

**THE HONORABLE MEL DICKSTEIN
FOURTH JUDICIAL DISTRICT
PRACTICE POINTERS & PREFERENCES**

I. Contact with Chambers

- Counsel may contact Judge Dickstein’s law clerks with questions related to procedural matters not covered by the rules or any applicable orders. Counsel should have the court file number at hand when calling chambers. Clerks will not answer substantive legal questions.
- Guidance on many procedural points is provided in the order setting out Judge Dickstein’s Practice Preferences and applicable scheduling orders. Failure to comply with the terms of these orders may result in sanctions, including but not limited to monetary sanctions, striking of pleadings, and such other relief.
- Judge Dickstein does not accept unsolicited correspondence from parties and/or attorneys, except with respect to scheduling matters or as is otherwise provided by Rule or Statute. All unsolicited correspondence will be discarded or returned. Counsel and parties should call the clerk to schedule a telephone conference so that both parties can be heard in real time on any issue that requires an informal conference.

II. Motion Practice

- Discovery motions may not be scheduled unless there has been a telephone conference to discuss the discovery dispute (or interrogatory or deposition question and answer). When discovery motions are permitted the language and date of both the original discovery request (or interrogatory or deposition question) as well as the language and date of the opposing party’s answer or objection should be set forth in their entirety, accompanied by, or as a part of a memorandum of law.
- No discovery dispute shall be brought to the attention of the Court unless the parties have conferred and made a good faith effort to settle their dispute pursuant to Rule 37.01(b) of the Minnesota Rules of Civil Procedure and Rule 115.10 of the Minnesota Rules of General Practice.
- Parties should call the clerk as soon as possible in advance of a hearing to inform the Court that a contested motion is resolved or partially resolved.
- Parties may not stipulate to changes in scheduling orders. Requests for changes will be denied absent good cause shown, and subsequent requests will be routinely denied except in the most extraordinary circumstances. Any request for changes to the scheduling order shall be made by letter or fax and copied to all parties.

- Pursuant to Rule 115.02 of the Minnesota Rules of General Practice, any party who obtains a motion date shall promptly notify all parties so that cross motions may be heard in a single hearing. Parties shall avoid filing cross motions for summary judgment on the same or substantially similar issues. When the parties reasonably anticipate that such cross motions may be filed, they shall confer with one another and with Judge Dickstein's law clerk in order to avoid duplicative cross motions.
- For summary judgment motions, counsel shall consult and comply with Rule 115.03(d) of the Minnesota Rules of General Practice.
- All default motions must be served on the opposing party and filed with the Court. If service is accomplished by mail, it shall be post-marked no less than six (6) business days prior to the hearing. If service is accomplished by personal service, it shall be completed no less than three (3) business days prior to the hearing. The motion papers and affidavit of service shall be filed with the Court at least one (1) business day prior to the hearing.
- Default motions based upon service by publication shall be supported by applicable law, including but not limited to the filing of an affidavit prior to publication pursuant to Rule 4.04(a) of the Minnesota Rules of Civil Procedure. Counsel shall consult the Fourth Judicial District Court's website at www.mncourts.gov/district/4 and scroll down to click on the link entitled "Forms" on the left-hand side of the page and use the appropriate form for the Affidavit of Service by Publication.
- Non-dispositive motions are ordinarily scheduled for 15 to 30 minutes for both sides. Judge Dickstein will generally try to schedule dispositive motions for as much time as is reasonably necessary.
- Judge Dickstein typically hears summary judgment motions on Thursdays at 8:45 a.m. Other motions are generally scheduled at either 8:45 a.m. or 1:15 p.m. on other days.

III. Written Submissions

- Requests for enlargements of word limits or variations in the briefing schedule are disfavored and will only be granted in exceptional circumstances.
- Attorneys are encouraged to provide courtesy copies of reply memoranda by 4 p.m. on the applicable due date.
- The attorneys or parties shall provide the Court with two (2) courtesy copies of all motions that are accompanied by a memorandum and exhibits when they are e-filed. These copies shall be sent directly to the chambers by mail or by messenger to be received as soon as possible on or immediately after the e-filed date.
 - The courtesy copies of memoranda and supporting documents for motions shall be three-hole punched and organized in three-ring binders

- All courtesy copies of supporting materials for motions, including affidavits and exhibits, are to be indexed, divided, and tabbed. All citations in memoranda shall reference the supporting material by its tab number. Only those portions of deposition transcripts and exhibits referenced in the memoranda shall be submitted. Counsel shall create an index identifying the supporting material by its tab number.
- Factual statements shall be supported as provided in Rule 115.03(d)(3) of the Minnesota Rules of General Practice. References to depositions shall specify the tab number, page number, and line number. References to interrogatories shall specify the tab number, page number, and interrogatory number. References to Requests for Admissions shall specify the tab number, page number, and request number. All other references shall similarly be as specific as possible so that the content of the supporting material can be readily located. References shall include, wherever possible, the page number, paragraph number or other description sufficient to identify the location of the cited material.
- Judge Dickstein will generally not issue ex parte temporary restraining orders in civil cases except in extraordinarily rare circumstances.

IV. In-Court Proceedings

- Attorneys may sit or stand at counsel’s table when addressing the court.
- Judge Dickstein carefully reads the briefs before the oral argument. Judge Dickstein does not use oral argument to listen to attorneys summarize what is in the briefs; instead, he uses oral argument to engage in a back-and-forth discussion of the case with the attorneys. Counsel should focus on the most important points and supporting caselaw and be prepared to answer detailed questions about the case, including questions about cited caselaw and the evidence in the record.
- Live witness testimony is generally not allowed during hearings on preliminary injunction/temporary restraining order motions. Requests to present testimony at a hearing must be made in writing as far in advance as possible, copying all parties.
- Judge Dickstein discourages the presentation of new case authority at oral argument. Courtesy copies of any new authority should be provided to the Court and opposing counsel in advance of the hearing.

V. Pretrial Procedures

- Generally, Judge Dickstein’s policy is not to schedule a pretrial conference, however a pretrial/settlement conference may be set at his discretion or after consideration of a request of any party.

- Judge Dickstein will ask prospective jurors questions during *voir dire* as well as allow attorneys to conduct *voir dire*. Counsel may submit questions for Judge Dickstein to ask prospective jurors. Counsel may not discuss the facts of the case or similar hypotheticals, or disputed issues of law during *voir dire*. Judge Dickstein strongly urges counsel to use *voir dire* to obtain information from jurors, and not to use *voir dire* to present information to jurors.
- The attorneys or parties shall meet at least three weeks before trial to exchange all exhibits intended to be introduced at trial and to discuss any other pre-trial issues, including objections to deposition testimony. At this conference, the parties shall discuss any anticipated motions in limine with a view toward resolving any issues by agreement. To the extent the parties are unable to resolve anticipated motions in limine, the parties shall determine whether an informal telephone conference with the Court may assist in avoiding the necessity for motion practice, and if so, contact the Court's chambers to schedule a telephone conference.
- Except for good cause shown, each party is limited to **3** motions in limine. Each motion shall be limited to **5** pages in length. Judge Dickstein is not inclined to consider dispositive motions presented in the form of motions in limine. Dispositive motions should have been brought within the timeframe set forth by the scheduling order
- All trial briefs (optional), exhibit lists, witness lists and any motions in limine shall be filed with the Court no later than 2 weeks before the scheduled trial block. Responses to motions in limine, if any, shall be filed no later than 1 week before the scheduled trial block.
- In preparation for a jury trial, the parties shall meet and confer and attempt to agree upon the special verdict form(s) and jury instructions, in a form to be given to the jury (not merely CIVJIG numbers), which shall be submitted no later than 2 weeks before the scheduled trial block. In the event the parties cannot agree, each shall provide a reasoned memorandum with citation to legal authority asserting the basis for or against the requested instruction and/or special verdict form, which shall be submitted by no later than 2 weeks before the scheduled trial block.
- All witnesses shall be available at all times during trial
- The attorneys or parties shall provide the Court with two (2) copies of all trial exhibits no later than 2 weeks before the scheduled trial block. **All exhibits shall be pre-marked, in a single series of Arabic numbers and bound in a three-ring binder with dividers and tabs, and accompanied by an Exhibit List.** The parties shall coordinate with one another so that the same exhibit numbers are not used by both. The parties shall attempt to stipulate as to admissibility of exhibits, and the stipulations shall be a part of the exhibit list filed with the Court. Any exhibits not included on the exhibit list filed with the Court, shall not be admissible at trial. If either party objects to the admission of any exhibit proposed by the other party in their exhibit list, they must send a written objection explaining the grounds for their objection no later than 2 weeks before the scheduled trial

block. Responses to objections, if any, shall be submitted no later than 1 week before the scheduled trial block. All objections to exhibits shall be addressed prior to trial.

- The attorneys or parties shall provide the undersigned Judge with two (2) copies of all documents filed with the Court. These copies shall be sent under separate cover, directly to the undersigned Judge by mail or by messenger. The parties are reminded that the Court’s standing Rules of Practice require the following:
 - The courtesy copies of memoranda and supporting documents for motions shall be three-hole punched and organized in three-ring binders.
 - All courtesy copies of supporting materials for motions, including affidavits and exhibits, are to be indexed, divided, and tabbed. All citations in memoranda shall reference the supporting material by its tab number. Only those [portions of] deposition transcripts and exhibits referenced in the memoranda shall be submitted. Counsel shall create an index identifying the supporting material by its tab number. Factual statements shall be supported as provided in Rule 115.03(d)(3) of the Minnesota Rules of General Practice. References to depositions shall specify the tab number, page number, and line number. References to interrogatories shall specify the tab number, page number, and interrogatory number. References to Requests for Admissions shall specify the tab number, page number, and request number. All other references shall similarly be as specific as possible so that the content of the supporting material can be readily located. References shall include, wherever possible, the page number, paragraph number or other description sufficient to identify the location of the cited material.
- The attorneys or parties shall e-mail the Court’s clerk with Microsoft Word files of all proposed jury instructions, special verdict forms, and proposed orders

VI. Trial

- Trial days are generally scheduled from 9 a.m. to noon with one 20 minute break, and continue from 1:30 p.m. to 4:30 p.m. with a second 20 minute break.
- A short, non-argumentative summary of the anticipated evidence is allowed as an opening statement. Parties are discouraged from presenting lengthy, detailed opening statements, and from arguing their case in opening remarks.
- Attorneys should notify other parties by 5 p.m. of the witnesses they intend to call the following day.
- Attorneys should stand and state the basis for making any objection. Attorneys may request to approach the bench if they wish to argue the objection.
- Attorneys should remain at counsel’s table when examining witnesses, and use the podium during opening, closing, and *voir dire*. Permission is required to approach the

witness during cross-examination. Permission is not required to approach one's own witness.