

Trial Procedures  
In the Courtroom of  
Judge David M. Gormley  
Court of Common Pleas of Delaware County

Introduction

These procedures in my courtroom are intended to help you present your case efficiently and effectively at trial.

Please try to anticipate any evidentiary issues that will spark disagreements during the trial, and raise those issues with me at a final pretrial or – at the very latest – before the jury-selection process begins. The more time you give me to think about and to research any contested matters, the more likely I will be able to give the parties a reasoned and correct ruling when the issue actually arises during the course of a trial. Minimizing surprises will maximize the efficiency of our time together in trial and will increase the soundness of my rulings during the trial.

Please treat other trial participants – lawyers, witnesses, jurors, court staff members, and me – the same way that you would like to be treated yourself. Make personal courtesy and professional integrity the hallmarks of your advocacy.

Decorum

1. The attorneys and parties should be in the courtroom and ready to begin at 8:30 a.m. on the first morning of trial.
2. Please be on time, both when you arrive for the start of a trial and when you return from any breaks during the course of the day.
3. The parties and counsel should be present and at their respective counsel tables before the jury enters the courtroom, and should remain there until after the jury has left the courtroom.
4. Argument or other discussion between opposing counsel during a trial is not permitted. All remarks should be addressed to me rather than to opposing counsel.

5. Please address witnesses and other lawyers by their surnames rather than their first names during a trial.
6. Please stand when you are speaking with me during the trial.

### Voir Dire & Opening Statements

7. Your voir dire examination, your opening statement, and your closing argument will be made from a lectern.
8. Do not quote the law or argue your case during voir dire or your opening statement. Do not examine potential jurors about the law or about possible instructions from the court. I will provide appropriate instructions on the law at the appropriate time.
9. During the jury-selection process, do not ask hypothetical questions using assumed facts. Do not try to indoctrinate the jury about any particular issues that are likely to arise during the trial.
10. Do not ask jurors what kind of verdict they might render in various circumstances.
11. All challenges – both for-cause and peremptory – will be heard and decided at sidebar, and I will not disclose to the jury the name of the party who has exercised a challenge.

### Examination of Witnesses

12. Please provide your list of potential witnesses to me at least one day before the trial, together with a list of the attorneys with whom you practice law. I will want to read both of those lists to the prospective jurors during the jury-selection process.
13. Please instruct your witnesses that they will not be permitted to sit in the courtroom until they are called to the witness stand.
14. You may question witnesses during your direct and cross examinations either from your counsel table or the lectern. Please

choose one or the other, and limit your movement during your questioning.

15. Wherever you conduct your examination of witnesses, you should stand while doing so.
16. Please instruct your witnesses to answer questions with courtesy. Evasive answers, answering a question with a question, or disrespect toward opposing counsel are not acceptable in the courtroom.
17. Please wait until the witness has finished an answer before asking another question.
18. Please do not by your actions, inflection, or expression indicate disbelief of any witness's answer.
19. Do not shout at or ridicule witnesses. All witnesses deserve your courtesy and respect, and the untruthful or hostile witness can be examined firmly and extensively without abuse.
20. Attorneys' words or actions that have the effect of intimidating, embarrassing, or degrading a witness will not be tolerated.
21. Before approaching a witness to show the witness an exhibit, please show the exhibit to opposing counsel.
22. You do not need to ask permission from me to approach a witness when you wish to show the witness an exhibit. Once you have finished showing the exhibit to the witness, however, you should return to the lectern or your counsel table to continue your direct or cross examination.
23. Counsel is responsible for ensuring that witnesses speak loudly and clearly enough so that their testimony can be easily heard and understood by all members of the jury.
24. Only in rare instances will I permit recross examination, and only where the scope of redirect has markedly exceeded the scope of cross examination.

25. I usually allow jurors to ask questions of witnesses in accordance with Criminal Rule 24(J) or Civil Rule 47(F). Any concerns by the parties about that practice should be raised by counsel before potential jurors enter the courtroom for the first time.
26. I do allow jurors to take notes in accordance with Criminal Rule 24(I) or Civil Rule 47(E).

### Objections

27. Please stand when making an objection, and direct your objection only to me.
28. When objecting, state only the word "Objection." If I need additional information, I will ask you and opposing counsel to approach for a sidebar conference. You are not to make any speeches, to repeat testimony, or try to guide a witness's testimony with your objections.
29. Once I have made a ruling on an objection, please accept that ruling and move on with the trial rather than continuing to contest the issue. Your objection is already noted in the record.

### Exhibits

30. Please mark your exhibits before trial, and provide copies before the trial to opposing counsel and to me.
31. If you anticipate objections to any exhibits, please raise those issues before the day of the trial so that we can discuss them and I can complete any necessary research on the question.
32. Be sure to refer to the appropriate exhibit number or letter when showing an exhibit to a witness.
33. Please move for the admission of exhibits during sidebar conferences or juror breaks when the jurors are not present.

34. Please share with me and with opposing counsel before the trial any sketches, models, diagrams, or other demonstrative evidence that will be used during the trial or during your opening statement.
35. Any demonstrative evidence prepared solely for closing argument should be shared with opposing counsel at the earliest possible time, but in any event no later than 30 minutes before the start of the arguments.

### Jury Instructions

36. I will prepare the jury instructions and will share those draft instructions with all attorneys before you deliver closing arguments.
37. Any requests from you for special jury instructions should be delivered to my office and to opposing counsel at least one day before the trial, together with relevant case citations that support your requests.

David M. Gormley  
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