

2016 BX 00298  
IN THE SUPERIOR COURT OF FULTON COUNTY  
ATLANTA JUDICIAL CIRCUIT  
STATE OF GEORGIA



**STANDING PRE-TRIAL ORDER FOR CRIMINAL CASES  
IN JUDGE M<sup>c</sup>BURNEY'S DIVISION**

*(REVISED 15 MARCH 2016 -- supersedes all previous versions)*

The following rules, procedures, and deadlines govern the trial of criminal cases in this Division.

VOIR DIRE

Counsel must submit to the Court all proposed voir dire questions at least **two** business days before the start of trial. Submissions should be made via e-mail to Ms. Cathy Lyon at [cathy.lyon@fultoncountyga.gov](mailto:cathy.lyon@fultoncountyga.gov), with a courtesy copy e-mailed to all other parties. Prior to the commencement of voir dire, the Court will discuss with the parties which questions will be permitted.

Voir dire will be conducted in the following manner: the Court will propound all general questions to the entire panel. Prospective jurors will be seated in the gallery in numerical order; each prospective juror will have a card with his/her juror number on it. Prospective jurors will respond to the Court's questions by raising their cards. At the completion of general questioning, prospective jurors will be brought, twelve at a time, into the jury box for follow-up questioning. Prior to any individual questioning, each of the twelve panelists will

respond to a series of biographical questions written on the back of their juror number card. Counsel will then be permitted to conduct the follow-up questioning, panelist by panelist, provided that counsel are efficient in their use of the panelists' time. (If counsel are repeating each others' inquiries or exploring areas outside the scope of the general questions, the Court may resume the role of questioner.) This process will be repeated, twelve panelists at a time, until the Court determines that enough jurors have been qualified. The Court will hear motions for striking potential jurors for cause prior to beginning peremptory strikes.

Peremptory strikes are silent. The State strikes first. All parties are free to strike from the entire panel of qualified jurors; they need not decide first on Panel Member No. 1 then Panel Member No. 2, etc. Before striking begins, the Court will inform the parties of the universe from which they are to strike (*e.g.*, from No. 1 through No. 36). The same process applies to the pool of potential alternate jurors.

### MOTIONS IN LIMINE

Motions *in limine* must be filed with the Clerk at least **three** business days before the start of trial. Courtesy copies must also be provided by that deadline to Ms. Cathy Lyon (via e-mail at [cathy.lyon@fultoncountyga.gov](mailto:cathy.lyon@fultoncountyga.gov)) and to all other parties. Each motion should be sent as an individual file.

All motions *in limine* shall state clearly the relief sought and the legal basis therefor. Such motions should be limited to discrete evidentiary or procedural matters, such as the admissibility of a medical examiner's photos from an autopsy or the propriety of using a defendant's purported moniker of "Maniac." It is not proper to raise, via motions *in limine*, matters that should have been resolved during the pre-trial motions phase of proceedings, such as the admissibility of identification evidence or a confession. Absent compelling justification, such substantive motions masquerading as motions *in limine* will be denied as untimely.

#### EXHIBITS

Exhibits must be marked before trial. Any party that intends to introduce exhibits during trial must provide **two** copies of an exhibit list to the Court and one copy to all other parties prior to jury selection. The exhibit list should include for each exhibit both the exhibit number and a brief description of what the exhibit purports to be.

Counsel are under a continuing obligation to preview exhibits with opposing counsel on their own time, before relevant witnesses are called to the stand. It is not an appropriate use of the jurors' time to have the parties reviewing proposed exhibits while the witness waits on the stand and the jurors sit idly in their box. An attorney presenting an exhibit to a witness is free to approach that witness without seeking leave of the Court.

## WITNESSES

By the start of trial, the parties are to have complied with all discovery requirements concerning witnesses, to include the disclosure of all mandated identifying information and the content of expert opinions, if any. Any party that intends to call witnesses shall provide **two** copies of a witness list to the Court and one copy to every other party prior to jury selection. This list should include all potential witnesses; it is not sufficient for a party to rely on the indictment or documents provided in discovery as a witness list.

## JURY CHARGES

Counsel must submit to the Court all proposed jury charges at least **two** business days before the start of trial. **Submissions should be made via e-mail in Microsoft Word format** to Ms. Cathy Lyon at [cathy.lyon@fultoncountyga.gov](mailto:cathy.lyon@fultoncountyga.gov), with a courtesy copy e-mailed to all other parties. If a party is seeking any pattern charges, the party need only list the pattern charge numbers and titles; the Court will supply the relevant pattern language. Non-pattern requests or modified pattern requests should be submitted in full text along with proper citations to authority. At the charge conference, the Court will provide a proposed draft charge and will hear argument from the parties as to what language should be added to or omitted from the proposed charge. A copy of the final charge will go out with the jury

during deliberations. The Court will prepare a verdict form for the parties' consideration.

JUROR QUESTIONS DURING TRIAL

Jurors will be permitted to submit written questions for witnesses at the close of the parties' examination of each witness. The Court and counsel will review all such submissions; the Court will then pose those questions it deems proper. *Allen v. State*, 286 Ga. 392, 397 (2010).

SUMMARY OF DEADLINES

Three business days before trial:	motions <i>in limine</i>
Two business days before trial:	voir dire questions, jury charges
Before voir dire begins:	exhibit list & witness list

**SO ORDERED** this 15<sup>th</sup> day of March 2016.

  
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ROBERT C.I. M<sup>c</sup>BURNEY, JUDGE  
SUPERIOR COURT OF FULTON COUNTY  
ATLANTA JUDICIAL CIRCUIT