

## **Protocol and Practice of Persons Appearing in the Court of Judge Roger Brodman**

I expect attorneys and litigants to treat everyone in the courtroom, including my staff, with respect.

Please be on time. I am prompt by nature and I am almost always ready to begin on time.

I suffer from a slight hearing loss. The hearing loss is most significant when there is a lot of background noise. Counsel should speak clearly and at a reasonable pace.

I tend to speak in a deliberate manner. Few things annoy me more than an attorney who interrupts me when I am speaking. Do not interpret a pause to mean I am inviting your comments.

I have an engineering degree and am very good at math.

### **Pre-Trial Practice and Management Issues**

If you have a motion or request that you would like to have addressed immediately, please direct it to my judicial assistant, Christine Cobb. E-filed documents are not instantly available to the divisions.

Discovery and attorneys' fees should be proportional to the importance of the issues and the damages involved.

Motions: Make sure the motion (not the memorandum of points and authorities) states exactly what relief you want – if you're doing it right, the Court ought to be able to cut and paste it into a judgment. A good example is, "Plaintiff moves for summary judgment that defendant is liable for \$50,000 plus interest at 5% per annum from January 1, 2000," rather than, "Plaintiff moves for summary judgment that defendant is liable for breach of contract" (leaving me to hunt for an amount in the statement of facts).

Judicial Intervention: My approach to resolving discovery issues mirrors Rule 6, Rules of Procedure for the Juvenile Court, which provides that proceedings "shall be conducted as informally as the requirements of due process and fairness permit." Most discovery disputes can be resolved in a simple phone call, without the costs and delays associated with paperwork. Accordingly, I encourage people to call my judicial assistant to set up a telephonic conference to resolve such issues. The worst I can tell you is that it's too complicated to handle informally.

A letter to the opposing attorney threatening to file a discovery motion if he or she doesn't respond does not, without more, satisfy the "personal consultation" requirement of Rule 37(2)(C)

Injunctive Relief: I rarely grant a TRO without notice. For orders to show cause, I generally treat the first hearing date as a short "return hearing" where I determine the parties' positions, identify common ground, and set an appropriate hearing to resolve the remaining issues.

## **Trial Practice and Protocol**

**Trial Schedule:** My trial days are typically Monday through Thursday, 9:30 a.m. to 4:30 p.m. with a lunch break. If we haven't completed jury selection before lunch on the first day of trial, you should anticipate exercising your strikes during lunch.

**Jury Selection:** Make certain that you have submitted a stipulated short summary of the case, so that I can read it to the jury at the beginning of jury selection.

I use a "struck" method of jury selection, meaning I voir dire the entire panel and then allow the attorneys some time to question the jury. The attorneys usually need 15 minutes or less, and in the majority of cases, we have picked a jury before noon. Feel free to submit proposed questions.

Absent an issue which would require individual interviews of juror to protect their privacy, I do not use jury questionnaires.

**Alternates:** I tend to seat nine jurors, and strongly encourage lawyers to allow the alternate juror to deliberate.

**Trial Practice and Procedure:** I have an electronic courtroom which includes an Elmo, numerous screens, and ports allowing the use of laptop computers. You're free to use them. If you have any doubt about your ability to get your computer to work with a minimum of delay, make an appointment to play with our system before you have to do it in front of a jury.

**Time limitations:** We'll have a discussion about time limitations before the trial starts.

**Exhibits:** My typical practice is to admit the stipulated exhibits at the pretrial conference. If the parties anticipate that they will disagree about the admissibility of an exhibit, they should bring a copy for me, so that I can review it. For bench trials, provide me with exhibit books so I can follow and mark up the exhibits during the trial.

**Courtroom Etiquette:** I do not require people to use the podium while presenting opening statements or closing arguments, but they should be in arm's length of it.

Counsel may question witnesses from the podium or counsel table. Request to approach a witness before doing so.

Objections should be short, such as "Objection, relevance," or "Objection, hearsay." Speaking objections are strongly discouraged.

**Attorneys' Fees:** Attorneys' fees should be proportional to the damages in the case. Do not expect me to award \$100,000 in attorneys' fees on a \$50,000 case.