



CIVIL JURY PROJECT
at NYU School of Law

FACT SHEET:

Limiting Length of Trials

Summary: This innovation involves limiting the length of trials by setting a maximum number of trial hours per party. Principle 12 of the ABA American Jury Project Principles and Standards provides that “Courts should limit the length of jury trials insofar as justice allows and jurors should be fully informed of the trial schedule established.”¹ This is to eliminate unnecessary trial delay and disruption.²

Limiting the length of trials involves judges establishing time limits at the pretrial conference based on a number of factors, including the complexity of the issues, the burden of proof on each party and the nature of proof offered, and input from the parties.³ A judge may also choose to limit the time counsel has to conduct specific parts of the trial.⁴ Importantly, the judge should instruct the jury of the time limits and inform them should any changes to the schedule become necessary.

Empirical Studies: The 2008 ABA Seventh Circuit Project tested this innovation, but only in seven (7) trials, which was too small a sample size from which to draw meaningful conclusions.⁵ Of those seven (7) trials, five (5) responses⁶ reported that those time limits did not at all alter the fairness, efficiency, or their overall satisfaction with the trial process.

In the 2009 Houston Project, eighty-six percent (86%) of jurors in twelve (12) trials reported that they very strongly or strongly believed in the importance of knowing how long a trial would take at the outset.⁷

Current Usage: An ongoing questionnaire circulated by the NYU Civil Jury Project noted that about sixty-seven percent (67%) of judges have set time limits on jury trials.⁸

¹ American Bar Ass’n, *Principles for Juries & Jury Trials* § IV (Aug. 2005)

² *Id.*

³ Seventh Circuit Bar Ass’n American Jury Project Comm’n, *Seventh Circuit American Jury Project Final Report* 44-47 (Sept. 2008), <http://www.uscourts.gov/file/3467/download>.

⁴ *Id.*

⁵ *Id.* at 58-59.

⁶ Time limits were implemented in seven trials, but the data was reported in the number of responses rather than the unique number of judges involved.

⁷ Data compiled from results submitted to the Committee of the Jury Innovations Project. *JURY INNOVATIONS PROJECT: AN EFFORT TO ENHANCE JURY TRIALS IN TEXAS STATE AND FEDERAL COURTS* (2009), <https://www.justex.net/JustexDocuments/0/CourtsAndLaw/Jury%20Innovation%20Project%20Manual%20101411.pdf>.

⁸ The questionnaire, circulated to twenty-one (21) judicial advisors to the project, found that six (6) judges regularly use the innovation, eight (8) judges have used it, and seven (7) judges have never used it. Questionnaire for Judges on Use of Jury Innovations (on file with the NYU Civil Jury Project), data current as of April 2016.

Legal Support: The Federal Rules of Civil Procedure and Evidence support the usage of trial time limits. FED. R. CIV. P. 16(c) (“At any [pretrial] conference under this rule consideration may be given, and the judge may take appropriate action, with respect to . . . (4) the avoidance of unnecessary proof and of cumulative evidence; and limitations or restrictions on the use of testimony under Rule 702 of the Federal Rules of Evidence; . . . (15) an order establishing a reasonable limit on the time allowed for presenting evidence; and (16) such other matters as may facilitate the just, speedy, and inexpensive disposition of the action.”). Fed. R. Evid. 611(a) (“The judge shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.”).

Furthermore, a number of federal courts have supported limiting trial times. *Wantanabe Realty Corp. v. City of New York*, 01 CIV. 10137 (LAK), 2004 WL 2112566, at *2 (S.D.N.Y. Sept. 23, 2004) (“Trial courts have discretion to impose reasonable time limits on the presentation of evidence at trial. This is essential if they are to manage their dockets, as many cases compete for trials and for the attention of judges, and no party has an unlimited call on their time.”); *Life Plus Int'l v. Brown*, 317 F.3d 799, 807 (8th Cir. 2003) (“Trial courts are permitted to impose reasonable time limits on the presentation of evidence to prevent undue delay, waste of time, or needless presentation of cumulative evidence.”); *Sparshott v. Feld Entm't, Inc.*, 311 F.3d 425, 433 (D.C.Cir. 2002) (“The district court's decisions on how to structure time limits are reviewable only for abuse of discretion.”) (citations omitted); *Amarel v. Connell*, 102 F.3d 1494, 1513-15 (9th Cir. 1996) (“The case law makes clear that where a district court has set reasonable time limits and has shown flexibility in applying them, that court does not abuse its discretion. Moreover, to overturn a jury verdict based on a party's failure to use its limited time for witness cross-examination would be to invite parties to exhaust their time limits without completing cross-examination, then appeal on due process grounds.”); *Deus v. Allstate Ins. Co.*, 15 F.3d 506, 520 (5th Cir. 1994), *cert. denied*, 513 U.S. 1014 (1994) (“In the management of its docket, the court has an inherent right to place reasonable limitations on the time allotted to any given trial.”); *Borges v. Our Lady of the Sea Corp.*, 935 F.2d 436, 442-43 (1st Cir. 1991) (“District courts may impose reasonable time limits on the presentation of evidence.”); *Flaminio v. Honda Motor Co.*, 733 F.2d 463, 473 (7th Cir. 1984) (“[I]n this era of crowded district court dockets federal district judges not only may but must exercise strict control over the length of trials, and are therefore entirely within their rights in setting reasonable deadlines in advance and holding the parties to them....”).

State courts have likewise limited trial times. *Sneberger v. Morrison*, 776 S.E.2d 156, 164 (W. Va. 2015) (holding that the Federal Rules of Procedure inform West Virginia Rules of Procedure and therefore permit judges to set time limits on trials); *Varnum v. Varnum*, 586 A.2d 1107, 1115 (Vt. 1990) (“We think that the power granted by [Vermont Rule of Evidence 611(a)] includes the authority to set reasonable limits on the consumption of time in examining witnesses.”), *cited with approval in* *Cenate v. Martelle*, 2012-451, 2013 WL 3491182, at *3 (Vt. July 11, 2013); *Hicks v. Kentucky*, 805 S.W.2d 144, 151 (Ky. 1990) (“A trial court clearly has the power to impose reasonable time limits on the trial of both civil and criminal cases in the exercise of its reasonable discretion.”); *Brown v. Brown*, 488 P.2d 689 (Ariz. 1971) (holding that it was reasonable for the trial judge to place a time limit on the presentation of the case); *Messinger v. Mount Sinai Med. Ctr.*, 15 A.D.3d 189, 189 (N.Y. App. Div. 2005) (“The trial court has broad discretion to control the courtroom, rule on the admission of evidence, elicit and clarify testimony, expedite the proceedings and to admonish counsel and witnesses when necessary.”); *California Crane Sch., Inc. v. Nat'l Comm'n for Certification of Crane Operators*, 171 Cal. Rptr. 3d 752, 760 (Cal. Ct. App. 2014) (“[I]t is clearly within the power of the court to impose time limits before the trial commences.”).