Dept. C11 Courtroom Rules for Trial
Honorable Andrew P. Banks

1. Courtesy and professionalism will be extended by all counsel to all other counsel, to witnesses as well as to the Court and staff at all times.

2. Please stay out of the well.

3. Parties should remain behind the counsel tables unless permitted to do otherwise by the Court or the Court Attendant.

4. No drinking from cans or bottles - use glasses or cups only.

5. Please be on time. Trial hours are 9:30 AM - 12:00 PM and 1:30 PM - 4:30 PM, Monday through Wednesday. Dark Thursday and Friday. Counsel will immediately notify the clerk if unexpectedly delayed.

6. Do not call the clerk to find out if your case is going to trial on the date set. You are to come prepared to go forward.

7. Notify the Court Attendant prior to bringing audio/video equipment into the courtroom.

8. Please **turn off all cell phones, pagers and audible devices**. Counsel are responsible for monitoring their clients as to this rule.

9. **Do not touch the jury box rail**, stay at counsel table when examining witnesses, making opening statements, closing arguments and during jury selection. Request permission to approach a witness, and then return to counsel table at the earliest opportunity.

10. A **Joint Exhibit List**, numbering exhibits for identification, as well as tagged exhibits shall be submitted the first day of trial. An original list and copies for Court and counsel must be submitted. The Court requires counsel to prepare a **Joint Exhibit List** to avoid duplication and confusion with numbering. Exhibits on the list should be accurately described (i.e. "Letter dated 3/7/01 from Smith Jones" - not "letter"). Indicate whether documents are originals or copies. All described exhibits shall be individually numbered and tagged for identification (i.e. blowups, photographs, checks) Attach tags only to the set of original exhibits which are to be used with witnesses; no other copies of exhibits should be tagged. **Exhibits should be provided in tabbed binders**. Exhibits will be inventoried before the start of trial. In the event exhibits appear on the Joint Exhibit List but are not within the tabbed binders, the clerk will indicate on the List that said exhibit is withdrawn by counsel**.**

11. Offer exhibits into evidence when first used with a witness and foundation is laid. **NO WHOLESALE MOVING OF EXHIBITS INTO EVIDENCE AT THE END OF YOUR CASE.**

12. Motions in Limine should be numbered and titled and filed with court by noon the

last court day before trial. Written responses to Motions in Limine shall be correspondingly numbered and titled.

13. The Court expects counsel to have conferred and to have reached such stipulations of fact that are appropriate under the particular circumstances of the case.

14. **NO SPEAKING OBJECTIONS** - state only the legal grounds for your objection. Once ruled on, no further objection on different grounds will be entertained.

15. Coordinate your witnesses in advance. Counsel have full responsibility to ensure the orderly presentation of their case. Each party shall have witnesses present and prepared so as to not delay the proceedings. Counsel acts at his/her own peril when placing a witness on call. Notify the court immediately of any witness problem. All witnesses will be excluded, unless an agreement to the contrary is approved by the Court. Also notify the Court Attendant if any witness or party has any special needs.

16. Instruct your witness on the "rules" regarding testimony: listen to the entire question; answer the question yes or no if possible; do not speak over or interrupt the Court or attorneys, etc.

17. Make your own record, particularly when a witness refers to a diagram, photograph, or indicates distance, relative positions, shapes, etc.

18. Assist the reporter by having only one person speaking at a time. (It's your record)

19. **No briefs may be filed, after start of trial, without leave of Court.**

EXHIBIT NO.

☐ ID only (Date)

☐ **IN EVIDENCE** (Date)

☐ Plaintiff/People ☐ Defendant ☐ Joint
☐ Petitioner ☐ Respondent ☐ Court
☐ (Other)

Atty/Party Introducing Sensitive Exhibit

Case No.

Vs.

David H. Yamasaki, Executive Officer and Clerk

Deputy

NOTE: THIS ITEM IS A PERMANENT COURT RECORD.
DO NOT REMOVE FROM THE COURTROOM

EXHIBIT NO.

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Rule 2.1055. Proposed jury instructions

(a) Application

1) This rule applies to proposed jury instructions that a party submits to the court, including:

   a) "Approved jury instructions," meaning jury instructions approved by the Judicial Council of California; and

   b) "Special jury instructions," meaning instructions from other sources, those specially prepared by the party, or approved instructions that have been substantially modified by the party.

2) This rule does not apply to the form or format of the instructions presented to the jury, which is a matter left to the discretion of the court.

(Subd (a) amended effective August 26, 2005; previously amended effective January 1, 2003, and January 1, 2004.)

(b) Form and format of proposed instructions

(1) All proposed instructions must be submitted to the court in the form and format prescribed for papers in the rules in division 2 of this title.

(2) Each set of proposed jury instructions must have a cover page, containing the caption of the case and stating the name of the party proposing the instructions, and an index listing all the proposed instructions.

(3) In the index, approved jury instructions must be identified by their reference numbers and special jury instructions must be numbered consecutively. The index must contain a checklist that the court may use to indicate whether the instruction was:

(A) Given as proposed;

(B) Given as modified;

(C) Refused; or

(D) Withdrawn.

(4) Each set of proposed jury instructions must be bound loosely.

(Subd (b) amended effective January 1, 2016; previously amended effective July 1, 1988, January 1, 2003, and January 1, 2004 and January 1, 2007.)

(c) Format of each proposed instruction

Each proposed instruction must:

(1) Be on a separate page or pages;

(2) Include the instruction number and title of the instruction at the top of the first page of the instruction; and

(3) Be prepared without any blank lines or unused bracketed portions, so that it can be read directly to the jury.

(Subd (c) amended effective January 1, 2004; previously amended effective July 1, 1988, April 1, 1962, and January 1, 2003.)

(d) Citation of authorities

For each special instruction, a citation of authorities that support the instruction must be included at the bottom of the page. No citation is required for approved instructions.

(Subd (d) adopted effective January 1, 2004.)

(e) Form and format are exclusive

No local court form or rule for the filing or submission of proposed jury instructions may require that the instructions be submitted in any manner other than as prescribed by this rule.

(Subd (e) adopted effective January 1, 2004.)
Rule 2.1055 amended and renumbered effective January 1, 2016; adopted as rule 229 effective January 1, 1949; previously amended effective April 1, 1962, July 1, 1988, January 1, 2003, January 1, 2004, and August 26, 2005; previously amended and renumbered as rule 2.1055 effective January 1, 2007.

Advisory Committee Comment

This rule does not preclude a judge from requiring the parties in an individual case to transmit the jury instructions to the court electronically.

Rule 2.1058. Use of gender-neutral language in jury instructions

All instructions submitted to the jury must be written in gender-neutral language. If standard jury instructions (*CALCRIM* and *CACI*) are to be submitted to the jury, the court or, at the court's request, counsel must recast the instructions as necessary to ensure that gender-neutral language is used in each instruction.

Rule 2.1058 amended and renumbered effective January 1, 2007; adopted as rule 989 effective January 1, 1991.

<table>
<tr><td>Jury Instruction

No. 106</td><td colspan="5">Authorities</td></tr>
<tr><td>Requested by Plaintiff AAA</td><td>☑</td><td>Requested by Defendant ZZZ</td><td>☑</td><td>Requested by</td><td>☐</td></tr>
<tr><td>Given as Requested</td><td>☐</td><td>Given as Modified</td><td>☐</td><td>Given on Court's Motion</td><td>☐</td></tr>
<tr><td>Refused</td><td>☐</td><td colspan="4" rowspan="2">_____
Judicial Officer</td></tr>
<tr><td>Withdrawn</td><td>☐</td></tr>
</table>

Instruction
No. 106

Evidence

You must decide what the facts are in this case only from the evidence you see or hear during the trial. Sworn testimony, documents, or anything else may be admitted into evidence. You may not consider as evidence anything that you see or hear when court is not in session, even something done or said by one of the parties, attorneys, or witnesses.

What the attorneys say during the trial is not evidence. In their opening statements and closing arguments, the attorneys will talk to you about the law and the evidence. What the lawyers say may help you understand the law and the evidence, but their statements and arguments are not evidence.

The attorneys' questions are not evidence. Only the witnesses' answers are evidence. You should not think that something is true just because an attorney's question suggests that it is true. However, the attorneys for both sides can agree that certain facts are true. This agreement is called a “stipulation.” No other proof is needed and you must accept those facts as true in this trial.

Each side has the right to object to evidence offered by the other side. If I do not agree with the objection, I will say it is overruled. If I overrule an objection, the witness will answer and you may consider the evidence. If I agree with the objection, I will say it is sustained. If I sustain an objection, you must ignore the question. If the witness did not answer, you must not guess what he or she might have said or why I sustained the objection. If the witness has already answered, you must ignore the answer.

An attorney may make a motion to strike testimony that you have heard. If I grant the motion, you must totally disregard that testimony. You must treat it as though it did not exist.

Rule 2.1040. Electronic recordings presented or offered into evidence

(a) Electronic recordings of deposition or other prior testimony

(1) Before a party may present or offer into evidence an electronic sound or sound-and-video recording of deposition or other prior testimony, the party must lodge a transcript of the deposition or prior testimony with the court. At the time the recording is played, the party must identify on the record the page and line numbers where the testimony presented or offered appears in the transcript.
(2) Except as provided in (3), at the time the presentation of evidence closes or within five days after the recording in (1) is presented or offered into evidence, whichever is later, the party presenting or offering the recording into evidence must serve and file a copy of the transcript cover showing the witness name and a copy of the pages of the transcript where the testimony presented or offered appears. The transcript pages must be marked to identify the testimony that was presented or offered into evidence.
(3) If the court reporter takes down the content of all portions of the recording in (1) that were presented or offered into evidence, the party offering or presenting the recording is not required to provide a transcript of that recording under (2).
(Subd (a) adopted effective July 1, 2011.)

(b) Other electronic recordings

(1) Except as provided in (2) and (3), before a party may present or offer into evidence any electronic sound or sound-and-video recording not covered under (a), the party must provide to the court and to opposing parties a transcript of the electronic recording and provide opposing parties with a duplicate of the electronic recording, as defined in Evidence Code section 260. The transcript may be prepared by the party presenting or offering the recording into evidence; a certified transcript is not required.
(2) For good cause, the trial judge may permit the party to provide the transcript or the duplicate recording at the time the presentation of evidence closes or within five days after the recording is presented or offered into evidence, whichever is later.
(3) No transcript is required to be provided under (1):
(A) In proceedings that are uncontested or in which the responding party does not appear, unless otherwise ordered by the trial judge;
(B) If the parties stipulate in writing or on the record that the sound portion of a sound-and-video recording does not contain any words that are relevant to issues in the case; or
(C) If, for good cause, the trial judge orders that a transcript is not required.
(Subd (b) amended and relettered effective July 1, 2011; adopted as part of unlettered subd effective July 1, 1988; amended and lettered as subd (a) effective January 1, 2003.)

(c) Clerk's duties

An electronic recording provided to the court under this rule must be marked for identification. A transcript provided under (a)(2) or (b)(1) must be filed by the clerk.
(Subd (c) amended and relettered effective July 1, 2011; adopted as part of unlettered subd effective July 1, 1988; amended and lettered as subd (a) effective January 1, 2003.)

(d) Reporting by court reporter

Unless otherwise ordered by the trial judge, the court reporter need not take down the content of an electronic recording that is presented or offered into evidence.
(Subd (d) amended and relettered effective July 1, 2011; adopted as part of unlettered subd. effective July 1, 1988; amended and lettered as subd. (b) effective January 1, 2003.)
Rule 2.1040 amended effective July 1, 2011; adopted as rule 203.5 effective July 1, 1988; previously amended effective January 1, 1997; previously amended and renumbered as rule 243.9 effective January 1, 2003, and as rule 2.1040 effective January 1, 2007.

Advisory Committee Comment

This rule is designed to ensure that, in the event of an appeal, there is an appropriate record of any electronic sound or sound-and-video recording that was presented or offered into evidence in the trial court. The rules on felony, misdemeanor, and infraction appeals require that any transcript provided by a party under this rule be included in the clerk's transcript on appeal (see rules 8.320, 8.861, and 8.912). In civil appeals, the parties may designate such a transcript for inclusion in the clerk's transcript (see rules 8.122(b) and 8.832(a)). The transcripts required under this rule may also assist the court or jurors during the trial court proceedings. For this purpose, it may be helpful for the trial court to request that the party offering an electronic recording provide additional copies of such transcripts for jurors to follow while the recording is played.

Subdivision (a). Note that, under Code of Civil Procedure section 2025.510(g), if the testimony at a deposition is recorded both stenographically and by audio or video technology, the stenographic transcript is the official record of that testimony for the purpose of the trial and any subsequent hearing or appeal.

Subdivision (a)(2). The party offering or presenting the electronic recording may serve and file a copy of the cover and of the relevant pages of the deposition or other transcript; a new transcript need not be prepared.

Subdivision (b). Note that, with the exception of recordings covered by Code of Civil Procedure section 2025.510(g), the recording itself, not the transcript, is the evidence that was offered or presented (see *People v. Sims* (1993) 5 Cal.4th 405, 448). Sometimes, a party may present or offer into evidence only a portion of a longer electronic recording. In such circumstances, the transcript provided to the court and opposing parties should contain only a transcription of those portions of the electronic recording that are actually presented or offered into evidence. If a party believes that a transcript provided under this subdivision is inaccurate, the party can raise an objection in the trial court.

Subdivision (b)(3)(C). Good cause to waive the requirement for a transcript may include such factors as (1) the party presenting or offering the electronic recording into evidence lacks the capacity to prepare a transcript or (2) the electronic recording is of such poor quality that preparing a useful transcript is not feasible.

Subdivision (c). The requirement to file a transcript provided to the court under (a)(2) or (b)(1) is intended to ensure that the transcript is available for inclusion in a clerk's transcript in the event of an appeal.

Subdivision (d). In some circumstances it may be helpful to have the court reporter take down the content of an electronic recording. For example, when short portions of a sound or sound-and-video recording of deposition or other testimony are played to impeach statements made by a witness on the stand, the best way to create a useful record of the proceedings may be for the court reporter to take down the portions of recorded testimony that are interspersed with the live testimony.