

Standing Order Governing Criminal Trials

This Standing Order sets forth the procedures and requirements for parties' pre-trial submissions in criminal trials. It also contains information on trial protocols. The purpose of this Standing Order is to promote a fair and expeditious trial.

When scheduling the trial date, the Court will also set a Pre-Trial Conference date, which triggers the parties' pre-trial submission deadlines, as set forth below. The Court may change the below deadlines and will specify exact submission deadlines in a minute entry before the Pre-Trial Conference. The dates in the minute entry shall govern timing of submission of the documents below.

I. Joint Pre-Trial Statement

35 days (5 weeks) before the Pre-Trial Conference, the parties shall e-file a Joint Pre-Trial Statement, comprised of the below items (listed in Section I.a–f). Separately, the government shall e-mail a Microsoft Word version of the Joint Pre-Trial Statement to [Proposed Order Valderrama@ilnd.uscourts.gov](mailto:Proposed_Order_Valderrama@ilnd.uscourts.gov):

a. Case Statement

The parties shall confer and provide a concise agreed statement of the case to be included on the juror questionnaire cover letter and to be read by Judge Valderrama to the jury pool during jury selection. This is a neutral description of the case, with just enough information to introduce the case to the jury and to ask potential jurors whether they happen to know anything about the case. After reading the case statement, Judge Valderrama also ordinarily reads the third paragraph of Pattern Instruction 1.02: “The indictment is simply the formal way of telling the defendant what crimes he is accused of committing. It is not evidence that the defendant is guilty. It does not even raise a suspicion of guilt.”

b. Trial Length / Number of Jurors

State the estimated number of trial days, including jury selection and deliberations, premised on six-hour trial-testimony days (the six hours already accounts for lunch and breaks). Provide estimated sub-totals for the Government's case and Defendant's case (if any is anticipated). Propose time limits for opening statements and closing arguments, per side. Propose the number of alternate jurors.

c. Stipulations and Uncontested Facts

In numbered paragraphs, set forth any stipulations and uncontested facts. No later than 5 business days before the due date of the Joint Pre-Trial Statement, the parties must serve on each other proposed stipulations. No later than 2 business days

before the due date of the Joint Pre-Trial Statement, the parties must confer in good faith to arrive at as many stipulations and uncontested facts as possible.

d. *Voir Dire* Questions

Attached to this Standing Order are the juror questionnaire cover letter (Exhibit 1) and a sample juror questionnaire (Exhibit 2) with standard background questions that the Court asks prospective jurors during *voir dire* (these will be provided to the jurors when they are in the Jury Department room a few days before trial). For additional questions to be included on the juror questionnaires, the parties must file a list divided into (a) agreed-upon questions and (b) proposed questions to which there is an objection. A short basis for any objection must accompany the list. Each side is limited to 15 proposed disputed questions, unless a motion is filed before the Pre-Trial Conference that explains good cause for proposing more than the limit. Each side shall provide the other with proposed *voir dire* questions 5 business days before the due date of the Joint Pre-Trial Statement, and the parties shall confer by 2 business days before the due date of the Joint Pre-Trial Statement in order to generate this section of the Statement.

e. Jury Instructions / Verdict Forms

The parties must confer in order to attempt to agree on as many jury instructions as possible, as well as the verdict form. Where applicable, the Court generally prefers the Seventh Circuit's Pattern Instructions, but of course the parties may propose modifications to the Pattern and may propose additional, non-Pattern Instructions. The proposed jury instructions must state, on an instruction-by-instruction basis, the following information: the proponent of the instruction, the legal authority for the instruction, and whether there is an objection to the instruction. If an instruction is disputed, the proponent of the instruction should concisely explain the basis for the instruction, if more explanation is required beyond the identified legal authority (often citing to the Pattern or to a case will be explanation enough). Moreover, if an instruction is disputed, the objecting party must concisely state—**on the page immediately following** the instruction—the grounds for the objection, as well as any proposed modification or alternative. The same principles apply to proposed verdict forms.

No later than 5 business days before the due date of the Joint Pre-Trial Statement, the parties must serve on each other proposed jury instructions, and confer by 2 business days before the due date of the Joint Pre-Trial Statement in order to generate this section of the Statement. The jury-instructions filing also must be e-mailed to Proposed_Order_Valderrama@ilnd.uscourts.gov in Microsoft Word format the same day the Joint Pre-Trial Statement is due.

f Signature

The Joint Pre-Trial Statement shall be electronically signed by counsel for each party.

II. Witness Lists

On the same date as the deadline for the e-filing of the Joint Pre-Trial Statement, each party shall e-file a list of witnesses (and e-mail a Microsoft Word version to Proposed_Order_Valderrama@ilnd.uscourts.gov), including expert witnesses, identifying the following:

- (a) witnesses that the party will call to testify at trial; and
- (b) witnesses that the party may call to testify at trial.

For each witness, the party must provide a *very* concise (i.e., no more than two or three sentences) description of the witness's role in the case. For example: "Martha Washington is the case agent for the case. She also participated in executing the search warrant." Or: "George Washington is XYZ Corporation's Chief Operating Officer. He questioned the defendant about the allegedly fraudulent accounting entries." The names of witnesses on the lists will be read to the jury during jury selection to ensure that potential jurors do not personally know any witnesses.

Witnesses who are not on the lists are **barred** from testifying unless the proponent shows good cause for the failure to disclose the witness.

III. Exhibit Charts

On the same date as the deadline for the e-filing of the Joint Pre-Trial Statement, each party shall e-file an exhibit chart of the exhibits the party will definitely use at trial (*including demonstratives, summaries, or other specially prepared exhibits*), which includes the following:

- (a) the exhibit number;
- (b) the date of the document or exhibit, if applicable;
- (c) a concise, neutral description of the exhibit;
- (d) a concise statement of the exhibit's relevance; and
- (e) whether there is an objection to the exhibit, and if so, a concise explanation of the objection, similar to the example below

Each party shall also e-mail a Microsoft Word version of the chart to Proposed Order Valderrama@ilnd.uscourts.gov. The chart's format shall be substantially similar to the example below (landscape orientation is encouraged).

No.	Date	Description	Relevance	Objection
001	02/15/2006	2005 Performance Review	Proves record of satisfactory job performance	R. 402 relevance; R. 403 confusion - John Doe fired in 2011, so probative value of 2005 Performance Review, if any, substantially outweighed by risk of confusing the jury

Because of the need to work together to create the charts (because of the objection column), the parties must exchange their respective proposed exhibit charts 10 business days before the deadline for filing the charts, and the objecting side must return the chart with the objection column filled in 5 business days before the deadline for filing the charts.

With regard to creating and naming the electronic versions of the exhibits, the parties must use the **exhibit-file format and exhibit-naming convention** for the Jury Evidence Recording System (JERS). Information on JERS is attached to this Standing Order as Exhibit 3.

Do not over-designate exhibits, because the Court will examine exhibits one-by-one in advance of and/or during the Pre-Trial Conference, and plainly inadmissible exhibits will needlessly consume time. In addition to substantive exhibits and Rule 1006 summary exhibits, the chart should also include proposed demonstrative exhibits.

IV. *Motions in Limine*

The parties must confer on all motions *in limine* before filing them. If there is no objection to a motion, but the movant wishes to file a motion memorializing the nonobjection, then the motion must state that there is no objection.

Unless otherwise ordered, all motions *in limine* shall be e-filed **35 days (5 weeks) before the Pre-Trial Conference**; responses are due and shall be e-filed

21 days (3 weeks) before the Pre-Trial Conference; and replies are due and shall be e-filed **14 days (2 weeks) before the Pre-Trial Conference.**

Parties filing multiple motions *in limine* should submit their initial motions and the supporting exhibits in one document for the Court. Responses to motions *in limine* and replies in support of motions *in limine* should also be submitted in one document.

The motions *in limine* must be briefed as thoroughly as possible. Parties should keep in mind that motions *in limine* are meant to provide a mechanism for the court and parties to resolve particular evidentiary issues prior to trial. A proper motion *in limine* “performs a gatekeeping function and permits the trial judge to eliminate from further consideration evidentiary submissions that clearly ought not be presented to the jury because they clearly would be inadmissible for any purpose.” *Jonasson v. Lutheran Child and Fam. Servs.*, 115 F.3d 436, 440 (7th Cir. 1997). They are particularly useful in streamlining a trial so that extensive argument becomes unnecessary after a jury has been impaneled. *See id.* (“The prudent use of the *in limine* motion sharpens the focus of later trial proceedings and permits the parties to focus their preparation on those matters that will be considered by the jury.”). They also provide economies to the parties such that certain witnesses will not be called to testify.

However, motions *in limine* should not be so granular that no rational ruling can be made outside of the context of the trial itself. *See Jonasson*, 115 F.3d at 440 (“Some evidentiary submissions . . . cannot be evaluated accurately or sufficiently by the trial judge in [a pretrial] environment.”). “In these instances it is necessary to defer ruling until during trial, when the trial judge can better estimate its impact on the jury.” *Id.*; *see also Anglin v. Sears, Roebuck & Co.*, 139 F. Supp. 2d 914, 917 (N.D. Ill.), *modified*, 179 F. Supp. 2d 836 (N.D. Ill. 2001) (internal quotation marks and citations omitted) (“[W]hen admissibility determinations are not clear, evidentiary rulings must be deferred until trial so questions of foundation, relevancy, and prejudice can be resolved in their proper context.”).

Moreover, the fact that a motion *in limine* was not filed as to a particular piece of evidence does not operate as a waiver. Counsel is always free to object to evidence at trial for all of the grounds permissible under the Federal Rules of Evidence. *See Moore v. General Motors Corp.*, 684 F. Supp. 220, 220 (S.D. Ind. 1988) (Tinder, J.) (“A ruling on a motion *in limine* is not a final ruling on the admissibility of the evidence which is the subject of the motion. An order on a motion *in limine* has been characterized as an advisory opinion subject to change as events at trial unfold.”). Like any other evidentiary ruling, the Court’s rulings on motions *in limine* are based on the facts and theories of the case as the Court understands them at the time the Court makes its ruling. These rulings do not preclude any party from renewing a request for either admission or exclusion of evidence if the facts as developed at trial

make reconsideration appropriate.

Unless set separately, the deadline on motions *in limine* includes *Santiago* motions by the government to allow co-conspirator statements. *Santiago* motions must be specific in identifying the offered statements, so that the parties may brief, and the Court may analyze, the propriety of each statement.

V. Exhibits – Before Pre-Trial Conference

14 days (2 weeks) before the Pre-Trial Conference, each party shall deliver to chambers the following:

a. USB Key/Thumb Drive

A USB Key/Thumb Drive with no password protection¹ containing a .pdf of each of its proposed exhibits to which a party has raised an objection. The parties must use the exhibit-file format and exhibit-naming convention for JERS.

b. Hard Copies

Three sets of binders containing copies of any proposed exhibits to which a party has raised an objection. The exhibits must be printed double-sided and placed in three-ring binders. Unless the parties agree otherwise, the party that is objecting to an exhibit is responsible for providing the copy of the objected-to exhibit.

VI. Pre-Trial Conference

The Court will schedule the Pre-Trial Conference two to three weeks before the commencement of trial. Lead trial counsel for each party must attend the Pre-Trial Conference. The Court will address various topics at this conference, including, but not limited to: rulings on exhibit objections, *voir dire* questions, jury instructions, and motions *in limine*; use of demonstratives and timelines; trial logistics; sidebars; trial technology; and breakout rooms.

VII. Exhibits and Deposition Designations – After Pre-Trial Conference

5 days following the Pre-Trial Conference, each party shall have delivered to chambers the following:

¹If the parties agree a password is necessary, they must send an e-mail to the Court's courtroom deputy, Analeah Charles (Analeah_Charles@ilnd.uscourts.gov), with the password on the same day that the USB/Key Drive is delivered.

a. USB Key/Thumb Drive

A USB Key/Thumb Drive with no password protection² containing a .pdf of each final trial exhibit. The parties must use the exhibit-file format and exhibit-naming convention for JERS.

b. Hard Copies

Three sets of binders containing copies of each final trial exhibit. The exhibits must be printed double-sided and placed in three-ring binders.

c. Impeachment and Refreshing Recollection Exhibits

For any exhibits that a party plans to use at trial to impeach a witness or to refresh a witness' recollection, the party must include such exhibits on the above USB Key/Thumb Drive in a separate folder titled "Impeachment and RR Exhibits." The party must also include in this folder a separate .pdf exhibit chart of these exhibits in a format similar to the primary exhibit chart, with only columns for exhibit number, date, and description. The party should begin numbering these exhibits at least 50 numbers after its last exhibit on its primary exhibit chart.

The party must also provide three sets of separate binders containing such documents in with a cover page titled "Impeachment and RR Exhibits." The party must include at the front of each binder a hard copy of its separate exhibit chart for these exhibits.

The Court assumes that parties will not disclose such exhibits to each other prior to trial. However, to the extent the parties agree, they may do so.

VIII. Additional Pre-Trial Information

a. Jury Selection

As noted above, in the Jury Department, jurors are provided with a juror questionnaire cover letter and a juror questionnaire before trial. The jurors will complete the written juror questionnaire, and the Court will provide electronic copies of the completed juror questionnaires to the parties via e-mail. The Court will also send the parties an electronic copy of the random-order list of potential jurors. After receiving the completed juror questionnaires, the parties shall meet and confer to determine whether they have any agreed "for cause" strikes. The Court will schedule a brief hearing before trial for the parties to raise any agreed "for cause" strikes.

When in-person jury selection begins, jurors will be seated in the jury box and

²See Note 1 for instructions on what to do if the parties agree that a password is necessary.

in the gallery according to the random-order list. The Court will ask certain background and follow-up questions of all jurors based on their completed juror questionnaires. After that questioning, counsel will have a chance to propose follow-up questions at a side-bar (though the Court will ask the questions). After the last round of questioning, counsel will exercise “for cause” strikes. That will leave the qualified pool on which peremptory challenges will be made (overlapping peremptory challenges count against both sides). The Government will be allowed six peremptory challenges, and the Defendant will be allowed ten peremptory challenges, unless the parties address the need for more during the Pre-Trial Conference. The first 12 non-struck jurors on the random-order jury list will comprise the jury. Then the parties will exercise their peremptory (or peremptories, if more than one) challenge for the alternate (or alternates, if more than one).

b. Opening Statement

Unless both parties agree, no exhibits will be shown during opening statement. If exhibits are agreed-upon and non-argumentative, they may be used in opening statement. Opening statement is **not** argumentative. Time limits may be imposed on lawyers in certain cases, but such time limits will be discussed at the Pre-Trial Conference.

c. Daily Status Hearing / Timeliness

Attorneys on trial before the Court may have their case called each morning of trial before the jury is brought into the courtroom. The purpose of this status hearing is to inform the Court of any issues that may have arisen over night and should be addressed outside of the presence of the jury. To request such a status hearing, the parties **MUST** notify the Courtroom Deputy that morning by 7:30 a.m. via e-mail whether they wish to have such a hearing. The Courtroom Deputy will confirm the time of such a hearing with the parties via e-mail; such a hearing likely will begin fifteen to thirty minutes before the beginning of trial. If there is no request from the parties for such a hearing, trial will begin promptly at the time stated by the Court and there will not be a break before bringing the jury into open court.

Please be on time for each court session. Trial engagements take precedence over any other business. If you have matters in other courtrooms, arrange in advance to have them continued or have a colleague handle them for you.

d. Exhibits at Trial

Just as at the pre-trial stage, when preparing exhibits for the trial itself, once again use the **JERS exhibit format and naming convention**. Court time may not be used for marking exhibits. This must be done in advance of trial.

Carefully review the JERS information attachment to this Order for more information about the necessary steps the parties must take to prepare admitted exhibits to be sent back to the jury for deliberations.

e. Displaying Exhibits on the Video Monitors

If you need instruction on the courtroom display technology equipment, please visit <https://www.ilnd.uscourts.gov/Pages.aspx?page=CourtRoomTechnology> and/or call the Systems Department (312.435.6045) within the Clerk's Office. The Court expects the parties to have tested the courtroom technology prior to the start of trial, and will not allow for delays caused by technical issues. Please note that the courtroom's evidence-display technology has separate controls for the counsel-table video monitors, the witness' monitor, and the jurors' monitors. The judge will leave the counsel-table monitors set to display during the entire trial. Generally, the judge also will leave the witness' monitor set to display during the entire trial, because usually the other side does not have an objection to the witness being shown the proposed exhibit. But in order to give the other side time to object to the witness seeing the proposed exhibit, the offering party should state something to the effect of, "Your Honor, I'd like to show Plaintiff's Exhibit 1 to the witness." If the opposing party objects to showing the witness the exhibit, that is the time to object. Otherwise, the offering party may display the exhibit to the witness via the offering party's laptop or the document camera.

To publish the exhibit to the jury, preface your request with something to the effect of, "Your Honor, may we publish Plaintiff's Exhibit 1 to the jury?" The Court will ask whether there is an objection, and then if publication is allowed, the Court will turn on the jury's video monitors. When done with that exhibit, say something to the effect of, "Your Honor, we're done with that exhibit," and the Court will turn off the jury's video monitors (and that also will be a signal to your co-counsel or assistant if you have someone putting on and off an exhibit via a laptop).

As we get deeper into the trial, we might be able to avoid turning off the jury monitors at certain points. For example, if you're asking a witness about an exhibit or set of exhibits already allowed into evidence and already published, you may signal that you're going to move onto an exhibit that's already been published (*e.g.*, "Your Honor, we're done with that exhibit, and I'd now like to show Plaintiff's Exhibit 1, which has already been published." The Court will ask whether there's any objection, and if not, the jury monitors will remain on into open court.

f. Witness Examinations / Jury Addresses

In order to respect the Court's and the jury's time, *always* have enough witnesses available so that we make use of the full trial day. The parties should not anticipate a recess between the direct examination and cross-examination of a

witness. If the direct examination should end at about the time the court would recess anyway, e.g., lunch time, a recess will be taken. Otherwise, be prepared to commence cross-examination immediately upon conclusion of the direct.

All witness examinations must be conducted from the **podium** unless otherwise allowed by the Court. Jury addresses must take place at the **podium** as well: even if you speak loudly for us to hear you, the audio-recording system relies on the **microphones** to record what you say, and the recording is necessary for transcript preparation or to resolve a dispute over what a transcript says. Moreover, individuals seated in overflow rooms (if any) cannot hear what is said if attorneys do not speak directly into the microphones.

g. Objections

When you object, you must speak directly into the **microphones** at counsel table so that the Court and the witness are on alert that an objection will be made. Before trial, counsel should instruct their witnesses not to answer a question when the opposing lawyer makes an objection and while an objection is pending. You must state a short, non-argumentative basis for the objection (*e.g.*, relevance, hearsay), and responses must be similarly short and non-argumentative. Ideally, there will be little or no need for a side-bar if objections and responses are succinct.

h. Closing Argument

The parties are permitted to use the Court's instructions in closing argument. The proper way to do so is to say, "Judge Valderrama will instruct you that. . . ." Time limits may be imposed on lawyers in certain cases, but such time limits will be discussed prior to closing arguments.

i. Jury Deliberation

Jurors will deliberate Monday through Friday approximately from 9:00 a.m. to 4:45 p.m. unless otherwise stated for a specific reason. For security reasons, deliberation past 6:00 p.m. will only be permitted in rare circumstances.

Dated: March 9, 2022



United States District Judge
Franklin U. Valderrama

Exhibit 1



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
219 SOUTH DEARBORN STREET
CHICAGO, ILLINOIS 60604

CHAMBERS OF
JUDGE FRANKLIN U. VALDERRAMA

312-435-5624

[Date]

Dear Prospective Juror:

Welcome to the United States District Court for the Northern District of Illinois. You are here to exercise one of the great privileges and responsibilities of American citizenship: jury service. Our system of justice depends on fair and impartial juries, and I thank you for your willingness to serve.

You have been summoned as potential jurors in the case of [Case Name and Description].

DO NOT ATTEMPT TO LOOK UP INFORMATION ABOUT THIS CASE ON YOUR CELL PHONE OR OTHER ELECTRONIC DEVICES.

Jury selection will begin this morning with the completion of the attached questionnaire. All of these questions are intended to focus on your ability to be totally objective and completely free from prejudice about the issues, the witnesses, the parties, and their attorneys. Please review the questions carefully and respond to each of them truthfully and accurately. Please do your best to write legibly so that the lawyers and I can read your responses. When you come to the courtroom on [Day], we may ask you some additional questions as well.

Thank you again for your time and service today. We understand that jury duty can be inconvenient and burdensome, but it is one of the responsibilities of citizenship that all must shoulder. Our justice system depends on citizens like yourselves fulfilling that duty faithfully.

Thank you,

A handwritten signature in black ink, appearing to read "Franklin U. Valderrama", written over a horizontal line.

United States District Judge
Franklin U. Valderrama

Exhibit 2

SAMPLE JUROR QUESTIONNAIRE

1. What is your full name?
2. What is the name of the city, village, or town in which you live? (If you live in the City of Chicago, please tell us what part of the City.)
 - a. Do you rent or own your residence?
 - b. If you haven't lived at your current home for more than 5 years, please tell us where else you have lived in the past 5 years.
3. How far did you go in school and what degrees do you have, if any?
4. Please provide your employment information for the past 10 years:
 - a. name and nature of the business and employer;
 - b. location of employer; and
 - c. brief general description of your job duties.
5. Please provide your family information and their employment information:
 - a. if married, your spouse's employment information for the past 10 years;
 - b. if you have children, their ages and current employment information; and
 - c. if any other adult lives in your household (e.g., any parent, brother, sister, boyfriend or girlfriend or anyone else), the same employment information about that person.
6. What are your major hobbies or interests, including what materials you like to read?
7. Where (if anywhere) do you get your news?
8. What television programs, if any, do you regularly watch?
9. Have you ever been a party to a lawsuit, or testified under oath? _____. If your answer is yet, please describe your experience(s).

Exhibit 3

JURY EVIDENCE RECORDING SYSTEM (JERS)

1. Introduction to JERS

JERS is a computer system that the jury will use to review exhibits on a wide-screen video monitor, rather than reviewing paper copies. The jury room has the JERS computer, a touch-screen monitor for the jury to pick an exhibit to display, and the wide-screen monitor. JERS can display what otherwise would have been on paper (including photos), and JERS also can play audio and video files.

With JERS, the jury can zoom-in on parts of an exhibit, and for audio and video, there's no need for a party to supply the jury with a laptop for deliberations. We hope that in the future there will be other advantages, such as a text-search function. Thanks in advance for your patience as we continue to adapt JERS.

JERS is not directly used to present evidence in court during trial; right now, it's just used to display exhibits during deliberations. But JERS does indirectly affect your trial preparation because you must supply your exhibits to the Court in digital format, and you must name your exhibits using a specific convention. This in turn affects your preparation even for the pretrial conference, because Judge Valderrama requires that the parties exchange proposed exhibits before the pretrial conference (more on this below).

2. File types usable with JERS

JERS accepts these common file types:

Documents and Photographs: .pdf, .jpg.

Video and Audio Recordings: .avi, .wmv, .mpg, .mp3, .wma, .wav

JERS does not accept .xls files. All spreadsheets need to be submitted as a .pdf file.

3. Exhibit-naming convention

To use JERS, both sides must use the following exhibit-naming convention, which also will serve as the file name for the digital file: the exhibit number (3 digits), followed by an underscore, followed by a neutral description of the exhibit. The convention is thus:

<exhibit number> <exhibit description>.<file extension>³

³The file-type extension (e.g., .pdf, .wmv) is automatically added by your computer; it's included here for completeness.

Examples:

001_Financial Statement 2009 Annual.pdf
002_Contract 2010 Renewal.pdf
003_Photo Front Door.jpg
004_Audio Dec 11 2013 Phone Call.mp3
005_Video Traffic Stop.wmv
011_Jan 1 2012 Email from John Doe to Jane Doe.pdf
100_Dec 31 2020 Damages Analysis Report.pdf

Use **consecutive numbers** to designate exhibits; do not use letters to distinguish exhibits. Also, do not use an “exhibit part,” such as 1A or 2A. Just use consecutive numbers (plus the neutral description). The neutral description cannot be more than 200 characters (hopefully, you’ll never come close to that limit).

You might reasonably wonder whether JERS will mix-up the parties’ exhibits because both sides are using numbers. We have tested this convention and it works because JERS itself adds a party prefix for each side (“Pla” (or “Gov” for government) and “Def”) when we import the files into JERS, party-by-party.

If there are **multiple parties** on a particular side, then you must coordinate with your co-counsel to generate a consecutively numbered set of exhibits. In the rare case of dual juries, we’ll discuss how to handle the JERS submission.

If you’re using litigation-display software that imprints a “**digital**” **exhibit sticker** on documentary exhibits, that’s fine, though you should confine the exhibit sticker to the party designation (e.g., Pla or Gov, and Def) and the exhibit number.

One last thing: a **physical object** of course will not be imported into JERS, but you should still assign a consecutively numbered exhibit designation to it, along with a neutral description. Then create a one-page .pdf with the exhibit number and neutral description on it, and submit those exhibits as part of the JERS USB Key/Thumb Drive. By creating this stand-in for physical objects, we accomplish two things: (1) we can print a comprehensive exhibit list before the trial for the Court and for the parties, which we all can use to track whether an exhibit is allowed into evidence (including physical objects); and (2) the jury’s exhibit list will be complete, and it will serve as a reminder of what physical objects were allowed into evidence.

4. Trial exhibits before the trial's start

After the Pre-Trial Conference, **do not renumber** the exhibits, even if during the Pre-Trial Conference the Court deemed some of them inadmissible. This will preserve consistency of exhibit numbering from the Pre-Trial Conference and throughout trial, and the record will be clearer.

5. Trial exhibits newly added during trial

When an exhibit is allowed into evidence during trial and the exhibit was not previously supplied on the USB Key/Thumb Drive, not surprisingly the exhibit must follow the same exhibit-naming convention as described above. Counsel for the offering party must supply the exhibit in digital format as soon as possible (via a USB Key/Thumb Drive) to the Courtroom Deputy.

6. Close of Evidence

Before closing arguments, the Court anticipates that the parties will meet and confer on which exhibits were allowed into evidence during the trial. The parties should be prepared to file an admitted exhibit list (that the other side has reviewed) after evidence closes and before closing arguments begin. Generally, the Court will not allow demonstrative exhibits to go back to the jury for deliberations, unless all parties consent. *See Baugh ex rel. Baugh v. Cuprum S.A. de C.V.*, 730 F.3d 701, 705 (7th Cir. 2013) (“The general rule is that materials not admitted into evidence simply should not be sent to the jury for use in its deliberations.”) (internal citation omitted). To the extent the parties agree that any such demonstratives may be used in jury deliberations, they should be included on the exhibit list(s).

The Court will provide a specific deadline during trial for filing these lists. To the extent, as a result of the parties' meet and confer, there are any disagreements about which exhibits were admitted into evidence or demonstratives that should go back with the jury (keeping in mind that the default is that demonstratives will not be used during deliberations), the parties shall identify those exhibits in their filings, and be prepared to discuss those exhibits before the Court. Once the parties file their respective lists, the Court will review them on the record.

Once the Court reviews the admitted exhibits on the record, the parties will be expected to submit the following to the Courtroom Deputy by the time closing arguments have concluded:

a. USB Key/Thumb Drive

One USB Key/Thumb Drive with no password protection containing each admitted exhibit in the format required by JERS. The parties must work together to submit one USB Key/Thumb Drive.

b. Hard Copies

One binder containing one copy of each admitted exhibit. Again, the parties must work together to submit one binder. The jury will **not be supplied with this binder** unless JERS experiences technical issues, rendering access to JERS impossible.

Physical-object exhibits that the Court allows the jury to examine during deliberations will be provided to the jury as usual, via the court security officer.

7. Use of JERS by the jury

At the end of jury instructions, the Court will inform the jury that they will be using the JERS system. The jury will watch a video tutorial that explains how to use the system. Judge Valderrama will instruct the jury that, like any other question during deliberations, the jury must ask questions about JERS in writing (and like any other jury question, the Court will share it with counsel before responding). The JERS computer is not equipped to allow the jury to access the internet, or indeed any other program other than JERS.

If JERS fails during deliberations, the jury will ask for help in writing. The systems staff will not be permitted in the jury room without the Court's express permission, and only after the jury has been escorted out of the jury room. If the problem is not fixable in a short time, the Court will provide the jury with the paper-copy backup of the admitted exhibits.