

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
[division] DIVISION**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Case No. (Redacted)
 ,)
)
 Defendant.)

RULES OF JURY TRIAL

1. Court convenes at 8:30 a.m. **Counsel shall be in the courtroom on the first day of the trial not later than 8:00 a.m.** The parties may expect morning, lunch, and afternoon breaks at appropriate times as determined by the Court.
 - a. The parties shall complete the following at least **ten (10) business days before** trial:
 - i. Submit, to the Courtroom Deputy by email, a joint set of proposed jury instructions **without** annotations;
 - a. **Proposed instructions** shall be in Word format, in 12-point Arial font, double-spaced with one-inch margins.
 - b. Each proposed instruction shall be separated by a “page-break”.
 - ii. Submit, to the Courtroom Deputy by email, and file a joint set of proposed jury instructions **with** annotations including:
 - a. The authority on which the instruction is based;

- b. Any alteration or deviation from the applicable pattern instruction, if any, including clear demarcation of the suggested change; and
 - c. Proposed language for filling in/removing any necessary bracket parenthetical in the text of the pattern instruction.
- iii. File a Notice of Instruction Conference, certifying the parties' efforts to meet, confer, and draft the joint proposed jury instructions and providing:
 - a. Which party objects to which instruction;
 - b. The legal basis for the objection;
 - c. The objecting parties' alternative instruction (on a separate page); and
 - d. Any other instruction either party would like included, not otherwise agreed; and
- iv. File a list of proposed questions or topics counsel wants included in the voir dire examination conducted by the Court.

b. At least **five (5) business days before** trial:

- i. A party seeking to do so may file a trial brief setting forth the factual and legal contentions upon which the party's case theory is based.

- ii. The parties shall provide to the Courtroom Deputy an agreed statement to be read to the jury panel before voir dire, setting forth the background of the case and the claims to be asserted.
- iii. A party with any objection to the opposing party's proposed voir dire questions or topics shall file an indication of that objection.

c. At least **three (3) business days before** trial:

- i. File and serve list of all exhibits which might be offered at trial;
 - a. Each exhibit shall be designated as "Plaintiff's" or "Defendant's," numbered with an Arabic numeral, and described. Each party shall number their exhibits in chronological order. Each party's numbering scheme shall be distinct from that of the opposing party, i.e. Plaintiff's Exhibit 1; Defendant's Exhibit 501. If an exhibit is listed, it must be marked.
 - b. If an exhibit is more than one page or part, that should be noted in the description. It is not necessary to list exhibits that will be used only for impeachment or rebuttal purposes.

- c. No exhibit will be received in evidence which is not listed by the counsel offering the exhibit, except by leave of Court for good cause shown.
- ii. File a stipulation setting forth those exhibits for which the identity and authenticity is not contested; and
- iii. Provide an exhibit index to the Courtroom Deputy on the form provided by the Clerk's Office.

2. JURY TRIAL RULES AND PROCEDURE:

- a. Counsel table – Only attorneys and participants sitting at counsel table at the beginning of voir dire will be permitted to sit at counsel table at any point throughout the trial.
- b. Decorum – Except under extraordinary circumstances, counsel and others shall stand as Court is opened, recessed, or adjourned; as the jury enters and retires from the courtroom; as he or she addresses the Court or is addressed by the Court; and as he or she examines a witness. (L.R. 83.3). Counsel shall not lean into or otherwise encroach on the jury's space and shall not place papers or his or her hands on the railing of the jury box. All counsel and parties appearing shall be dressed appropriately. No food or drink is allowed in the courtroom, except for water in the cups provided.
- c. Professionalism – Counsel shall address all remarks, with the exception of witness examination, to the Court and not to opposing

counsel, and shall avoid any disparaging remarks, especially those of a personal nature. Counsel shall treat adverse witnesses and parties with fairness and consideration. No abusive language or offensive personal references will be tolerated. Visible physical reactions to witness's testimony, counsel's presentation, or Court rulings are inappropriate. Counsel shall not converse among each other or with a client in a manner that may be overheard.

- d. **Voir dire** - The Court will conduct voir dire with reference to the parties' proposed questions and topics. Thereafter, counsel may be afforded an opportunity to pose follow-up or clarifying questions to the panel. After questioning, the panel will be excused and each side may move to strike for cause.
- e. **Opening / Closing Statements** - Absent good cause shown, any opening statement shall not exceed thirty (30) minutes. The duration of closing arguments will be established during the jury instruction conference after the presentation of evidence. Instructions will be read to the jury before closing arguments.
- f. **Objections** - When making an objection, counsel should say only "objection," plus the legal reason for the objection (i.e., leading, hearsay, etc.). If objecting counsel seeks to explain the objection or if opposing counsel seeks to defend against 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.

- g. Witness Testimony - Witness interrogation shall consist of: (1) direct examination; (2) cross-examination; (3) redirect examination; and (4) re-cross-examination. No further questioning will be permitted, except by leave of Court in extraordinary circumstances.
 - i. Only one counsel per side may examine a witness.
 - ii. Counsel shall request permission from the Court to approach a witness for a legitimate purpose. Once permission is granted, counsel may approach the witness without requesting subsequent specific permission.
 - iii. Counsel may, but is not required to, use the podium provided when questioning a witness. In the event counsel declines to use the podium, a will be questioned only from a reasonable distance.
 - iv. After counsel questions an expert witness about his or her qualifications, counsel shall not ask the Court to declare the witness an expert.
 - v. Witnesses will remain in the witness chair for the duration of his or her testimony, unless leave of Court is granted. To the extent necessary and appropriate, the Court may permit a

witness to temporarily stand to reference an exhibit, but in general, a witness will not be permitted to testify while standing in front of the jury.

- vi. Witnesses who will be testifying from exhibits or about exhibits will be expected to have reviewed them before their testimony so as to avoid the need for the witness to take Court time to review the exhibit.
- vii. Testimony will not be interrupted to deal with evidentiary matters that could have been heard in advance of trial. The Court will consider those matters during recess, at noon break, or at the end of the day.

h. Exhibits – Any exhibits for which admission is sought shall be marked and accurately reflected and described in the Exhibit Index.

- i. All exhibits used at trial as part of a party's presentation of evidence, regardless whether the exhibit has been admitted, must remain available for use by other parties for the remainder of the trial.
- ii. Exhibits will rarely be circulated to jurors. If counsel wants the jury to see an admitted exhibit during trial, such exhibit should be displayed in such a fashion that all jurors may view the exhibit at the same time (i.e., by projector).

- iii. After the jury retires to consider its verdict, counsel for each party shall assemble all of their exhibits and keep them available.
- iv. After the jury is dismissed, counsel for each party must take possession of his or her exhibits from the Courtroom Deputy and sign the receipt at the bottom of the Exhibit List.

- i. Deliberations – Each juror will be provided with a copy of the jury instructions for use during deliberations. Counsel and the parties should remain in the courthouse and advise the Courtroom Deputy where they will be located while the jury is deliberating. After the jury returns its verdict, counsel should be prepared to indicate whether they would like the jury polled.

IT IS SO ORDERED.

DATED: date

/s/ Brian C. Wimes

BRIAN C. WIMES, CHIEF JUDGE
UNITED STATES DISTRICT COURT