

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

**JUDGE TANA LIN  
TRIAL PROCEDURES FOR ALL CIVIL CASES**

This document sets forth the trial procedures for all civil cases assigned to this Court. This Order applies to all Counsel in cases before this Court, their clients, and any party representing itself *pro se*. When the term “Counsel” is used in this Order, it includes lawyers as well as any party representing themselves. When the terms “Party” or “Parties” are used in this Order, they include Counsel.

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## I. PROCEDURES FOR ALL CIVIL TRIALS

### A. Pretrial Order

When filing the pretrial order, the Parties should send a Microsoft Word version of the proposed order to [linorders@wawd.uscourts.gov](mailto:linorders@wawd.uscourts.gov).

### B. Pretrial Conference

An agenda of topics to be covered at the pretrial conference is posted on Judge Lin's Chambers Procedures page, <https://www.wawd.uscourts.gov/judges/lin-procedures>.

### C. General

#### 1. Schedule

Unless otherwise notified, trials are normally set to begin at 9:00 a.m. On each day of trial, Counsel and any *pro se* litigants are expected to be present **thirty (30) minutes** prior to the start time to discuss any upcoming issues. To ensure that the morning pretrial hearing is productive and efficient, Counsel shall meet after the conclusion of each trial day and attempt to resolve or refine upcoming disputes.

The normal trial day goes from 9:00 a.m. to noon and 1:00 p.m. to 4:00 p.m., with morning and afternoon breaks of 15 minutes in duration at the Court's discretion.

#### 2. Recording of Proceedings

The official record of all trials and proceedings will be taken by either electronic sound recording or by a Realtime reporter.

#### 3. Glossary

Where necessary, Counsel shall confer and prepare a joint glossary of (1) any unusual or technical terminology that may assist the Court or jury during trial and (2) any words, technical terms, proper names, acronyms, and case citations that are likely to be used at trial but would not be found in a standard spell check. The glossary in Microsoft Word format must be emailed to Kadya Peter, Courtroom Deputy, at [Kadya\\_Peter@wawd.uscourts.gov](mailto:Kadya_Peter@wawd.uscourts.gov) no later than **three (3) days** in advance of the start of trial. Hard copies shall also be provided to the Courtroom Deputy and Court Reporter (if any) on the first day of trial.

### D. Evidence

#### 1. Presentation of Evidence

##### a) *Pre-Trial Submission of Exhibits*

One physical set and one electronic set of the trial exhibits are to be delivered to Judge Lin's chambers **five (5) days** before the trial date. Each exhibit shall be clearly pre-marked by Counsel. Exhibit stickers/labels/tags can be obtained from the clerk at the pretrial conference or

from the Clerk's Office. Exhibit tags generated electronically are also acceptable so long as they list the following information: (1) Plaintiff(s)', Defendant(s)', or Joint Exhibit; (2) case number; and (3) exhibit number.

The electronic set of the trial exhibits must be delivered to Kadya Peter, Courtroom Deputy, in the following format:

- Each set of exhibits must be on a USB flash drive (preferred) or CD in PDF format.
- Each exhibit must be a single PDF document.
- If possible, PDF documents should be provided in a text-searchable format.
- Exhibits that contain audio or video must be playable in Windows Media Player.
- Exhibits must be numbered and named. The naming convention for each exhibit file name must include the exhibit number and a brief description. For example, Plaintiff's Exhibit 1 would be named: P-1contract.pdf. Defendant's Exhibit 1 would be named: D-1email.pdf.

Both the physical and electronic copies of the trial exhibits must be accompanied by a table of contents or index identifying each exhibit. The table of contents or index must include the exhibit number and a brief description of each exhibit.

If these requirements for the pre-trial submission of exhibits to the Court pose any undue hardship or burden on a Party, the Party may contact Kadya Peter, Courtroom Deputy, at [Kadya\\_Peter@wawd.uscourts.gov](mailto:Kadya_Peter@wawd.uscourts.gov) as early as possible, but no later than **two (2) business days before** the trial exhibits are due, so that the Court can endeavor to address the Party's concerns.

An exhibit list in Microsoft Word format must be separately emailed to Kadya Peter, Courtroom Deputy, at [Kadya\\_Peter@wawd.uscourts.gov](mailto:Kadya_Peter@wawd.uscourts.gov) **five (5) days** prior to the trial date.

Plaintiff(s)' exhibits shall be numbered consecutively beginning with P-1; Defendant(s)' exhibits shall be numbered consecutively beginning with D-1. Joint exhibits shall be numbered consecutively beginning with J-1. Duplicate documents shall not be listed twice. Each exhibit shall be printed double-sided unless there is a specific need to not do so. Once a Party has identified an exhibit in the pretrial order, it may be used by any Party. Each set of exhibits shall be submitted in a three-ring binder with appropriately numbered tabs.

Each Party will be responsible for having their original documents available at trial.

***b) Jury Evidence Electronic Presenter ("JEEP")***

The Court has implemented a program to use for jury trials known as the Jury Evidence Electronic Presenter ("JEEP"). The IT Department for the U.S. District Court will provide a laptop computer that has been prepared specifically for presentation of electronic exhibits to jurors. This laptop will not have any network access, internet browsing capability, nor tools for

opening files that are not specific to viewing or hearing evidence. A mouse and AC power adaptor will be provided with the computer.

The IT Department will also provide a portable 42” flat screen monitor and a pair of computer speakers, in a location in the jury room that will allow all jurors to have a clear view of the content on the screen.

The laptop, loaded with all admitted exhibits, will be brought into the courtroom by IT and hooked into the courtroom display system. This will allow the attorneys and court staff to confirm inclusion of the properly admitted exhibits. Once Counsel have agreed to the content, the laptop will be presented to the jurors and a brief tutorial will be given.

Questions should be directed to [Kadya.Peter@wawd.uscourts.gov](mailto:Kadya.Peter@wawd.uscourts.gov).

*c) Training on Evidence Presentation Devices*

Jurors have high expectations about the lawyers’ ability to operate the evidence presentation devices in the courtroom. Training is strongly encouraged, and it is the responsibility of the Parties to participate in training sufficiently in advance of the start of trial, if needed. See <https://www.wawd.uscourts.gov/attorneys/trial-support> for more information. At the pretrial conference, the Parties must arrange with Kadya Peter, Courtroom Deputy, to schedule a time to test any equipment that the Parties wish to use at trial. Absent extraordinary circumstances, trial will not be delayed due to difficulties with the technology.

**2. Admissibility and Admission of Evidence**

Parties must coordinate to provide the Court with a chart listing any exhibits or demonstratives expected to be used during each trial day along with any stipulations and remaining objection(s) to any exhibit(s) or demonstrative(s). For exhibits to be used during opening statements and the first day of trial, a list of the exhibits and demonstratives shall be emailed to the Courtroom Deputy by **5 p.m. the Friday before the first trial date**. Thereafter, the Parties are directed to meet at a mutually agreed upon time during each trial day to exchange a set of proposed exhibits and demonstratives to be used the following day. The Parties are required to confer each day following this exchange to make further stipulations and discuss any remaining objections. To the extent any objections remain after this conferral, the exhibit list with all updated stipulations and objections shall be emailed to the Courtroom Deputy **by 8 p.m. each day**.

Unless otherwise specified, the Court will rule on the admissibility of any disputed exhibits before the start of each day of trial. If an exhibit is “pre-admitted” in this manner, then Counsel will only need to formally move for admission of the exhibit at the time it will be introduced but will not need to lay a foundation for admissibility or request permission to publish the exhibit during the trial. Impeachment or rebuttal exhibits (those whose sole purpose is to attack a witness’s veracity) need not be disclosed in advance, but they should be pre-marked, when possible, so that they will be immediately useable at trial without the necessity for labeling by the Courtroom Deputy.

Exhibits which the Parties have stipulate as admissible are not admitted until the Court formally admits them on the record.

If the exhibit list, pretrial order, or witness list is revised at any time after it is filed with the Court, Counsel shall promptly file the revised document with the Court and provide the Courtroom Deputy with a redlined version indicating the changes as well as replacement, clean copies of any revised or added exhibits in both electronic and physical format.

If additional exhibits are marked during trial (for example, for impeachment purposes), Counsel must provide copies of the exhibits for opposing Counsel and at least two (2) copies for the Court.

Original exhibits admitted at trial will generally be returned to Counsel at the conclusion of the trial. LCR 79(g).

### **E. Deposition Designations**

Pursuant to Local Civil Rule 32, if a Party intends to offer a deposition in lieu of or in addition to live testimony at trial, that Party shall provide to all other Parties a transcript of the deposition with the relevant portions highlighted. Other Parties may offer other portions of the deposition by highlighting them, using a different color.

No later than **three (3) days** prior to the due date for deposition designations, the Parties shall meet and confer regarding any disputed deposition designations. No later than the deadline designated by the Court, the Parties shall jointly submit to chambers for each deponent: (1) a single color copy of the highlighted deposition transcript, with typed objections and responses included in the margins of each transcript at the appropriate location; and (2) a Deposition Designations chart setting forth the objections and responses in numerical page order, in the format found on Judge Lin's Chambers Procedures page, at <https://www.wawd.uscourts.gov/judges/lin-procedures>. The Parties shall then file on the docket, as a single filing, a "Joint Submission of Deposition Designations," in which each highlighted deposition transcript and an accompanying deposition designation chart is filed as a separate exhibit.

A failure to designate objections as set forth above shall constitute a waiver, even if the objection was previously stated at the deposition.

**For jury trials:** Counsel offering the deposition testimony are required to provide a person to read the designated portions of the transcript or present a video recording of the deposition.

**For non-jury trials:** Deposition transcripts will not be read at trial.

If a Party intends to offer a video deposition instead of live testimony, the Party must, in addition to complying with the provisions above, submit a copy of the video deposition on a USB flash drive (preferred) or DVD to Chambers and to all other Parties no later than the deadline for filing deposition designations. The Party offering the video is responsible for being familiar with the courtroom technology necessary to play it and for ensuring that the video is edited appropriately after the Court makes its rulings on any objections. *See* Section I.D.2.

**F. Witnesses**

The Court expects the Parties to provide notice to Opposing Counsel of their next-day's witnesses **by 8 p.m. the day before a witness is to be called.**

The rule on exclusion of witnesses will be in effect throughout the trial until the time of closing arguments and instructions. Other than Parties and their representatives, all witnesses must remain outside of the courtroom except while testifying. After completion of their own testimony, a witness may remain in the courtroom but cannot then be recalled. If Counsel desire a waiver of the rule with respect to a specific witness (for example, an expert), Counsel shall first discuss the matter with opposing Counsel and then present the request to the Court prior to the start of trial on the particular day at issue. Counsel shall instruct witnesses to not discuss their testimony with other witnesses, either during or after they complete their testimony.

Once the trial begins, witnesses will be put on call at the peril of the calling Party. The trial will not be recessed because a witness is unavailable except in extraordinary circumstances. If alerted ahead of time, the Court will endeavor to accommodate witnesses with scheduling problems.

The use of an exhibit notebook or the JEEP should obviate the need to approach the witness. If extraordinary circumstances exist, Counsel may approach the Courtroom Deputy who, in turn, will approach the witness. Where Counsel seek to impeach a witness by use of that witness's prior deposition or other discovery materials, copies of the relevant document must be provided to the witness, the Court, and opposing Counsel.

**G. Issues Arising During Trial or After Court Hours**

Should an issue arise during trial after court hours, Counsel are instructed to meet and confer to see if the issue may be resolved without court intervention. If such meet and confer efforts are unsuccessful, Counsel must notify Kadya Peter, the Courtroom Deputy, of the issue by email at [Kadya\\_Peter@wawd.uscourts.gov](mailto:Kadya_Peter@wawd.uscourts.gov).

**II. PROCEDURES FOR CIVIL JURY TRIALS**

**A. Settlement**

Parties shall refer to Local Civil Rule 39(d) where cases scheduled for jury trial are settled (or agreed to be tried without a jury) for the requirements of providing timely notice. Failure to provide timely notice may result in the assessment of jury expenses to the Parties. *See* LCR 39(d).

**B. Civil Jury Impanelment and *Voir Dire***

This summary is provided to acquaint the Parties with the procedure for impaneling a civil jury in Judge Lin's court.

## 1. Jury Composition

Under Federal Rule of Civil Procedure 48, the jury will consist of not fewer than six and not more than twelve members. The Court will discuss with Counsel how many jurors will be impaneled at the pretrial conference but generally recommends a panel of eight jurors. The jurors will be the panelists with the lowest numbers remaining after all challenges have been exercised.

Counsel are reminded that, pursuant to Federal Rule of Civil Procedure 48, the verdict must be unanimous.

## 2. Voir Dire

### a) Voir Dire Procedure

Before a jury panel is brought into the courtroom, Counsel will be given copies of the juror information forms. These forms contain basic information about each prospective juror. Counsel will also receive a list of jurors in the order that they will be seated. The jurors will be randomly assigned a juror number and seated according to that number.

The Court will briefly describe the case to the panel, ask Counsel and any *pro se* litigants to introduce themselves and any clients present in court, and read the lists of witnesses to be called.

The Court will then conduct the initial *voir dire* examination consisting of general “sorting” questions. *See* Section II.B.2.b. The questions are asked of the entire panel, and any juror whose answer is “yes” or “probably yes” is asked to raise their juror number. Counsel may make note of that juror’s number for possible follow-up questions.

When the Court has finished asking questions of the entire panel, an effort is made to provide an opportunity for *voir dire* by the lawyers. Counsel for each side may ask questions of the whole panel, individual jurors, or both. Each side (not Party) is limited to time limits set by the Court at the final pretrial conference. Counsel are permitted to ask for additional time if they believe they need it.

### b) Submission of Proposed Voir Dire Questions

The Court will utilize the general “sorting” *voir dire* questions, which are posted at <https://www.wawd.uscourts.gov/judges/lin-procedures> and are meant to screen for hardship as well as familiarity with the case and/or witnesses. General sorting questions proposed by the Parties in advance of trial may also be used. The Parties may submit general sorting questions that can be answered with a “Yes” or “No.” Open-ended questions or multi-part questions are not appropriate for this portion of the *voir dire*. However, follow-up and any non-general sorting questions need not adhere to a particular format.

The Parties shall file a joint submission with (1) agreed-upon *voir dire* questions from the Court’s general *voir dire*; (2) any additional agreed-upon proposed *voir dire* questions; (3) a chart of any disputed proposed *voir dire* questions that includes (a) the proposed question, (b) the objection to the proposed question, and (c) the response to the objection; and (4) a proposed joint neutral statement of the case to be read during *voir dire*. If the Parties are unable to agree on a



joint statement, they shall submit the statement proposed by each Party and reasons (including any applicable legal authorities) for the disagreement. In addition to being filed on the docket, all of these documents must be submitted in Microsoft Word format via e-mail to [linorders@wawd.uscourts.gov](mailto:linorders@wawd.uscourts.gov) and to Kadya Peter, Courtroom Deputy, at [Kadya\\_Peter@wawd.uscourts.gov](mailto:Kadya_Peter@wawd.uscourts.gov). If the Parties suggest changes to the Court's general *voir dire* questions, they should also submit both clean **and** red-lined copies indicating any changes, deletions, or additions to those questions.

Counsel shall not ask any questions submitted to and rejected by the Court.

### 3. Juror Challenges

After the Parties' *voir dire* is completed, the Parties may challenge for cause. Absent extraordinary circumstances, this is done at sidebar or during a recess. The Court will not indicate to the panel who made a challenge for cause. For example, the Court may simply say "Juror No. 3 is excused," or "There are no challenges for cause that will be sustained."

If a juror seated in the box is excused following a challenge, the juror with the next highest number outside the box will be seated.

The next step is peremptory challenges. Each side ordinarily has a total of three peremptory challenges. *See* Fed. R. Civ. P. 47; 28 U.S.C. § 1870. Generally, a form will be provided that each side, starting with Plaintiff, will pass back and forth and on which they will write down each peremptory challenge. This assures that neither side will waste a challenge on a juror already excused by the other side. When each side has completed its challenges (or waived any further challenges), the form is signed and given to the clerk.

The Courtroom Deputy then will read the numbers of the jurors who will remain and will place them in the jury box. The jury will be sworn and impaneled, and the panelists who will not be serving will be thanked and excused.

This method of impanelment usually produces a jury rapidly and fairly. The Parties are, of course, free to request modifications of this procedure.

### C. Jury Instructions

Prior to opening statements, the Court will read the preliminary jury instructions. Each juror will be given a set of instructions to keep with them throughout the trial.

At the conclusion of the evidence, the Court will prepare the final and controlling set of instructions with the Parties. The Parties will be given an opportunity to take exceptions. The preliminary instructions will be collected from the jurors, and the final set of instructions will be substituted and read to the jury. Each juror will be given a set of the final instructions to use during deliberations.

The Court recommends the latest version of the [Ninth Circuit Model Jury Instructions](#) as the preferred proposed instructions. **To the maximum extent possible, Counsel for the Parties**

**shall agree on one stipulated set of proposed jury instructions; only uncertainty in the binding substantive law should prevent such agreement.**

The Parties shall submit a Joint Instructions and Joint Statement of Disputed Instructions (“Joint Instructions Statement”), a proposed Jury Instructions Chart (*see* <https://www.wawd.uscourts.gov/judges/lin-procedures>),<sup>1</sup> and a proposed verdict form by the deadline set by the Court that complies with Local Civil Rule 51. Each instruction shall begin on a new page. In the joint submission, the Parties also shall also notify the Court of objections to any of the Court’s standard generic opening instructions and any suggested modifications. Where disagreements arise, the Joint Instructions Statement shall include the alternate instructions and argument and authority for the instruction not to exceed **two (2) pages** for each side collectively per instruction (*i.e.*, even where the Parties disagree, Co-Plaintiffs must submit only one set of proposed jury instructions, and Co-Defendants must submit only one set). To the extent any instruction relates to and modifies a Ninth Circuit Model Jury Instruction, a red-lined version of the model instruction shall be included with the submission.

The Court will discuss any disputed preliminary instructions at the pretrial conference and rule on them prior to trial. Each side will be permitted to put on the record any exceptions to the Court’s instructions.

The Joint Instructions Statement, jury instruction chart, and verdict form must be submitted in Microsoft Word format via e-mail to [linorders@wawd.uscourts.gov](mailto:linorders@wawd.uscourts.gov) **and** to Kadya Peter, Courtroom Deputy, at [Kadya\\_Peter@wawd.uscourts.gov](mailto:Kadya_Peter@wawd.uscourts.gov).

#### **D. Objections**

“Speaking objections” in the presence of the jury will not be permitted. Counsel must stand, unless an accommodation has been provided, when raising objections and limit the objections to shorthand phrases such as “hearsay,” “lack of foundation,” “asked and answered,” etc. If additional discussion is needed, Counsel must request to approach the bench. However, frequent or protracted bench conferences are discouraged.

Counsel requesting that an immediate jury instruction be given to the jury must provide the Court with the proposed text of the jury instruction.

#### **E. Speaking at the Podium Not Required**

Counsel is required to stand when addressing the Court, a witness, or the jury unless the need for a disability-related or health-related accommodation is readily apparent or requested and granted (*see* Section VI.D of Judge Lin’s Standing Order for All Civil Cases). As a general matter, Counsel will not be restricted to speaking at the podium unless the judge, court reporter, witness, other Counsel, or a juror indicates that they are unable to hear. However, Counsel shall stay at least five (5) feet back from the railing in front of the jury box and, to aid the Court Reporter, shall use the handheld microphone provided by the Court when leaving the podium.

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<sup>1</sup> The chart can be in addition to or in lieu of the table of contents required by LCR 51(g).

**F. Deliberations**

The jury will be given all admitted exhibits, the final jury instructions, and any verdict form and special interrogatories that the Court has decided to use.

Throughout jury deliberations Counsel must remain within twenty (20) minutes of the courthouse to allow the Court to expeditiously respond to any jury notes or a verdict. Counsel must provide the Courtroom Deputy with a telephone number where they can be contacted if leaving the immediate vicinity of the courtroom during jury deliberations.

Unless Counsel object, the jury will not be brought into the courtroom to be excused at the end of the day, nor for resumption of deliberations when the jury returns the following day. Instead, the Courtroom Deputy will excuse the jury from the jury room at the end of the day and collect all exhibits, notebooks, and verdict forms. These items will be returned to the jury room when the jury returns the next morning to continue its deliberations. The jury will be reminded that they are not permitted to discuss the case with anyone.

DATED this 2nd day of January 2024.



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Honorable Tana Lin  
United States District Judge