

**THE HONORABLE KEVIN S. BURKE
FOURTH JUDICIAL DISTRICT
CIVIL PRACTICE POINTERS & PREFERENCES**

I. Contact with Chambers

- Counsel may contact Judge Burke’s law clerks with questions not covered by the rules or any applicable orders. Counsel should have the court file number at hand when calling chambers. Counsel on cases with even court file numbers should contact Annie at 612-348-2649. Counsel on cases with odd court file numbers should contact Tove at 612-348-4388.
- Counsel is encouraged to schedule telephone conferences to resolve matters outside of formal motion practice. The parties must participate in a telephone conference before filing any discovery motion. Judge Burke will not accept any submissions prior to a telephone conference unless such submissions were requested by the court.
- Judge Burke will accept telephone calls from attorneys to rule on discovery disputes that occur during the course of a deposition as he is available.

II. Motion Practice

- 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. Gen. R. Prac. 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. Only if the telephone conference does not resolve the dispute may a formal motion be scheduled.
- Parties should call Judge Burke’s clerk to schedule a motion hearing. Cross motions for summary judgment are to be heard on the same date.
- Parties should call Judge Burke’s clerk as soon as possible in advance of a hearing to inform the Court that a contested motion is resolved or partially resolved.
- Judge Burke does not typically hold hearings on any post-decision motions, including motions to reconsider, amend the findings, or for a new trial. These motions will be decided based on the written submissions of the parties.
- Counsel is strongly encouraged to read and be familiar with *Minneapolis Star & Tribune Co. v. Schumacher*, 392 N.W.2d 197 (Minn. 1986), prior to filing documents under seal. All protective orders must strictly comply with this case and Judge Burke will not grant a motion to seal an entire case file.

- Parties are encouraged to mutually agree on pre-trial continuances or other changes in the scheduling order prior to the date of trial; however, the trial date set forth in the order is not negotiable. Counsel should contact chambers as soon as possible upon the agreement to any variation to the pre-trial dates set forth in the pre-trial scheduling order. If the parties request a new order setting forth the new dates, counsel is expected to provide Judge Burke with a proposed order.
- Judge Burke disfavors requests for continuances of the date of trial.

III. Written Submissions

- Counsel must provide the Court with one courtesy copy of any submission over thirty pages in length.
- Submissions may be filed outside of business hours on the due date as long as such filings are in compliance with the e-filing requirements of the state of Minnesota.

IV. In-Court Proceedings

- Judge Burke recommends that the parties arrive fifteen minutes early for all hearings.
- Judge Burke wants counsel to feel comfortable in his courtroom. Counsel may stand during argument if counsel prefers, however, attorneys are not required to stand at the podium to address the Court.
- Parties may bifurcate their oral argument as counsel sees fit.
- Judge Burke carefully reads the briefs before oral argument. Counsel should not restate material submitted from their written submissions during oral argument unless asked to do so by the Court. Rather, Counsel should use in-court proceedings to inform the Court of any relevant information that was omitted from the written submissions. Oral argument should be pointed and focus on the most important point and supporting caselaw.
- If counsel intends to present new case authority at oral argument, he or she must provide a courtesy copy of the case to the Court and to opposing counsel in advance of the hearing.
- Counsel may use technology in the courtroom during motion hearings. Counsel should be prepared to set up and run the technology on their own and may not expect to rely on Court staff.

V. Pretrial Procedures

- Judge Burke will issue an Order for Trial that will contain requirements and procedures for jury instructions, special verdict forms, and witness lists. The Order for Trial contains all of the key information regarding trial procedures

and the parties are expected to consult the Order for Trial before contacting chambers.

- Motions *in limine* are typically argued on the trial start date listed in the Order for Trial.

VI. Trial

- Attorneys may call Judge Burke's court reporter at 612-348-5446 to request daily transcripts during trial. Counsel is advised that daily transcripts will likely not be available.
- A tentative special verdict form and jury instructions will be formed prior to the commencement of trial, with the understanding that modifications will occur throughout the course of trial.
- Trial days are generally scheduled from 9 a.m. to noon with one twenty minute break, and continue from 1:30 p.m. to 4:30 p.m. with a second twenty minute break.