

**THE HONORABLE JOSEPH KLEIN
FOURTH JUDICIAL DISTRICT
PRACTICE POINTERS & PREFERENCES**

I. Contact with Chambers

- Counsel may contact Judge Klein's law clerk by phone 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 Judge Klein's scheduling orders. Attorneys are encouraged to consult the applicable scheduling or pretrial order before calling chambers with questions.

II. Motion Practice

- Hearings on dispositive motions are generally scheduled for one hour. Non-dispositive motions are ordinarily scheduled for 30 minutes. Extra time may be allowed upon request on a case-by-case basis.
- Parties should call Judge Klein's clerk as soon as possible in advance of a hearing to inform the Court that a contested motion is resolved or partially resolved.
- No discovery dispute may be brought before the Court unless the parties have conferred and made a good-faith effort to settle their dispute as contemplated by Minn. R. Civ. P. 37.01(b) and Minn. R. Gen. P. 115.10. The party raising an unresolved discovery issue shall first arrange a telephone conference with the Court and the other party or parties to determine if the dispute can be resolved without a formal motion. In the event a telephone conference is scheduled, the party requesting the telephone conference may submit to the Court, 72 hours before the conference, a letter, no longer than two pages, outlining with specificity the issue(s) to be addressed with the Court. The other party or parties may submit a responsive letter, subject to the same length and specificity conditions, 24 hours before the conference. The parties must file their correspondence with the Court and email a courtesy copy to the clerk. No motion or submission other than these letters shall be filed before the telephone conference. A formal motion may be scheduled only if the telephone conference does not resolve the dispute.
- Changes in the Scheduling Order other than with respect to the trial date are not allowed without a special written request or motion to the Court. Judge Klein disfavors requests for continuances on the date of trial. Such requests will be considered only under extreme unforeseen circumstances.

III. Written Submissions-briefing

- Parties shall submit courtesy copies of motion papers to Judge Klein by email. Courtesy copies of briefs and proposed orders should be in Word format.
- If a party or its counsel raises a case at a motion hearing that was not cited in the briefs, the party should provide copies of the case to the Court and opposing counsel.

IV. In-Court Proceedings

- Attorneys should arrive at least 10 minutes prior to a scheduled hearing.
- If a defendant wishes to waive the right to appear at a hearing in a criminal case, the defendant or his/her attorney should contact the prosecutor and advise the Court.
- Attorneys who address the Court at a hearing should stay at counsel table near the microphone unless the podium also has a microphone. Attorneys shall stand when addressing the Court.
- Attorneys should not recap material from their written submissions during oral argument. Attorneys should assume that Judge Klein will be familiar with the facts and timeline underlying the dispute to the extent discussed in the briefs and proceed directly to their arguments.
- Judge Klein encourages attorneys to use courtroom technology during motion hearings and at trial and to become trained in the use of visual equipment such as an ELMO. Attorneys may bring their own equipment to the courtroom without first filing a motion.

V. Pretrial Procedures

- Judge Klein typically issues a Scheduling Order within 60 days after a case is assigned.
- A telephonic case management conference is normally held approximately one month after the Court issues the Scheduling Order. Plaintiff's counsel will initiate the phone call and have all parties on the line before contacting the Court.
- Judge Klein typically issues an Order for Trial approximately 60 days before the scheduled trial block. The Order for Trial schedules the pretrial hearing and includes deadlines for exchanging exhibit lists, witness lists, deposition designations, pretrial submissions including motions *in limine*, jury instructions, special verdict forms, trial briefs, and any stipulations.
- Judge Klein typically holds a pretrial conference approximately 30 days before the scheduled trial date, at which time he will hear argument on any motions *in limine*. Attorneys should be prepared to discuss any issues relating to the availability of expert witnesses or traveling fact witnesses at the pretrial conference.

- Judge Klein welcomes pretrial settlement discussions if the parties are willing to engage in them. The Order for Trial typically contains a provision inviting the parties to call chambers to request a settlement conference. In civil cases, the Court will offer parties the opportunity to participate in settlement discussions with another judge.
- The Court conducts the initial *voir dire* covering potential jurors' general background and then allow the attorneys to question the jurors. Attorneys are not permitted to argue their case through *voir dire*. The attorneys should raise any topics that might be sensitive based on the nature of the case during the pretrial conference, so that those topics can be covered in a jury questionnaire.

VI. Trial

- Trial days are generally scheduled from 9:00 a.m. to 4:30 p.m. with one 15-minute break in the morning, a lunch break at 12:00 p.m., and one 15-minute break in the afternoon. Attorneys are typically required to meet with the Court each morning for 15 to 30 minutes before the jury comes into the courtroom.
- Speaking objections are not permitted. Attorneys should stand and state the basis for making any objection without making argument. No argument should be made in response to an objection unless the Court invites it. In such cases, the Court will call the attorneys to approach the bench.
- Attorneys should remain behind counsel table when examining witnesses. Permission is required to approach a witness.
- Attorneys should stand at the podium when addressing the jury in opening and closing arguments.
- Attorneys must address all parties, witnesses, and attorneys professionally during trial. Attorneys may not refer to parties, including their own clients, by first name only.
- Trial exhibits must be marked and exchanged prior to trial. Lengthy exhibits must also be bates-numbered. Attorneys are permitted to use electronic exhibits in cases with voluminous exhibits. Parties using exhibit books should provide copies to opposing counsel, the Court, and the witnesses. Attorneys wishing to present an audio recording at trial must provide a transcript of the recording in advance to allow the other side to raise any issues with the transcription.
- Daily trial transcripts are not provided as a matter of course. Parties wishing to obtain daily transcripts will need to make separate arrangements with the court reporter.
- In Court trials in criminal cases, parties are invited to make opening and closing arguments.

VI. Sentencing in Criminal Cases

- Parties filing departure motions shall understand and be well-versed in the distinction between and legal requirements for disposition departures and durational departures.