

Welcome to Department 12 & Trial Rules

Judge George C. Eskin

You are invited to attend all public proceedings in Department 12, where the judge and support staff strive to establish and maintain a pleasant environment for the conduct of court proceedings that are susceptible to contentious encounters. Attorneys and litigants can expect a formal, fair and comfortable courtroom for contested hearings and trial, and we expect the participants to act accordingly with the hope that we can achieve the goal of providing a positive litigation experience.

Debbie Fox is Judge George Eskin's secretary and can be reached for scheduling purposes at 805-882-4608. Ms. Fox is the person to contact prior to hearings and trial to obtain a sense of the court's calendar.

Gerri Cota is the Judicial Assistant assigned to Department 12. During trial, Ms. Cota is responsible for administering the affirmation to witnesses, maintaining a record of the proceedings, preparing minute orders for all court activities, and marking and preserving exhibits.

Deputy Sheriff Geoff Roberts is the assigned bailiff in Department 12 Bailiff, and he can receive messages at 805-882-4530. Deputy Roberts provides security during all courtroom proceedings and is charged with the duty of monitoring the jury during its deliberations. If witnesses are excluded from the courtroom, he will check with everyone who enters the courtroom to ensure compliance with the order. He will not tolerate rude, noisy or boisterous conduct from any source.

TRIAL RULES

Prior to the trial call, all **counsel shall meet and confer** to

1. **prepare a consolidated list of all prospective witnesses** who may be called during the trial,
2. **exchange and review trial exhibits** to be used in the trial, and
3. **submit CALCRIM jury instructions** [Number and Title only] approved and requested by all parties. When counsel appear for the trial call they will be expected to be ready to proceed with trial immediately.

PRETRIAL MOTIONS

All pretrial motions, including motions *in limine* accompanied by a memorandum with supporting points and authorities must be served and filed at least ten court days, all papers opposing the motion at least five court days, and all reply papers at least two court days before the time designated for the hearing. Rule 4.111, California Rules of Court. If counsel are aware of other issues that should be heard and decided by the judge outside the presence of the jury, the judge should be advised at the commencement of trial. Appropriate time limits or scheduling of hearings outside the presence of the jury will be established so jurors will not be inconvenienced by last-minute conferences or delays.

TRIAL CALL/READINESS CONFERENCE

On the date designated for “trial call,” the Court will conduct a readiness conference Pursuant to Rule 4.112 of the California Rules of Court. Trial counsel must appear and be prepared to discuss the case and determine whether the case can be resolved without trial. The prosecuting attorney must have authority to settle the case. The defendant must be present in court. Except for good cause, the Court will hear and decide any pretrial motions before or at the readiness conference.

PRE-VOIR DIRE CONFERENCE

Before jury selection begins, the Court will conduct a conference with counsel pursuant to Rule 4.200 of the California Rules of Court to determine: (1) a brief outline of the nature of the case, including a summary of the charges; (2) the name of prospective witnesses; (3) the prosecution’s theory of culpability and the defendant’s theories; (4) the procedures for deciding requests for excuse or deferment for hardship and challenges for cause; (5) areas of inquiry and specific questions to be asked by the court and by counsel and time limits on counsels’ examination; (6) the trial schedule and estimated length of trial; (7) the number of alternate jurors to be selected and the procedure for their selection; and, the procedure for any *Wheeler/Batson* objections. Counsel will be invited to submit in writing all questions counsel requests the Court to ask of prospective jurors. Counsel shall also provide the Court with list of proposed jury instructions. [See below.]

JURY SELECTION

The Court will conduct its initial examination of prospective jurors. After the court’s inquiry, counsel will have a **reasonable** opportunity to conduct supplemental examination of prospective jurors as provided by Code of Civil Procedure section 223. The Court will set time limits for counsel, subject to the following limitations:

1. repeating or merely re-phrasing questions previously asked,
2. pre-instructing, argumentative and suggestive questions; and
3. challenges for cause will be first addressed outside the presence of jurors.

The court will invite prospective jurors to answer potentially embarrassing questions in chambers.

EXHIBITS

Trial exhibits shall be marked by the clerk immediately prior to the commencement of testimony by the first witness to whom an exhibit will be shown in the trial and should be pre-numbered “1” through “___” by the trial attorneys. Stipulations regarding the admissibility of exhibits are encouraged to expedite trial proceedings. Admissibility of pre-marked trial exhibits not subject to admission by stipulation prior to trial will be determined by the court when presented during trial. Any exhibits that are not shared with other counsel prior to trial, *e.g.*, those used for impeachment purposes, must be approved by the court at a conference in chambers prior to their use at trial. A projector is available for use at trial and exhibits need not be enlarged or mounted on poster board for use before the jury. Training on the projector should be arranged with the Bailiff or Judicial Assistant prior to the start of testimony in the trial. Email: dfox@sbcourts.org.

JURY INSTRUCTIONS

Counsel shall provide the Court with a list of CALCRIM instructions subject to stipulation at the Pre-Voir Conference. Counsel shall also provide the court and all other counsel **at the same time** a separate list of requested jury instructions upon which they cannot reach agreement. The court will instruct the jury on some matters before opening statements are made. The usual procedure, however, is for the court to instruct the jury on all issues before closing arguments. Counsel shall present any special jury instructions in printed form as soon as they determine the need for them and shall provide all other counsel with a copy along with citations to support the use of the instructions. The court will read the jury instructions from a PowerPoint presentation prepared by the Court before trial. Jurors will receive an individual handout of the “slides” for use during deliberations.

WITNESSES

Witnesses must be prepared to testify when called and parties who fail to have witnesses ready to proceed may be subject to appropriate sanctions. It is the responsibility of counsel to have witnesses ready and available when called. Counsel should be especially careful of the availability of expert witnesses for trial, and should make arrangements for the appearance of these witnesses for trial when the trial date is first assigned. **The Court must be notified promptly of any anticipated scheduling problems.**

During the presentation of a party’s case, opposing counsel must be given a notice of the expected witnesses for the following court day and the order in which they are to be called. Opposing counsel must be notified of any schedule changes promptly. All witnesses are excluded from the courtroom during the trial. Counsel are expected to monitor this order.

Counsel shall advise their witnesses not to discuss their testimony with any other witness after the witness testifies. Counsel shall advise parties and witnesses that “body language” such as nodding heads, rolling eyes, grimaces, gestures, comments, sighs and other expressions are derogatory to the judicial process and will not be tolerated.

JUROR CONTACT

The court will instruct the jurors that they are not to have contact with attorneys or witnesses until they are released as jurors. They will also be instructed that counsel may discuss the case with them after the trial, but only with the juror’s permission and only at a reasonable time and place. Counsel must never criticize a juror for the verdict or reveal evidence which was not admitted at trial. Counsel are not to ask questions or make comments that are intended to harass or embarrass a juror or to influence the juror’s actions in future jury service. [Rule 5-320D, State Bar Rules of Professional Conduct]

COURT REPORTER

Counsel shall instruct witnesses to wait for the lawyer who is asking questions to complete the question and provide an opportunity for the judge to rule on any objections before answering the question. The court reporter cannot report the voices of two people

speaking simultaneously. Counsel shall not ask the reporter to mark notes during court sessions. If an objection requires argument, it will be conducted at side bar, at a recess or in chambers. Counsel may request that matters decided at side bar be placed on the record at the end of the trial day.

GENERAL

Attorneys and self-represented litigants are expected to be familiar with the Local Rules of the Santa Barbara Superior Court accessible on the Court's web site. Attorneys and self-represented litigants are expected to maintain a respectful attitude toward opposing counsel and parties, jurors, witnesses, the court staff and judge. Formal titles shall be used at all times for everyone, and opposing counsel shall never be addressed by third person pronouns, *i.e.*, "she" or "he."