

Judge Merrell's Trial Rules

1. All motions *in limine* must be in writing and bear the Court's stamp indicating that the appropriate motion fee has been paid. **All motions *in limine* are due in chambers by 4:00 p.m. on the Wednesday prior to trial** unless there is a previous order in place. Any oral argument on motions *in limine* shall be heard at 9:00 a.m. on the day trial is to begin. The Court shall rule on said motions at the earliest time possible thereafter.
2. Court hours will be from 9:00 a.m. to 4:30 p.m. with break for lunch. Court will start promptly so as not to cause any delay for the jurors.
3. The attorneys are directed to meet and confer regarding settlement prior to the trial date. If no settlement is reached prior to the trial date, the attorneys are directed to meet and confer with regard to any undisputed facts and to provide the Court with a written document outlining any agreed upon stipulations. The attorneys are further directed to meet and confer to discuss other issues of admissibility and apprise the Court of any particular issues known to the parties **one week prior to start of trial.**
4. Pleadings are to be pre-marked. Every effort is to be made to pre-mark all exhibits. Parties are directed to meet and confer with regard to proposed exhibits, and if the parties agree to the admissibility of any exhibit, please so indicate to the Court.
5. **The following must be provided to the Court by 9:00 a.m. one week before the start of trial:**
 - a. Proposed jury charges and a proposed verdict sheet are due **both in written form and via e-mail to kmcardle@courts.state.ny.us** (This e-mail address is not to be used for transmission of any other communications or papers or for any other purpose without prior permission of the Court.) Attorneys are directed to list the PJI section numbers and the title, as well as the text of the PJI section requested **in full**. If there is a request that the Court deviate from the standard PJI charge, the requesting attorney must provide a case citation and copy of each case with the portion supporting the proposed charge **highlighted**. Please do not request PJI charges 1:2 - 1:41. These charges form part of the Court's "boiler plate" charges. Additionally, PJI charges 1:90 (expert witness); 1:91 (interested witness); 1:94 (use of pre-trial deposition upon trial) and 1:97 (special verdicts) will be charged when applicable and these charges need not be requested;
 - b. The names of expert witnesses and areas of expertise and copies of all expert disclosures; and

- c. Copies of all deposition transcripts of the parties and copies of all transcripts of deposition of all such non-party witnesses that the attorneys reasonably expect to use at time of trial.
6. If any videotape is to be used, the attorneys must provide the videotape, accompanied by a transcript of the testimony contained therein, with those objections that the attorneys request the Court to rule upon noted with highlighter and post-it tabs. **The transcript with noted objections is due in chambers by 9:00 a.m. one week prior to the start of trial.**
7. If any deposition transcripts are to be used at time of trial, the attorneys are directed to consult amongst themselves prior to the time of trial and shall make a good faith effort to agree upon the portions of deposition testimony to be offered into evidence without objection. The attorneys shall redact from the testimony to be read any questions and answers that are irrelevant to the point for which the deposition testimony is offered. Each party shall prepare a list of deposition testimony to be offered by it as to which there is no objection and, identified separately, a list of deposition testimony as to which objection has been raised. The parties are directed to meet and confer in a good faith attempt to resolve such objections.

If any such objections remain after the conference by and between the attorneys, each party shall submit its list of deposition transcripts to the Court, with copies to all other counsel, together with a copy of the portions of the deposition testimony as to which objection has been made **one week before the start of trial. The objections must be submitted to the Court with appropriate memoranda of law concerning the issues of admissibility raised by the objections.** Such objections will be heard at the same time as the motions *in limine*. The Court will rule upon the objections at the earliest time possible after hearing oral argument by and/or having consultation with counsel.

Any relief from the above rules is only by prior Court approval, with notice to all counsel.