

PREFERENCES

Jose E. Martinez
U.S. District Judge

- I. Before Trial
 - A. Jury Instructions/Proposed Findings of Fact and Conclusions of Law
 - 1. Must be filed before jury selection in accordance with trial-setting order
 - B. Motions in Limine
 - 1. Usually not granted before trial, usually denied without prejudice to be renewed at trial
 - 2. File before trial in accordance with trial-setting order
 - C. Electronic Equipment
 - 1. File motion and submit proposed order to be signed
 - 2. Visual aids/screens should not infringe upon jury's view of witness and Defendant (criminal cases)
- II. Trial
 - A. Microphones
 - 1. Must use either handheld (when moving about the courtroom) or lectern
 - 2. The Court prefers counsel to use the lectern microphone
 - B. Voir Dire
 - 1. The Court will explain the nature of the case, the burden of proof and will then proceed to give some preliminary instructions to the jury.
 - 2. The Court will then conduct general voir dire covering knowledge of the case, acquaintance with participants, importance of following the Court's instructions on law, and impartiality in general.
 - 3. The Court will first ask each juror in the entire panel to stand and give his or

her general background. The Court will then ask questions of the entire panel regarding the juror's prior experiences. These questions are contained in a form questionnaire that is distributed to the panel members before they enter the courtroom. The Court will ask follow-up questions as appropriate

4. In some cases, counsel will then have a brief opportunity to ask questions that the Court has not already asked, or to follow up on an answer to the Court's questions. Counsel are usually allocated five to ten minutes per side for this purpose.
5. Counsel should not ask questions that:
 - a. have already been asked;
 - b. anticipate instructions on law that have not been given;
 - c. ask a juror to speculate on the juror's verdict if certain facts are proved;
 - d. solicit a juror's opinion as to law or legal terms;
 - e. are clearly irrelevant and seek to embarrass or establish rapport with a juror; or
 - f. questions that are grossly unfair or embarrassing to the juror and questions where the average juror cannot possibly know the answer.
6. The Court will not always wait for opposing counsel to object. The Court will interrupt voir dire and rule out questions that violate any of the foregoing ground rules.
7. If it appears a potential juror has a language problem (or other readily-apparent reason not to be a juror), the Court may not ask additional questions once it is satisfied that the juror's problem is sufficient to remove the juror for cause.

C. Witnesses

1. Ask to approach
 - a. It will not be necessary to ask to approach the witness every time, however, it would please the Court to ask at least once for each individual witness

2. Do not use as discovery
 3. Objections
 - a. No speaking objections
 - b. If possible, when objecting, use one word or rule number (which can be found in the rules of evidence/procedure)
- D. Have a copy of the Rules of Evidence with you in the courtroom
- E. Minimize sidebars
- F. Be prepared