

THE HONORABLE JUDGE BEV BENSON
FOURTH JUDICIAL DISTRICT
PRACTICE POINTERS & PREFERENCES

I. Contact with Chambers

- All communication, whether scheduling, logistics, or substantive be sent to staff at 4thJudgeBensonStaff@courts.state.mn.us.
- All communication via e-mail must have opposing party copied on the e-mail.
- In special situations, Judge Benson may allow telephone conferences in accordance with the rules.

II. Motion Practice

- When possible, Judge Benson prefers briefings be submitted with motions.
- 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.
- Anyone requesting a continuance or change in scheduling should first contact opposing party. E-mail communication with staff and opposing party is preferred. A request for a continuance should include a basis for the request and if opposing counsel does not oppose the request, please select a new date and time within the next 30 days, if at all possible, which works for all parties and provide that date to the Court, so we can reschedule. It is helpful to include a few proposed dates, because if no dates are proposed, this triggers another series of emails.
- Any stipulations or proposed orders should be submitted by e-mail to staff and ensure that all parties are included in the e-mail.

III. Written Submissions-Briefing

- All written submissions must be e-filed by the end of business on the due date.
- Judge Benson prefers to receive the briefs along with the motion before oral arguments.
- Courtesy copies should be sent to staff by e-mail. Counsel should ensure that all parties are included in the e-mail.

- Counsel should submit copies of case authority along with their written submissions when the case authority is unpublished. Counsel should ensure that all parties are included in the e-mail.
- In cases of plea by mail, it is preferred that defense counsel bring the plea to the hearing or email to 4thJudgeBensonStaff@courts.state.mn.us and e-file. The plea should include a signature by the defendant and defense counsel, as well as verification by the prosecutor, which may include an attached email from the prosecutor with the offer if the offer has not already been noted in MNCIS.

IV. In-Court Proceedings

- Judge Benson prefers that counsel arrive 15 minutes before any hearing.
- Notice for a waiver of appearance should be done in writing. Felony and Gross Misdemeanor waivers should be done on the record at the preceding hearing.
- Judge Benson prefers that counsel stand at the podium or at counsel table, whichever counsel prefers, while on the record.
- Oral arguments do not need to recap the material from written submissions. Oral arguments should be focused on the most important points of the issue.
- If additional case law is presented at oral argument, a hard copy of that case should be provided to the court and opposing party.
- Judge Benson strongly encourages the use of technology in the courtroom. Advance training in the technology being used is encouraged, and counsel may bring assistance to assist with operating the technology.

V. Pretrial Procedures

- Judge Benson does not have standing orders in regards to pretrial procedures. She prefers to address the procedures for each case individually based on the aspects of each case.
- *Voir dire* should not be used to argue the law or theories of the case. *Voir dire* should not be used to get personal information such as home addresses or phone numbers.
- Jury instructions, special verdict forms, and witness lists should be filed together with other pretrial motions.

- The jury instructions should be listed according to the CRIMJIG number. Special jury instructions that differ from the CRIMJIGs should be written and submitted at the same time, along with support for the use of the special jury instruction.
- Witness lists must be submitted at least 7 days in advance of the trial, absent “good cause.”
- Motions *in limine* are open to all potential issues. The motions will normally be argued on the first day before trial.
- At the hearing prior to trial, Judge Benson likes to have the opportunity to discuss the status of the case and trial procedures with counsel. Judge Benson likes to know if a settlement offer has been extended. If so, Judge Benson requires that the parties place the offer(s) on the record and opposing counsel inquires of his/her client about the offer(s) and whether the client wishes to accept the offer or reject the offer. Additionally, Judge Benson likes to know what other motions or issues remain to be discussed before trial, the number of witnesses, and expected exhibits. Judge Benson also likes to use this time to confirm the jury instructions and review the jury selection process.

VI. Trial

- Parties are asked to be at court by 8:45 am on the day of trial. Trial days are generally scheduled to start at 9:00 a.m. with one 20 minute break about 10:30 a.m. Normally, there will be a break at noon for lunch depending on the status of testimony. Trial will continue until 4:30 pm, but it may be extended to 5:00 p.m. if need be and there are no conflicts from the parties or the jurors.
- In the case of objections, counsel should stand and state the basis for the objection. Counsel may request to approach the bench if they wish to argue the objection; however, argument should be rare and is discouraged.
- Counsel should remain at their table when examining witnesses.
- Permission is always required to approach the witness in all cases. This is imperative to assure that no party, witness, court reporter or juror is surprised by the movement and this makes the best record for trial.
- All exhibits should be marked *prior* to trial.
- In the case of audio or video recordings, transcripts should be produced by the offeror and exchanged beforehand.
- At the conclusion of the trial, Judge Benson will let the jury know that they are free to talk, or not talk, to the attorneys and will invite them to talk with the Court, if they wish.

VI. Sentencing in Criminal Cases

- Prior to sentencing the court will review the Pre-Sentence Investigation and Sentencing Guidelines Worksheet, victim input if provided in advance, Rule 25 evaluations, etc.
- All motions for a departure should be e-filed at least 3 days in advance of the Sentencing Hearing.