

# **Division 7 Rules**

**DAVID W. HAUBER, District Court Judge**

**DIANE SCHRADER, Administrative Assistant / Bailiff**

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**(913) 715-3810**

**KELLY MORRISON, C.S.R.**

**OFFICIAL COURT REPORTER**

**(913) 715- 3813**

## **1. Communications with the Court.**

All communications with the Court should be through the administrative assistant who will provide any instructions for parties, represented by counsel or otherwise, that are not provided in these guidelines. Any documents which are submitted to Division 7 for signature should be placed in the AIN@ basket on the Administrative Assistant=s desk (including all decrees of divorce) Only Protection from Abuse or Stalking Orders or TRO will await immediate signature from the Court. All other documents, unless the Court has indicated otherwise, are to be dropped off. Do not have another Judge sign any of Division 7 documents, unless Judge Hauber is on vacation. If he is on the bench, counsel will need to drop off document in the “IN” Box on the administrative assistant’s desk.

## **2. If You Are Late.**

The Court reserves the right to rule on a matter if counsel or a party fails to show up for a hearing on time. However, the Court understands that in some instances counsel or a party may be held up or unable to attend a scheduled hearing. If you cannot attend or are running late please immediately call the administrative assistant at (913) 715-3810, to let the Court know you will be late or cannot attend, and the reason for the same.

## **3. Local Court Rules.**

Please check the local court civil rules as to more specific questions on briefing guidelines, withdrawals from representation, reasonable times for deposition notices (five days), case assignments, etc.

## **4. Conduct in Court Proceedings.**

In addition to local court rules on decorum, Division 7, expects all participants, including self-represented parties, to exercise common sense and appear in court in appropriate dress and with appropriate conduct. Participants who appear in torn jeans, shorts, tank tops, etc., chewing gum, or conversing in ordinary tones in the courtroom show a lack of respect for the Court and for other parties. Particularly in domestic cases, but also in other cases, young children should not be brought into the courtroom.

In ordinary civil cases, the Court wishes to allow parties flexibility in arguing matters to a jury. In that respect:

- § Counsel or parties representing themselves shall stand at the speaker's lectern to address the court, witnesses or jurors, unless otherwise allowed. In jury cases, the Court will allow parties, during opening statement and closing argument to freely move about the well, particularly because of the configuration of the courtroom to utilize demonstrative exhibits or the courtroom screen, without directly touching or approaching the jury box.
  
- § All attorneys and parties appearing in any hearing ordinarily shall use the courtroom entrance door. But, if no jury is present, and counsel (or self-represented parties) are directed to chambers for a conference, assuming the jury is absent, the jury room door that is directly across the hall from chambers may be used for convenience.

## **5. Electronic Devices.**

Please turn off all electronic devices. Counsel are responsible for monitoring their clients, staff and witnesses as to this rule. It is extremely annoying and distracting for chimes, and sound effects to interrupt proceedings. The Court understands that such devices often are used in trials to track evidence and depositions, etc., or may be used for calendaring purposes. During ordinary hearings, the Court will direct counsel or a party to consult such devices but otherwise they should be turned off. During a jury trial, any party using the same shall inform the Court in advance so there are no misunderstandings or distractions during trial. No recording of any proceeding is allowed by electronic device other than by the Court.

**6. Motions.** All motions requiring a hearing should, ordinarily, list the hearing date, time & division for the motion prominently below the case number in the caption of the case, after first consulting with the opposing side and the administrative assistant. Obviously, you should be aware of response times required for opposing briefing. **All** briefing related to the motion shall carry forward this hearing date. Only in cases of emergency or meeting a deadline and where the administrative assistant is not available should there be any deviation from this rule. The Court's docket management requires it to pair common briefing based on specific calendaring and chambers copies related to the same are necessary to ensure the Court can read only those matters related to scheduled hearings. Please observe this rule. The court requires a paper chambers copy to be mailed to the administrative assistant's office.

## **7. Motions to Compel.**

Please refer to K.S.A. 60-237(a)(2),(4). Motions to compel require a certification that the movant has in good faith conferred or attempted to confer with the party who has not provided the required discovery. That means a real effort and not just one phone call or letter. The Court is willing to go through such discovery disputes only after the parties have pared down the issues by such meet and confer process. Stale discovery issues that are more than 45 days old, as noted in the Case Management Order form used by Division 7 usually mean a party is reaching or that the matter is not important enough to pursue. The Court reserves the right to reject any such motions unless there is a good explanation for the delay in pursuing the discovery sought. The Court ordinarily follows federal district court decisions on discovery issues which are not covered by state appellate decisions,

particularly on identically-worded civil procedure provisions. A good example of the Court's approach to discovery is *Copp v. Sparks*, Case No. 06CV2956.

## **8. Deposition Disputes.**

The Court recognizes that disputes may arise during a deposition and that reconvening a deposition may be expensive and problematic. Therefore, the Court is willing to handle phone conferences over *significant* deposition disputes, such as a witness refusing to answer, an improper direction to a witness not to answer a question, etc. The caveat in this willingness is both court availability and counsel contacting the administrative assistant with necessary contact information or phone numbers. The Court will expect that such phone contact will include all persons who will be impacted by the ruling, including witnesses. The court reporter at the deposition shall record the hearing.

## **9. AAgreed@ or Other Orders Submitted for Signature.**

If you have any AAgreed@ orders, they truly should reflect a signature of all impacted parties to avoid having such orders set aside if a party has not consented. Ordinarily, when documents are signed, they will be filed with the Clerk's Office. If any party refuses to sign order, contact the Court for a hearing. See ¶ 10 which applies to orders.

**10. Chamber's Copy or Orders – I do not print out Fax, E-file or Email chamber's copy or Orders.** The Court prefers chamber's copy on all significant matters that will require a hearing or decision. If attachments to briefs are extensive, tabs are preferred *on chamber's copy only* because the clerk's office will otherwise scan such matters and does not want tabbed attachments. **Due to budget constraints, we cannot accept or print off - faxed, e-filing or emailed documents.** Therefore, we request that you file all such documents but provide hard copies of all chamber's copy. If a division email document is required (only when requested by the Judge), please email **Diane.Schrader@jocogov.org** and provide any attachments (*e.g.* briefs) in a format that the Court will be able to use in order to cut and paste from. The Court prefers Word Perfect or Word formats. **Do not send e-mails directly to the Judge, all e-mails go through A.A. Diane Schrader, unless the Court requests you to e-mail directly.**

**11. Pretrial Conferences.** There is ordinarily only one pretrial conference from which a pretrial order should issue. This is to be distinguished from the final trial conference (which is also pre-trial). The pretrial conference referenced here is the one specifically noted in the Case Management Order and it supersedes all the pleadings. The Court expects the parties to use a pretrial questionnaire comparable to the pretrial form used at its website which can be located at the following link: **[http://courts.jocogov.org/local\\_app\\_c.aspx](http://courts.jocogov.org/local_app_c.aspx)**. In certain kinds of cases, such as medical malpractice, the Court may require more detail. If the parties can agree on a pretrial order, a pretrial conference may not be necessary unless the Court otherwise requires it because of the nature of the action or parties. If you have submitted a pretrial order, once it has been mailed in, contact A.A. to take hearing off calendar. If you do not submit an agreed pretrial order, counsel to personally appear and bring their version of the pretrial order with them. **Domestic cases will be expected to submit the pretrial questionnaire at the following link: [http://courts.jocogov.org/local\\_app\\_d.aspx](http://courts.jocogov.org/local_app_d.aspx).**

**12. Final Trial Conferences/Motions in Limine.** Prior to the Monday trial date, the Court will hold a Final Trial Conference. This may either be the prior Friday or the next previous Friday, depending on what is needed. In complex or more involved cases, the Court may require more lead time to rule on motions in limine, deposition objections (particularly so that videotaped depositions may be edited after rulings). Accordingly, the Court will have to depend on counsel or the parties to inform the Court prior to this conference as to how much time will be needed. This also will require counsel and/or the parties to **number your limine topics** in one pleading. **Please submit (U.S. mail or delivered to my office) chamber's copy, at least 2 weeks** prior to your **Final Trial Conference date**. At least a week before the Final Trial Conference, submit highlighted deposition condensed transcripts with objections, etc., that require rulings. This will expedite presentation of deposition testimony so that there are no delays during trial.

**BRING THE FOLLOWING WITH YOU TO THE FINAL TRIAL CONFERENCE HEARING.**

**Trial Exhibit Notebooks.** Exhibits are to be placed in 3-ring binders and tabbed. Originals will be in a witness binder. Additional binders will be required for opposing counsel and the Court. If there are numerous volumes (binders), break up the exhibits so that they are not difficult to turn during testimony. Each separate volume should be clearly marked on the outside. Example: Volume 1, Exhibits 100 - 150. Multiple page exhibits should have a bates number or some reference number if not already included on the exhibit. This is particularly true in voluminous exhibits such as medical records. Do not put multiple photo marked as one exhibit number. **Each photo should have its own exhibits number.**

**Deposition Transcripts.** Bring a copy of each deposition to be used by providing one to the witness, the Court, and opposing counsel. Depositions read or shown at trial should have an edited version reflecting what the jury heard or saw to eliminate unnecessary court reporter transcription. **Do not place the depositions on your Joint Exhibit List or in the exhibit binders. This delays submitting the exhibits to the jury.**

**Jury Equipment Assistance.** Notify the Administrative Assistant/Baliff **prior** to schedule bringing audio/video equipment into the courtroom. Equipment to be set up on the Friday prior to the Jury Trial date.

### 13. **Jury Trials.**

**\*\*\*\*\*Deliver or by U.S. Mail the Following directly to Administrative Assistant Office By NOON the Wednesday Before the Trial Date\*\*\*\*\*:**

**Joint Exhibit List.** This should begin with #1 and allow for a gap between plaintiff=s exhibits and defendant=s exhibits. The parties should agree on what series will constitute each party=s series of exhibits. *E.g.*, if plaintiff exhibits are to be less than 100, then defendant can begin numbering at 200. **See the back of these rules, for a format sample of Exhibit List.**  
**Please be sure to file the original with the Clerk's Office.**

**Witness List.** This should be a narrowed down version of the witnesses who most likely will be called, as opposed to the universe of witnesses listed on prior lists. This allows both sides to prepare accordingly and saves valuable court time. Counsel should cooperate by consulting with each other on witnesses they intend to call each day before trial. **Please be sure to file the original with the Clerk's Office.**

**Set of Jury Instructions and Verdict Form.** The Court needs both a clean copy and one with PIK reference numbers. **Email these to the Administrative Assistant 3 days prior to the Final Trial Conference.** On the clean set, there should be a face sheet with the caption of the case. Do not combine instructions. Double-space each instruction. ***Do not put page numbers on the individual instructions.*** The verdict form should have a caption. **Submit by U.S. mail or hand deliverer to my office, hard copies of the clean and dirty (PIK) instructions at the Final Trial Conference.** Also, Submit all instructions by e-mailing to Administrative Assistance so they can be changed at the instruction conference if necessary without delaying the jury trial. **Please be sure to file the original with the Clerk's Office.**

**Case Status for Trial.** Unless advised by the Court, be prepared to go forward on the date you are scheduled. **Do not call the administrative assistant to check if your case is going forward.** In some instances, the Court will advise counsel if another civil division will try the case, usually the week before trial. Accordingly, it is incumbent upon counsel to immediately inform the Court if a case has settled so the Court may inform other cases of any need for rescheduling.

**Jury Selection.** The Court will seat 14 jurors in the jury box and 7 jurors outside of the jury box for *voir dire* in most cases. During this process and during any necessary breaks from the same, counsel shall instruct their clients and witnesses to stay away from potential jurors and

avoid contact with the same.

**Invoking the Rule, Policing Witnesses, Etc.** On motion of any counsel, all witnesses will be excluded, unless an agreement to the contrary is approved by the Court. Counsel are responsible for monitoring the courtroom and their witnesses to meet the spirit of the rule against allowing witnesses to preview the testimony of another witness. This invocation shall occur prior to jury selection so no witness appears in the *voir dire* process. Please notify the Administrative Assistant/Bailiff if any witness or party has any special or physical needs.

**Witness Scheduling.** Be ready to go with your witnesses so that there are **no gaps or delays** in trial unless you already have notified the Court of some particular scheduling problem.

**Exhibits Admitted Before Being Shown to the Jury.** Exhibits are not to be published to the jury during testimony without prior permission by the Court or by agreement with opposing counsel. All exhibits must be shown to opposing counsel (except for impeachment evidence) before jury selection.

**Objections to State Only the Legal Grounds.** Speaking objections or editorial comments on witnesses, counsel, etc. are improper. Make objections without coaching the witness or posturing in front of the jury. If an objection in open court will not suffice, approach the bench for a sidebar conference. The Court may address the matter outside of the hearing of the jury or, in certain cases, the witness.

**Approaching the Witness Etc.** You may approach a witness with permission from the Court. You need not repeat the request thereafter. Stay only as long as necessary to accomplish your purpose but the Court will not allow counsel to stand at the shoulder of the witness when both counsel and the witness have a copy of the same document and questioning of the same can be accomplished from the lectern or through use of a demonstrative exhibit. The Court will be sensitive to counsel attempting to intimidate a witness by physical proximity. You may operate in the well so long as it is physically possible but be conscious of the jurors and their need to view the witness. Be conscious of the limited space and wiring around the court reporter who must hear you and the witness as well which is difficult if you are walking around and away from the microphone.

**14. Court Trials.** In *non-domestic* bench trials, the Court will **require proposed findings of fact and conclusions of law** following the conclusion of trial. Counsel **to submit proposed findings of fact and conclusion of law a week in advance of trial**, trial briefs will be important to educate the Court on your case. The Court recommends that the parties obtain a transcript of trial in lengthier or more complicated trials so that specific references to the record may be made on proposed findings of fact. In such instances, the parties shall share the cost of the original transcript. See #13 for preparation of Joint Exhibit List, Witness List, Exhibit Binders for trial and copy of transcript for the Court.

## **FAMILY LAW**

**15. Approvals of Divorces** - The Court will sign off on divorce decrees in which **one party** is represented by counsel. Pro Se party signature to be notarized.

**Divorce trials** - the Court will expect the parties to mail a spreadsheet with all necessary data to decide disputed issues as to a division of property or assets.

A trial brief would be recommended. Domestic Relations Affidavits shall be filed by both parties 5 days prior to trial.

**Exhibits** – Plaintiff is to use Exhibit #1 etc. Defendant is to use Exhibit #100 etc.  
Please MAIL a hard copy of the Exhibit List 3 days prior to the trial date.  
Please place Exhibits in a Binder.  
Please provide 1 Binder for the Court and 1 Binder for the Witness, the day of trial.

**Witness List** - Please MAIL a hard copy of the Witness List 3 days prior to the trial date.

**Domestic cases will be expected to submit the pretrial questionnaire at the following link:**  
**[http://courts.jocogov.org/local\\_app\\_d.aspx](http://courts.jocogov.org/local_app_d.aspx)**

