THE HONORABLE KAREN A. JANISCH
FOURTH JUDICIAL DISTRICT
CIVIL PRACTICE POINTERS & PREFERENCES

I. Contact with Chambers

- If you have questions about logistics and scheduling, you may contact Judge Janisch's clerks in chambers by telephone or email. If you have a substantive question, ask for a telephone conference and arrange for all parties to participate.

- The Court requires telephone conferences for scheduling issues and routine discovery issues. A request for modification of a scheduling order may be sought ONLY by telephone conference, not in a courtroom hearing or by written stipulation alone.

- Discovery motions must be preceded by a telephone conference. When a conference has been scheduled, the moving party must send a letter no more than one page in length to the Court and to the other parties, to which the responding party or parties may respond by one-page letters.

- You may request a telephone conference by calling Judge Janisch's clerks or emailing the clerk assigned to the case and copying the email to the other parties. Get possible times from the Court and arrange a scheduled call with other counsel, then advise the Court. The Court will initiate the telephone conference.

II. Motion Practice

- As stated above, discovery motions may only be brought after a telephone conference, which must be preceded by letters no more than one page in length sent to the Court and to the other parties, first by the moving party and then by the responding party or parties. The parties must seriously "meet and confer" before bringing discovery disputes to the Court.

- A request for modification of a scheduling order may be sought ONLY by telephone conference, not in a courtroom hearing or by written stipulation alone.

- If parties resolve or partially resolve a contested motion before the hearing date, they should advise the Court promptly to avoid wasting preparation time and effort.

- The Court will accept telephone calls from attorneys to rule on discovery disputes that occur during the course of a deposition, but only if the Court is available and the dispute is one that can be resolved promptly without written argument.

- Motion hearings may be scheduled by telephone call to chambers. Counsel are expected to disclose scheduled dates immediately to enable the parties to combine hearings in the same matter (e.g., cross-motions for summary judgment, motions with common issues), and to allow the Court to schedule more time for the hearing if necessary. The Court

normally allows 30 minutes for a hearing, 15 minutes per side. CONSULT YOUR SCHEDUING ORDER.

- Motion hearings may be scheduled for any day of the week at 9 a.m. or 1 p.m., unless the Court is on a criminal calendar.

- Any motion that can be resolved by telephone conference, should be. Modifications of scheduling orders may ONLY be sought by telephone conference.

- With respect to protective orders, identify in the order section the manner of filing with the Court so that the filing clerk doesn't have to search the entire document. The Court prefers documents be filed as confidential, rather than as sealed. With respect to filing documents as confidential or under seal, follow the applicable rules. Avoid provisions that mandate Court staff to determine what to do with documents when the case ends.

- Requests for continuances, like any changes in the scheduling order, must be addressed by telephone conference.

- In addition to efiling, any stipulations should be provided to the Court by email, especially if the stipulation relates to a hearing or other activity in the near future. Any paper of immediate concern to the Court should be provided by email to chambers to avoid being lost in the ongoing avalanche of electronic filings. The Court does not need paper courtesy copies of documents less than 50 pages long.

III. Written Submissions

- A motion requesting a word/page enlargement must be made in writing. Such motions are disfavored unless the issues are unusually complicated.

- The parties may agree between themselves on variations to a briefing schedule as long as they do not unduly shorten the time available to the Court to review the filing before the hearing.

- Written submissions may be filed until midnight on the due date.

- The Court only wants courtesy hard copies of filings totaling 50 or more pages in length. Courtesy electronic copies are only needed to call the Court's immediate attention to a document on short notice. Such courtesy copies should be sent to the chambers email address: 4thJudgeJanischChambers@courts.state.mn.us. With respect to printing, binding, tabbing, etc., the Court has no specific preferences beyond asking counsel to make their papers as convenient to use as possible.

- The Court does not want courtesy copies of case authority beyond what is required by the rules, but may permit counsel to offer new authority in Court if it is new and pertinent and could not have been included in a prior filing.

- When a party moves for a preliminary injunction or temporary restraining order, the Court will seek to ensure that the opposing party is available for a hearing and will schedule the hearing accordingly unless circumstances are so exigent that the motion must be heard ex parte. If warranted, the Court may attempt to contact the adverse party to ensure an opportunity to be heard.

IV. In-Court Proceedings

- Please be on time for all hearings.

- The Court expects all persons in the courtroom to treat each other and the Court and Court staff with respect. This applies to clients as well, who should be instructed on decorum by their counsel. Counsel may be held accountable for the poor conduct of their clients. The Court has no specific preference as to whether counsel sit or stand while making their arguments.

- The Court has no preference as to which table or side of the courtroom the parties occupy.

- The Court normally allows 15 minutes total per side in motion hearings. If you are sure you need more time, send a written request to the Court's email address, copied to all counsel of record and pro se parties.

- Parties may bifurcate their oral arguments as long as they advise the Court before doing so to help the Court allocate time fairly among the parties.

- Attorneys should not recap material from their written submissions during oral argument, but should focus on the key facts and law.

- The Court does not typically take live witness testimony during hearings on preliminary injunction/temporary restraining order motions, but does take testimony at hearings on motions for temporary injunctions, which frequently involve the main parts of the case.

- An attorney may present new case authority at oral argument, but it must be so new that it could not have been included in the party's reply brief or other filings prior to the hearing. Counsel may not sandbag opposing parties by presenting new arguments that could have been presented earlier. Courtesy copies of truly new cases must be provided to the Court and opposing counsel.

- The Court believes that it is not usually necessary to use courtroom technology in motion hearings. It is not encouraged for routine motions, in part because of the extra set-up time that requires the attention of Court staff. Primitive technology that does not impose a burden on Court staff, such as paper copies or blow-ups of exhibits, are preferred.

V. Pretrial Procedures

- The Court enters a Scheduling Order, a Trial Order, and a Pre-Trial Order early in the case. Please become familiar with these orders.

- The Court's procedure for *voir dire* is to conduct it herself based on standard questions and on additional questions submitted by counsel. The Court will advise counsel when they may submit proposed questions. Counsel also may conduct additional *voir dire* if they do so expeditiously.

- Requirements and procedures for:

    - jury instructions: submit them as fully written out, not as series of numbers, and include case authority for non-standard instructions.

    - special verdict forms: submit proposed forms as prescribed in the Trial Order.

    - witness lists: include a general description of the anticipated testimony.

- The Court does not impose a limit on the number of motions *in limine*, which must be in writing. These motions are typically argued the first morning of trial before jury selection. Numerous/complex motions in *limine* may require a set date prior to the trial to be heard.

- The pre-trial conference is normally held 2-3 weeks before trial. *See* Scheduling, Trial Scheduling, and Pre-Trial Orders. Counsel may agree to request the Court to preside over a settlement conference as part of the pre-trial conference in jury trial cases.

VI. Trial

- The typical trial day begins at 9:30 a.m. and ends at 4:30 p.m., with a 1 and 1/2 hour break for lunch at 12 noon and 15 minute breaks during the morning and afternoon. Trial sessions could start earlier if there are no motions scheduled.

- The Court expects counsel to communicate openly and freely regarding the anticipated order of witnesses and any changes to the anticipated order.

- Routine, one-line objections during trial may be stated from the counsel table without standing. Any argument regarding objections must be presented out of the hearing of the jury, either at the bench or in a cleared courtroom.

- Attorneys should remain seated at the counsel table while examining witnesses or addressing the jury. Counsel must ask permission to approach a witness. If granted, counsel should return to counsel table when the need to approach is completed.

- The length of opening statements or closing arguments is left to the discretion of counsel. The Court will ask for estimated times in advance. Please be accurate in estimates as the Court uses them to plan breaks for the jurors and court reporters.

- Counsel must address witnesses and opposing counsel formally during trial, but witnesses are not so restricted.

- With respect to the handling of trial exhibits, CONSULT YOUR TRIAL ORDER. Generally counsel should meet and confer ahead of time to mark exhibits, note objections, and stipulate to admissible evidence. At least three sets of numbered exhibits should be provided, in binders: for the witness (the copy that goes to the jury), for the Court, and for opposing counsel. Electronic exhibits must be disclosed in advance to permit objections. Voluminous documents should be presented electronically, with summaries of each document provided to the Court and opposing counsel. Audio recordings (e.g., recordings of medical expert testimony) must be provided with transcripts.

- Counsel should plan on providing their own technology for playing video or audio recordings. Again, such evidence must be disclosed in advance to permit objections. The same is true of demonstrative evidence.

- Attorneys may use actors to read trial transcripts of trial depositions, if the witnesses are unavailable.

- Attorneys may bring their own trial technology to the courtroom. The availability of the County's technology is uncertain. If attorneys bring trial technology, the Court expects counsel for the parties to share technology in an orderly fashion to minimize delay.

- Attorneys may contact the court reporter about obtaining daily transcripts during trial.

- The Court does not encourage contact with jurors after the conclusion of trial and does not facilitate such contact.