

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF SCOTT

FIRST JUDICIAL DISTRICT

Court File No.: 70-CV-24-17210

Aaron Paul,

Contestant,

v.

Brad Tabke,

Contestee.

**ORDER FOLLOWING
INFORMAL SCHEDULING
CONFERENCE**

On December 9, 2024, this matter came before the Honorable Tracy L. Perzel, Judge of District Court, First Judicial District, for informal scheduling conference.¹

Attorney Reid LeBeau appeared on behalf of Contestant, Aaron Paul. Attorneys David Zoll and Charles Nauen appeared on behalf of Contestee, Brad Tabke. Assistant Scott County Attorney Jeanne Andersen and various other members of the public were also present.

The parties indicated the trial in this matter must begin by Monday, December 16, 2024. The Court agrees. The notice of election contest (“Notice”) was filed on November 29, 2024. That filing starts the 15-day period established by statute and in which the trial must begin. *See* Minn. Stat. § 209.10, subd. 3. However, the last day of that 15-day-period is Saturday, December 14, 2024. Minnesota’s statutes addressing election contests do not provide a method for computing this 15-day period when the last day falls on a Saturday, Sunday or legal holiday. *See* Minn. Stat. §§ 209.01-209.12. Minnesota Rule of Civil Procedure 6.01 fills this gap, stating the period of days continues to run until the next day that is not a Saturday, Sunday or legal holiday, meaning Monday, December 16, 2024. *See Bergstrom v. McEwen*, 960 N.W.2d 556, 562 (Minn. 2021) (citation omitted) (applying Minnesota Rules of Civil Procedure not inconsistent with election contest statutes); Minn. R. Civ. Pro. 6.01(a)(1) (filling statutory void in computing time).

Given the extraordinarily short time from filing of the Notice to trial, the parties asked if witnesses with scheduling conflicts could provide their testimony to the physical courtroom remotely, using the Zoom video-conferencing platform (“Zoom”). Minnesota’s Judicial Branch uses Zoom on a daily basis in certain court proceedings and, in general, has success doing so when those who appear by Zoom have reliable internet connectivity and electronic devices that allow them to be seen and heard from a quiet location. Considering the specific circumstances of this case, the parties’ mutual request is reasonable in light of the compressed timeline for trying this case and with the parameters set forth below.

¹ This informal scheduling conference was held remotely using Zoom technology and without a court reporter making a record, all with the agreement of the parties. This is the typical practice for informal scheduling conferences where logistics, not the merits, of a case are addressed.

The parties further agreed to exchange and file exhibit and witness lists by December 12, 2024, at 5:00 p.m. and to email any filed documents to the undersigned's law clerk to ensure the Court's timely receipt of the filings.

The parties also indicated the potential for pretrial motion practice and eventual need for post-trial filing deadlines. The Court will address the former if motions are filed and the latter on day one of trial.

Based on the foregoing, the Court enters the following:

ORDER

1. Trial in this matter will begin on Monday, December 16, 2024, at the Scott County Courthouse in Shakopee, Minnesota.
2. A witness with scheduling conflicts that necessitate a remote appearance may testify using Zoom, provided the witness has (a) reliable internet connectivity; (b) access to both Zoom and an electronic device that will allow the witness to be seen and heard on Zoom; (c) the proficiency to use and, if necessary, troubleshoot, Zoom through the electronic device; (d) a quiet space from which to testify in accordance with the rules of courtroom decorum; *and* (e) copies of any exhibits about which counsel may ask the witness.
 - a. To prevent delay of the trial, witnesses testifying remotely must be within reasonable driving distance of the Scott County Courthouse should the remote nature of their testimony impair its receipt and necessitate in-person testimony.
3. The parties shall exchange witness and exhibit lists by 5:00 p.m. on December 12, 2024.
4. After making any court filings in this case, the parties shall email a copy of those court filings to the undersigned's law clerk at the email address provided during the scheduling conference and shall copy opposing counsel on any such email.

BY THE COURT:

Dated: 12/11/2024

Tracy L. Perzel
Judge of District Court