

ERIC I. LONG
U.S. MAGISTRATE JUDGE

SUMMARY JURY TRIAL PROCEDURE

Central District of Illinois Local Rule 16.4 concerning Alternative Dispute Resolutions provides that the parties may request a Summary Jury Trial. The Rule defines a Summary Jury Trial as a non-binding pretrial procedure in which the parties try their cases by narration with a Judge presiding. The Rule indicates that the verdict or verdicts will serve as an aid in the settlement process. The Rule further provides that any civil case triable by jury may be assigned for Summary Jury Trial when all parties consent to the proceeding. The proceeding will be conducted by a Judge other than the assigned Judge. The Rule provides that the procedures to be followed should be set in advance by the Judge who is to preside in light of the circumstances in the case.

The following are the general guidelines for Summary Jury Trials (SJT) before U.S. Magistrate Judge Eric I. Long.

1. The SJT process will be completed in one day.
 - a. Clients are expected to attend the SJT.
 - b. The SJT will begin at 9:00 a.m. Counsel and clients should appear at 8:30 a.m.
 - c. SJT proceedings are not open to the public and proceedings will not be recorded.
 - d. All statements, documents, and representations relating to the SJT shall be subject to Federal Rule of Evidence 408.
2. Five (5) working days before the SJT, counsel shall submit confidentially to the Court a trial brief regarding the issues of law and fact.
 - a. All confidential information should be submitted by email to the Court (long@ilcd.uscourts.gov).
 - b. The brief shall not be provided to opposing counsel or filed with the Clerk.
 - c. The brief shall not exceed ten (10) pages, although the Court may allow additional pages at the oral request of a party.
 - d. The brief shall include the following:
 - i. Statement of potential evidence admissibility problems,
 - ii. Statement relating to contested issues of fact,

- iii. Statement relating to contested issues of law,
 - iv. List of witnesses to be proffered at the SJT,
 - v. List of exhibits to be used at the SJT,
 - vi. Proposed voir dire questions, and
 - vii. Proposed jury instructions.
 - 1. Instructions should be limited to burden of proof, elements, damages, and separate consideration of each claim and each party, and
 - 2. Additional proposed instructions, as needed.
 - 3. The Court will give preference to applicable Seventh Circuit Pattern Jury Instructions.
- 3. Five (5) days before the SJT, counsel shall submit by email a joint statement to the Court, without filing, that includes the following:
 - a. A joint statement of the case, which the Court will read to the jury,
 - b. A statement of uncontested facts, which the Court will read to the jury,
 - c. A statement of contested issues of fact and law, about which the Court will advise the jury, and
 - d. An itemized statement of alleged damages.
- 4. Jury selection will proceed in the following manner:
 - a. The Court will summon fourteen (14) potential jurors from the District's jury pool.
 - b. The potential jurors will be informed as to the nature of the SJT proceeding and that the SJT is not binding upon the parties.
 - c. Each juror will complete a profile questionnaire, which will be shared with the parties.
 - d. The Court will conduct an abbreviated voir dire.
 - e. Each party will be allowed motions for cause and three (3) peremptory challenges.
 - f. The case will be heard by all remaining potential jurors.
- 5. Each party will be allowed ten (10) minutes for opening statement, although this may be modified by agreement.

6. Evidence will be presented in the following manner:

a. Order

- i. Plaintiff will proceed, then each Defendant will proceed in succession.
- ii. Plaintiff will be allowed to rebut the Defendant's narrative, but may not go beyond the subject matter of Defendant's narrative.
- iii. Defendant will be allowed to reply to Plaintiff's rebuttal, but may not go beyond the subject matter of Plaintiff's rebuttal.

b. Narrative

- i. Counsel will present their evidence in a narrative fashion without argument.
- ii. Counsel must support statements of fact with particular reference to a deposition, stipulation, document, or formal admission.
- iii. If a witness has not been deposed, Counsel may proffer that witness's anticipated testimony, but should advise the jury that the testimony is based on counsel's conversation with the witness.
- iv. Length of narrative will be determined by agreement of the parties and the Court.

c. Exhibits

- i. Counsel may present exhibits to the jury.
- ii. Admissibility of documents shall be addressed prior to the SJT.
- iii. All exhibits will be returned at the end of the day to the party tendering them.

d. Objections

- i. Objections are discouraged during the presentation of evidence. Every effort should be made to address all objections prior to the SJT.
- ii. Objections to the accuracy of one lawyer's factual representation shall not be made. Instead, Counsel should address that fact in their narrative, presenting the conflicting representation with appropriate reference. Exceptions to this rule will be considered for egregious misrepresentations. Such argument will be heard at sidebar, outside the presence of the jury.

- iii. Unanticipated objections to relevance will be heard at side-bar, outside the presence of the jury.
 - iv. No other objections will be allowed.
- 7. At the close of evidence, the Court will instruct the jury based on the submissions of the parties and without argument or a formal charging conference under Rule 51.
- 8. Each party will be allowed twenty (20) minutes for closing argument.
- 9. Following closing arguments, the jury will retire to deliberate. Communications with the jury will proceed as follows:
 - a. Jury deliberation is limited to one hour.
 - b. The jury will be encouraged to reach a unanimous verdict and will be notified that deliberations are limited to one hour.
 - i. If the jury reaches a verdict, the jury will return to the courtroom to announce its verdict.
 - ii. If, after one hour has elapsed, the jury is unable to reach a unanimous verdict, the jurors will return to the courtroom and each juror will announce their individual votes.
 - iii. The verdicts will address both liability and damages.
 - c. The jurors will be advised that the attorneys desire to speak with them about their verdict and vote, but that they may decline to participate in this inquiry. Any juror who expresses a desire to be released, will be released at this time.
 - d. The attorneys then will be afforded the opportunity to briefly discuss the case with the jurors in the presence of the Court.
 - e. Any inquiry must be non-argumentative and seek information only.
 - f. Pursuant to Local Rule 47.2, no attorney, party, or representative of either, may question a juror after the verdict has been returned without prior approval of the presiding Judge. For this SJT, all inquiry must occur in the presence of the Court and opposing counsel, although specific exceptions will be entertained if it will help facilitate resolution of the case.