

Association of Business Trial Lawyers
Survey of Judges

Name:

A. General Protocols

1. Do you prefer/require counsel to stand when speaking?

2. Do you require attorneys to use the lectern?

3. Do you limit the number of trial hours and, if so, when do you advise counsel of the limit?

4. Do you have "dark" days customarily?

5. Do you have standard times for beginning and concluding each day's proceedings?

B. Pre-Trial

1. Do you conduct a hearing pretrial to determine the admissibility of certain documents to avoid foundation questions?

2. Do you require trial briefs? Do you discourage them in jury trials?

3. Do you have any procedures not set forth in the court rules, with respect to submission of motions in limine, exhibit lists and witness lists?
4. Do you permit counsel to inspect the jury room before commencement of the trial?
5. Do you have views on bifurcation of liability and damages phases? If yes, please describe.

C. Jury Selection

1. How do you determine allocation of peremptory challenges when there are multiple plaintiffs and/or multiple defendants?
2. Please describe the manner in which voir dire is conducted.
3. Under what circumstances will you permit the use of juror questionnaires?
4. Do you consider voir dire questions that do not directly relate to case issues to be inappropriate?

D. Opening

1. Do you discourage opening statements in bench trials?
2. Do you limit the time for an opening statement?

3. Must counsel exchange copies of all exhibits, time lines or other materials to be displayed during opening statement?

E. Presentation of Evidence

1. When do you require witnesses to be present at the courthouse?
2. Do you permit jurors to be provided binders that contain copies of pre-marked, pre-admitted exhibits
3. Under what circumstances do you examine a witness yourself?
4. Do you allow sidebar approaches for objections?
5. Do you allow jurors to take notes during all phases of the trial?
6. Do you allow jurors to submit written questions to be posed to witnesses?
7. Do you prefer that counsel move an exhibit to be admitted into evidence at the time it is the subject of questioning, or do you simply mark the exhibits for identification and discuss/argue admissibility later/at the conclusion of the trial?
8. Do you prefer that some direct testimony be submitted in writing?

9. Do you automatically provide a complete set of admitted exhibits to the jury? Do you provide such a set on request? Do you only provide copies of individually requested exhibits?

F. Closing

1. Do you limit the time for a closing argument?

2. Are there types of conduct during final argument you find objectionable?

G. Jury Instruction

1. When do you instruct the jury?

2. For state court, do you have a policy that CACI, not BAJI, should be used?

H. Verdict

1. Do you have any rules regarding the preparation and submission of special verdicts?

I. Post-Trial

1. Do you normally receive post-trial briefs in bench trials?

J. Technology

1. Does your courtroom have an audio-visual coordinator counsel may contact?
2. What audio-visual equipment is available in your courtroom? May counsel bring in equipment?
3. Do you permit presentation of digitized exhibits through audio-visual displays?
4. Do you permit the playing of video portions of depositions for impeachment purposes?