

Everyone rightly expects a judge to be fair, decisive and knowledgeable. These traits are especially important in the trial of cases. It is always the judges responsibility to control the courtroom, but I believe that a light rather than a heavy handed approach by the judge is the most effective way to both maintain decorum and provide all of the parties with a fair, impartial, unbiased trial. Trial lawyers in Minnesota rarely fit into the conniving, bullying roles we see on television. On the other hand, it is not fair to hold lawyers to rules of procedure without first telling them what behavior is expected

To insure that everyone understands the standards I enforce at trial, each lawyer is given the following guidelines before the first juror is called.

TRIAL GROUND RULES
Trials with Judge Steven Pihlaja presiding

PRIME RULE: Respect the time, integrity and intelligence of the jurors. Note particularly Rule 8 during jury selection

1. **Number of jurors.** Determine if alternates are needed before panel is called.
2. **Be punctual.** Schedule will be announced in court for the following day. Tell the clerk, reporter or judge of any time conflicts.
3. **Respect.** The clerk, court reporter, all parties, witnesses, counsel, and courtroom deputies will be treated with dignity and spoken to respectfully.
4. **Exhibits.** Pre-mark exhibits. Provide exhibit list for court and opposing counsel. Before trial, provide opposing counsel with copies of all documents to be offered as exhibits.
5. **Witness list.** Prior to commencement of trial the parties shall exchange, **and provide to the court reporter**, a correctly spelled list of all witnesses who may be called.
6. **Recordings.** No audio or video recording will be received into evidence unless the offering party has provided a transcript to the opposing party and the court reporter for inclusion with the record. The court reporter will not interpret or transcribe the contents of any recording. All objections to the transcript and the recording must be resolved before the exhibit is offered. The offering party must arrange for playback equipment
7. **Voir dire:**
 - A. **Purpose:**
 1. To discover the basis for challenge for cause.
 2. To gain knowledge to facilitate an informed exercise of peremptory challenges.
 - B. **Standard:** *Impartiality*
 3. The right juror is both **willing** and **able** to be neutral, open-minded, and fair.

4. The test of an impartial juror is not that s/he shall be completely ignorant of the facts and the issues, but that s/he can lay aside her/his impressions or opinions and render a verdict based on the evidence presented in court.
5. The Court has the right and the duty to ensure that voir dire inquiries are reasonable. The Court may restrict or prohibit questions that are repetitious, irrelevant, or otherwise improper.
6. Knowledge or ignorance concerning questions of law is not a proper subject for voir dire.

C. Basic Approach:

7. Attorneys are entitled to receive information from potential jurors in order to intelligently exercise challenges.
8. Attorneys are permitted to seek out cause, bias, or partiality concerning any potential juror.

D. Scope:

9. Attorneys may ask only questions that directly and clearly relate to the purposes of voir dire. They may **not** ask questions that:
 - * Examine jurors as to their understanding of the law.
 - * Are intended to predispose jurors to be in favor of or against a party, a witness or some aspect of the case.
 - * Ask jurors to put themselves in the place of the Defendant, party or victim.
 - * Ask the jurors to commit themselves to vote in a certain way or to take any position before they hear the evidence.
 - * Comment upon possible punishment.
 - * Attempt to present evidence.
 - * Repeat questions previously asked by the judge and those to which clear and complete answers have been given.
 - * Concern settlement efforts.
 - * Violates a juror's equal protection rights, such as:
 - (a) Race.
 - (b) Gender.
 - (c) Age.

(d) Religion.

* Violates the privacy of the jury panel.

8. **Method of Selection** – Civil method (**21 called, Court examines all 21. Defense examines all 21, exercises or passes for cause. State examines all 21, exercises or passes for cause. Peremptory challenges by exchanging jury list.**) unless otherwise agreed.

During questioning lawyers should:

- (a) Ask general questions of the entire panel.
- (b) Ask questions that follow up on information given in response to the court's or opposing counsel's questions or jury questionnaire.
- (c) Move randomly among jurors to keep panel attentive.
- (d) **NEVER** proceed in order from juror 1 through 21 substantially repeating the same questions. Juror feedback indicates a strong dislike of this practice.

9. **Standing and Sitting:**

- (a) Stand whenever the jury enters or leaves the courtroom.
- (b) Sit for questioning and objections.
- (c) Stand for judge only at beginning of morning and afternoon sessions.

10. **Opening Statements:**

- (a) Use of lectern is optional; lawyer is responsible for arranging.
- (b) Obtain prior Court approval of any exhibits to be used.
- (c) Do not argue.

11. **Objections:**

- (a) Do not use speaking objections.
- (b) State the objection, the legal basis for it and wait for a ruling.
- (c) Common objections appropriately stated:
 - 1. Relevance (or) **Rule 402.**
 - 2. Undue prejudice (or) **Rule 403.**
 - 3. Character (or) **Rule 404.**
 - 4. Competency (or) **Rule 601.**
 - 5. Personal knowledge (or) **Rule 602.**
 - 6. Beyond the scope (or) **Rule 611.**
 - 7. Hearsay (or) **Rule 801.**
 - 8. Testifying from exhibit not in evidence.
 - 9. Foundation
- (c) No further argument unless requested by the Court.
- (d) **Minimal bench conferences. Conferences are not on record. Argument for the record will be made during breaks when jury is not present.**

12. **Questioning witnesses:**

- (a) Do not testify.
- (b) Do not instruct the witnesses how to answer the question.
- (c) Do not editorialize or repeat the answers.

13. **Approaching Witnesses:**

- (a) One request to approach per witness is sufficient.
- (b) Do not loiter by witness.

14. **Jury Instructions:**

- (a) Any requested instructions should be submitted as early as possible.
- (b) Charging conference and preparation of instructions will take place when the jury is not scheduled to be present.
- (c) The jury will be instructed on charges and defenses after both parties rest and before final arguments of counsel.
- (d) The jury will be instructed on jury procedures and verdict forms after final arguments of counsel.

15. **Closing Arguments:**

- (a) Use of lectern is optional; lawyer is responsible for arranging.
- (b) Be professional.
- (c) Remember the capacity of the mind is limited by the posterior's ability to endure.

16. **Decorum:**

Lawyers will comply with the General Rules of Practice for the District Courts. You should pay particular attention to Title I, Rule 2. Court Decorum, Conduct of Judges and Lawyers, and to Title II, Part H. Minnesota Civil Trial Notebook. **All lawyers are expected to adhere to the standard of integrity and courtesy expressed in the Professional Aspirations approved by the Minnesota Supreme Court.** (Found in Minnesota Rules of Court)

17. **Sequestration:**

- (a) Witnesses. Lawyers shall sequester their witnesses.
- (b) Jurors. Jurors will not be sequestered except in unusual circumstances.

February 12, 2004

