

**THE HONORABLE JUDGE SCOGGIN
FOURTH JUDICIAL DISTRICT
PRACTICE POINTERS & PREFERENCES**

I. Contact with Chambers

- All communications with the Court, whether scheduling, logistics, or substantive should be sent to Judge Scoggin's staff at 4thJudgeScogginStaff@courts.state.mn.us. Please do not use 4thJudgeScogginChambers@courts.state.mn.us.
- All communication via e-mail must have opposing party copied on the e-mail.
- Judge Scoggin understands that there are some situations where telephone conferences are necessary. He encourages counsel to reach out to staff to schedule telephone conferences in those situations.

II. Motion Practice

- Judge Scoggin requires that counsel adhere to the rules. Counsel should file motions and briefs at least 3 days in advance of the hearing. Judge Scoggin prefers to rule on motions from the bench, so it is recommended that everything be filed before the hearing.
- Counsel should e-mail staff as soon as possible in advance of a hearing to inform the Court that a contested motion is resolved or partially resolved. Counsel should ensure that all parties are included in the e-mail.
- Judge Scoggin understands that in many instances hearings are beneficial for the resolution of cases. In most cases, Judge Scoggin will require that a trial date be set at the first Omnibus Hearing, but is willing to schedule multiple Omnibus Hearings in the meantime to facilitate the resolution of the cases.
- Anyone requesting a continuance or change in scheduling should first contact opposing party. Please remember it is not Judge Scoggin's Staff's responsibility to find opposing counsel or secure dates. E-mail communication with staff and opposing party is preferred. The reason for the request should be included in the motion. In most cases, it is preferred that counsel indicate in the e-mail dates they are unavailable.
- Any stipulations or proposed orders should be submitted by e-mail to staff and ensure that all parties are included in the e-mail. The proposed order should be sent in word format.

III. Written Submissions-Briefing

- Judge Scoggin prefers to have oral arguments after motions and briefs are filed.

- All written submissions must be e-filed by the end of business, 4:30 p.m., on the due date.
- Courtesy copies should be sent to staff by e-mail. Counsel should ensure that all parties are included in the e-mail. This is especially true if it the motion is time sensitive.
- Judge Scoggin requests that only unpublished cases be submitted along with written submissions as required by law.

IV. In-Court Proceedings

- Judge Scoggin requests that counsel arrive on time for hearing.
 - Notice for a waiver of appearance should be done in writing in accordance with the rules. Any waiver for a Gross Misdemeanor should also be done on the record. Judge Scoggin does not permit waivers for Felony cases.
 - Counsel is encouraged to be respectful of time during oral arguments, and counsel should assume that Judge Scoggin has read all written submissions.
 - Oral arguments do not need to recap the material from written submissions. Counsel should expect questions from Judge Scoggin on the motions during oral arguments.
 - If additional case law is presented at oral argument, a hard copy of that case should be provided to the court and opposing party. Well-documented and commonly known cases need not be presented, but counsel should be prepared to provide the citation.
 - Judge Scoggin encourages the use of technology in the courtroom. Counsel should have the technology prepared ahead of time and may have assistance in using the technology. Counsel is expected to know how to use the technology, and be prepared beforehand.

V. Pretrial Procedures

- Judge Scoggin does not have standing orders in regards to pretrial procedures. Scheduling orders will be issued in cases where the parties cannot reach agreement or in cases where the Court believes such an order will be useful.
- *Voir dire* should not be used to argue the theories of the case. If there are sensitive questions, Judge Scoggin is willing to ask those questions if requested to do so.
- Judge Scoggin prefers to handle *voir dire* in the standard fashion. First Judge Scoggin will ask the standard questions as well as any sensitive questions counsel has requested, followed by defense counsel and then the prosecution. Counsel is expected to pass for cause at the end of their respective questions.

- Counsel should plan to remove jurors in the following manner: D1/P1/D2/P2/D3D4/P3/D5.
- Jury instructions, special verdict forms, and witness lists should be filed as soon as practical.
- Proposed elements, definitions, and jury instructions that differ from the CRIMJIGs should be submitted before trial.
- Witness lists must be submitted at least 7 days in advance of the trial. Any update to the witness list should include all witnesses, not just those added.
- Judge Scoggin expects to entertain impeachment issues and simple motions *in limine* on the day of trial. Motions related to Rule 404(b) and other complex factual motions should be argued at a pre-trial hearing. In all cases, counsel should be mindful not to delay the jury.
- Judge Scoggin is willing to entertain chambers discussions, but abides by the restrictions in accordance with *State v. Anyanwu* and its progeny.

VI. Trial

- Trial days are generally scheduled to start at 9:00 am with a 20-minute break every hour and a half. Normally, there will be a break at noon for lunch. Trial will continue until 4:30 pm, but it may be extended to accommodate finishing a witness or case. Attorneys should expect to move to closing arguments immediately after the close of evidence.
- Counsel should be prepared to notify the court and opposing counsel at least the day of, which witnesses will be called and the expected schedule for the day.
- In the case of objections, counsel should stand and state the basis for the objection – no more. Counsel may request to approach the bench if they wish to argue the objection. Counsel should ensure that argument is not made before the jury. It is counsel's obligation to make a record.
- Counsel should remain at their table when examining witnesses.
- Counsel must ask permission to approach witnesses for the first time. Counsel must return to counsel table after the purpose of the approach is over.
- Counsel may move about while addressing the jury, but must maintain a reasonable distance from the jury.
- Judge Scoggin encourages the use of technology in the courtroom. Counsel should have the technology prepared ahead of time and may have assistance in using the

technology. Counsel is expected to know how to use the technology, and be prepared beforehand. Counsel is advised to be very respectful of the jury's time.

- Exhibits should be marked before the witness who will refer to the exhibit takes the stand.
- The moving party must provide a transcript when offering a recorded statement. When offering any other recording, the moving party must acknowledge, on the record, the responsibility of providing a transcript if required for post-verdict motions or appeal.
- At the conclusion of the trial, Judge Scoggin will let the jury know that they are free to talk, or not talk, to the attorneys. Judge Scoggin uses jury evaluation forms and is happy to share information received from the jury.

VI. Sentencing in Criminal Cases

- All motions for a departure should follow the rules. The state must provide notice by the Omnibus Hearing, and all other motions and memos should be provided at least 3 days before sentencing.