

Protocol and Practice of Persons Appearing in the Court of Judge Christopher Whitten

I expect attorneys and litigants to treat everyone in the courtroom, including my staff, with dignity and respect. Do not roll your eyes or display other rude behavior. Do not raise your hand to speak when the other side is speaking, simply because they just said something with which you disagree. Sarcasm is not welcomed. Personal attacks on counsel, or the other party, are considered unprofessional, and diminish your credibility - not the other party's.

Do not address opposing counsel during arguments.

Be on time. If you or your client is late, please call or have your office call and let us know what to expect. If my schedule is full, the delay will have to come from your allotted time.

When you begin, please identify yourself and your client.

If you agree on an extension to file a response or reply, please let us know. If not, I might rule on the issue without knowing of the extension.

If you do everything right ninety-nine times, but mislead or omit once - guess which will be remembered.

I understand that an attorney and client may need to interact during trial, or at a hearing. If they do so while something is being said in the courtroom, however, it is distracting. If I am the one who is talking, I will stop. If the communication between attorney and client can wait, please wait.

If you file a motion or stipulation that requires an order, please provide a proposed order, when applicable, in WORD format.

If you think oral argument is necessary, you should indicate that in the caption. I will not look for that request in the body. Also, consider whether you need an oral argument, or an evidentiary hearing, and make sure you distinguish what you really want within the caption request.

During oral argument, I tend to be very proactive. I want to let you know what questions I have, so you do not waste your time talking about other things. If I interrupt you, it is in an effort to be helpful, and guide you in the right direction. But, I will give you time to finish your argument.

Pre-Trial Practice and Management Issues

If you have a motion or request that you would like to have addressed immediately, please direct it to my judicial assistant, Jacqueline Hernandez. E-filed documents are not instantly available to the divisions.

Discovery or Disclosure Disputes and/or Sanctions:

Please do NOT file a discovery motion without first, 1) making a real effort to resolve it yourself, and if that is not successful then, 2) calling me with all parties on the line to discuss it informally. Approximately ninety percent (90%) of discovery disputes are resolved before written motions are necessary.

Parties should speak directly with one another prior to getting the court involved in a discovery dispute. Once efforts to resolve the dispute have been exhausted, e-mail my Judicial Assistant, Jacqueline, at hernandezj021@superiorcourt.maricopa.gov. Each side should cc the other side. The court will only proceed in this manner if all parties agree. If everyone is not in agreement to proceed, you will need to file whatever motion you find to be appropriate under the circumstances.

Motions:

Make sure the motion states exactly what relief you want – if done right, the Court should be able to cut and paste it into a judgment. Motions should be concise and include citations to relevant authority. Oral arguments for Motions for Summary Judgment will usually be scheduled if requested by either party. Other motions may get set for oral argument if requested but not all requests for oral argument will be granted.

With e-filing available, hard copies of motions are unnecessary. If the motion has been fully briefed, and I have not ruled on it within thirty (30) days, please contact me to ensure that I know it is pending. If it has fallen through the cracks, I want to know about it.

Trial Practice and Protocol

Trial Schedule: Trials are normally scheduled during a three (3) hours block of time in the morning, and a three (3) hour block in the afternoon. Friday is my law and motion day so most oral arguments and conferences will be held on Fridays.

Jury Selection: Make certain that you have submitted a stipulated short summary of the case, so that I can read it to the jury at the beginning of jury selection. I use a “struck” method of jury selection, we qualify the entire panel. I will give as much time as necessary for the attorneys to question the jury. I recognize that jury selection is one of the most important, and sometimes most difficult, parts of trial. Consider using jury questionnaires in appropriate cases.

Trial Practice and Procedure: I am in the Old Courthouse. Our idea of technology is butcher paper and markers. If you want something, you need to bring it yourself. The markers don’t always work.

Please complete Joint Pretrial Memorandums together. If you are unable to do so, you must explain why not. In such cases, please make sure that your individual memos both address the same issues. This is your opportunity to educate me about your case, the issues, and your positions. It is the first and most important thing I read in preparing for a trial.

I strongly favor resolutions agreed to by the parties, over resolutions imposed by the Court. The parties know what will work better than I do, and are more likely to follow a plan that they have agreed to than one I have imposed. If there is a way to help you pursue alternative dispute resolution, or reach settlement, please let me know.

I always allow telephonic appearances in non-substantive matters (i.e., scheduling, status, etc.). It saves time and money.

Exhibits: Exhibits are required to be marked five (5) days before trial. If you come to Court with exhibits that need to be marked, you do so at your own risk. I may not allow them to be marked, and if I do, the time it takes to do so will be taken from your time. Most of all, it is inconsiderate to my staff who I highly value.

I do not require, or want, a bench notebook with all of the exhibits included. I do not mind copies of one or two important exhibits. However, filling a three-inch binder with copies for me will waste our time and your client's money.

Attorneys' Fees: I feel that I award attorney fees less often than the average judge. Disputes, even hard fought disputes, are not the same as parties taking unreasonable positions. I strongly disfavor applications for attorney fees supported by letters which were written to the opposing counsel/party, and designed to be Exhibit 1 to your attorney fee application. Self-serving summaries of why you, or your client, are acting reasonably and the other side is not, are unnecessary tactics.