being addressed by the Court, or examining a witness. See Local Rule 83.3(a).

7. The Court will conduct voir dire; in so doing, questions will be taken from those proposed by counsel. At the conclusion of the Court's questioning, counsel may be afforded an opportunity to pose follow-up or clarifying questions to the panel. The jury will be excused when questioning is finished and each side may move to strike for cause. The government's strikes will be made first, and then defendant's strikes will be made. The panel will be recalled and the jury will be seated and sworn.

8. Absent good cause shown, opening statements will be limited to thirty (30) minutes for each side.

9. No visual aid or exhibit shall be used during an opening statement, unless opposing counsel has been shown the visual aid or exhibit and has agreed to the use of the item during the opening statement.

10. The interrogation of each witness shall consist of: (1) direct examination; (2) cross-examination; (3) redirect examination; and (4) recross-examination. No further questioning will be permitted except by leave of Court in extraordinary circumstances.

11. Only one (1) counsel per party may examine a witness. See Local Rule 83.3(b).

12. Exhibits will rarely be circulated to jurors. If counsel wants the jury to see an exhibit during trial, it should be displayed in such fashion that all jurors may view it at the same time (i.e., by overhead projection, ELMO, computer projection, etc.).

13. Counsel shall request permission of the Court to approach a witness for a legitimate purpose. Once granted permission, counsel may approach the witness additional times without requesting permission to do so. However, witnesses shall be interrogated from a reasonable distance and shall not be badgered.

14. If a podium is provided, counsel may use it, but are not required to do so. However, counsel will not be allowed to intrude into the jury's space. Furthermore, no paper, object or hands of counsel shall be placed on the railing in front of the jury box.

15. When making an objection, counsel should say only "objection" plus the legal reason for the objection (i.e., leading, hearsay, etc). If objecting counsel desires to give reasons for the objection or if an opposing counsel desires to oppose the objection, counsel shall request leave to approach the bench. Objections to evidence should be made only by counsel handling the witness. Objections during opening statements or closing arguments should be made only by counsel making the opening statement or closing argument.

16. After counsel questions an expert witness about his/her qualifications, do not ask the Court to declare the witness an expert.

17. Counsel shall treat adverse witnesses and parties with fairness and consideration. No abusive language or offensive personal references will be tolerated.

18. Visible reactions to a witness's testimony, counsel's presentation, or Court ruling (such as facial or body gestures) are inappropriate.

19. Do not converse with your client or co-counsel in a manner that your conversation may be heard by the jury.

20. Each party shall mark each of their exhibits prior to trial with an exhibit sticker indicating whether the exhibit is being offered by the government or defendant, along with the exhibit number. The government shall number its exhibits consecutively beginning with the number one (1). Defendant shall number his/her exhibits consecutively beginning with the number five hundred-one (501). The designation for each exhibit shall match the numeric designation for that exhibit on the exhibit list furnished to the clerk prior to trial.

21. Witnesses will remain in the witness chair unless leave of Court is granted for a witness to reference an exhibit and then the witness shall return to the witness chair immediately after referencing the exhibit. Witnesses will not be allowed to testify standing in front of the jury without leave of Court to do so. Leave will only be granted as deemed necessary and appropriate.

22. All exhibits utilized at trial as part of a party's presentation of evidence, regardless of whether admitted or not, must be kept available for use by other parties during the remainder of the trial.

23. The length of closing arguments will be established during the instruction conference.

24. The following documents shall be filed prior to the date trial is set to commence:

- a. At least three (3) days prior to trial, the parties shall jointly submit an original (without sources) set and an annotated (with sources) set of proposed jury instructions to the Courtroom Deputy. Proposed annotated instructions shall reflect the authorities upon which the instruction is based and should be taken from or drawn in the manner of *Model Criminal Jury Instructions for the District Courts of the Eighth Circuit* and/or *Missouri Approved Instructions (MAI)* where available and appropriate.

- i. The Court prefers to receive joint instructions from the parties. Separate instructions are appropriate only when the parties cannot agree upon a specific instruction. In that instance, counsel shall state in writing the reason for the objection with authority cited as well as an alternative instruction. The deadline for submitting objections and alternative proposed instructions is two (2) days prior to trial.
- b. The parties shall email the proposed jury instructions to the Courtroom Deputy at Joella_Baldwin@mow.uscourts.gov. The proposed jury instructions shall be submitted in Word format. The proposed jury instructions shall be in Arial, twelve (12) point font, double-spaced paragraphs, and with one-inch margins. Each proposed jury instruction shall be separated by a “page-break.”
- c. At least three (3) days prior to trial, counsel for each party shall file a list of proposed questions or topics counsel desires to be included in voir dire examination conducted by the Court. Objections to opposing party’s voir dire questions shall be filed at least two (2) days prior to trial.
- d. At least three (3) days prior to trial, counsel for each party shall agree upon a statement to be read to the jury setting forth the background of the case and the claims to be asserted. This statement will be read to the jury panel prior to voir dire. The jury statement shall be emailed to the Courtroom Deputy at Joella_Baldwin@mow.uscourts.gov. The jury statement should be submitted in Word format.

25. Instructions will be read to the jury before closing arguments. Each juror will be given a copy of the instructions for use during deliberations.

26. After the jury retires, counsel for each party shall assemble all of the exhibits and keep them available in the courtroom. Counsel and their clients should remain in the courthouse and advise the Court’s staff where they will be located while the jury is deliberating.

27. After the jury returns its verdict, be prepared to tell the Court if you want the jury polled.

28. After the jury is dismissed, counsel for each party must take possession of his/her exhibits from the courtroom deputy and sign the receipt at the bottom of the exhibit list.

IT IS SO ORDERED.

DATED: February 1, 2013

/s/ Brian C. Wimes
JUDGE BRIAN C. WIMES
UNITED STATES DISTRICT COURT