

April 7, 2021

VIA EMAIL

The Honorable John C. Hoffman
Minnesota District Judges Association
25 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Jeff Shorba
Minnesota State Court Administrator
25 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55115

Re: Copyrightability of Minnesota Jury Instruction Guides

Dear Judge Hoffman and Mr. Shorba:

My name is Tony Webster, a journalist and researcher in Minneapolis. I frequently follow court cases and use court records in my work. I'm not an attorney, so when I first saw the word CRIMJIG in a state court filing many years ago, I had no idea what it meant and an online search wasn't particularly helpful. I of course refer to model jury instructions—the Minnesota Jury Instruction Guides: Criminal (“CRIMJIG”) and its civil court counterpart, the Minnesota Jury Instruction Guides: Civil (“CIVJIG”)—hereafter individually and collectively “JIGs.”

Through this correspondence, I respectfully hope to convince the Minnesota District Judges Association and anyone else who claims or could claim copyright in the JIGs that they are government edicts not eligible for copyright protection and thus in the public domain. I further hope that the Minnesota District Judges Association or Minnesota Judicial Branch will work to provide free and open access to the JIGs by publishing them online in an arrangement similar to state statutes or court rules, without any requirement for the creation of an account, submission of payment, or the agreement to any terms or conditions.

I. Limitations on the public's access to Minnesota's Jury Instruction Guides impedes access to justice, legal education, and journalism

As an initial matter, it is important to recognize the significance of the JIGs. When turning a case over to a jury, Minnesota courts provide instructions to the jurors. Throughout Minnesota, district courts use the language supplied in the JIGs to instruct the jurors on their duties, the presumption of innocence, evidence rules, the elements of specific alleged crimes, and defenses. For example, CRIMJIG 3.03 involves a judge reading to the jury:

“Proof beyond a reasonable doubt is such proof as ordinarily prudent men and women would act upon in their most important affairs. A reasonable doubt is a doubt based upon reason and common sense. It does not mean a fanciful or capricious doubt, nor does it mean beyond all possibility of doubt.”

Though jury instructions can be modified from the JIGs, the JIGs serve as the baseline and Minnesota judges expect counsel and parties to use them. Juries render their verdict based on the law as they understand it from the jury instructions. In these ways, JIGs are used much as court rules and the law itself is used.

Attorneys, prosecutors, litigants, and defendants all need to be able to access and use the JIGs to ensure they can represent their own or their clients' interests, and to receive a fair trial. The general public—especially law students, researchers, and the press—also need access to the JIGs to better understand how the Judicial Branch operates, and how court proceedings work. As the nation's focus is on a Minnesota courtroom during the trial of former Minneapolis police officer Derek Chauvin, there is unprecedented public interest in the mechanics of the judiciary and there will be great interest in understanding the jury's ultimate decision.

But for far too many Minnesotans, the JIGs are off-limits. The JIGs are only advertised as being available for purchase by paying Thomson Reuters \$600 for the CRIMJIGs plus \$762 for the CIVJIGs as a one-time fee, or \$28 per month plus \$36 per month, respectively, on a monthly contract with a minimum term length. *See Exhibit A* (copies of Thomson Reuters Store website). The pricing is the same for a hard copy physical book or eBook, though the eBook is subject to the purchaser's agreement to terms and conditions, including onerous use restrictions and the potential that access may be revoked. *See Exhibit B* (Thomson Reuters eBook License Agreement). Additionally, the subscription pricing arrangement imposes two to ten-year minimum terms with predefined price increases, and use restrictions. *See Exhibit C* (Thomson Reuters subscription terms).

The JIGs are available at many law libraries in book format, but this generally requires an in-person visit. Many law libraries are currently closed or have extremely limited access during the COVID-19 pandemic.¹ But even during more normal times, many Minnesotans lack access to transportation or cannot visit a law library during daytime business hours due to work or family obligations. In rural areas, Minnesotans may have to drive an hour or more to reach a law library. Additionally, I know from personal experience that some law libraries only loan books to licensed attorneys, or impose burdensome cash-deposit requirements.

The JIGs are also available through Westlaw, but it has a big price tag. Westlaw Classic is advertised as \$89 per month for a single person with a three-year subscription term, but at that level there's apparently no access to the *Minnesota Practice Series* containing the JIGs. *See Exhibit D* (Westlaw pricing as of April 6, 2021). One may have to pay \$292 per month on a one-year agreement or \$248 per month on a three-year agreement, and the agreement includes price increases in the second and third year. *Id.*

¹ As of April 7, 2021, the Hennepin County Law Library is closed; the Minnesota State Law Library website states that "in-person appointments may be available on a very limited basis"; the Warren E. Burger Library at the Mitchell Hamline School of Law website states their law library is closed to public access at this time and is only open to students, staff, and faculty; and the St. Louis County, Minn. website states that all three law libraries in that county are closed.

Westlaw is generally available at law libraries. But in-person visits remain inaccessible for many Minnesotans for the reasons already stated. The Hennepin County Law Library is currently offering a 14-day remote-access trial to Westlaw during the pandemic, which does include access to the JIGs. But this is certainly quite limited in duration, contains use restrictions, and is not a substitute for open access. It should also be noted that accessing the Minnesota JIGs through this 14-day trial Westlaw arrangement requires Minnesotans to enter into a contractual agreement with Thomson Reuters, and Minnesotans must also irrevocably submit to the exclusive jurisdiction of the courts in New York in their attempt to read Minnesota's model jury instructions. See **Exhibit E** (Thomson Reuters general terms and conditions).

None of this should be. These access limitations and shocking costs place the JIGs out of reach for low-income Minnesotans, solo practitioners, law students, *pro se* parties, and the working press during a time of job cuts and funding shortages at news organizations.

The JIGs should be online and freely accessible, just as court rules and state statutes are, to promote the Court's interest in advancing fairness and justice. But the Minnesota District Judges Association ("MDJA"), Thomson Reuters, and/or West Publishing has registered current and previous JIGs with the U.S. Copyright Office and placed a copyright notice within the book which contains a printed copy of them, and on Westlaw ("© 2021 Thomson Reuters"), limiting distribution in ways inconsistent with how authoritative and frequently used the JIGs are.

II. "No one can own the law" is the law

Since the 19th century, "non-binding, explanatory legal materials are not copyrightable when created by judges who possess the authority to make and interpret the law." *Georgia v. Public.Resource.Org, Inc.*, 590 U.S. ____ (2020); 140 S. Ct. 1498 (citing *Banks v. Manchester*, 128 U.S. 244 (1888)). The *Georgia* decision recently expanded the government edicts doctrine, but as the opinion illustrates, it's not a new concept.

The Supreme Court's very first copyright case, *Wheaton v. Peters*, 33 U.S. 591 (1834), arose when the Court's reporter² of decisions sued his successor, arguing that the justices had essentially gifted their Supreme Court decisions to him, along with ownership interests. "The Court unanimously rejected that argument, concluding that 'no reporter has or can have any copyright in the written opinions delivered by this court' and that 'the judges thereof cannot confer on any reporter any such right.'" *Georgia* at 1506 (internal citations removed).

The issue was revisited in the 1888 *Banks* decision, the Supreme Court concluding in favor of the public interest:

"The question is one of public policy, and there has always been a judicial consensus, from the time of the decision in the case

² The word "reporter" as used in this correspondence refers to the legal use of the word, *i.e.* case law reporters or persons officially authorized to publish opinions, not the journalistic sense of the word.

of *Wheaton v. Peters*, 8 Pet. 591, that no copyright could under the statutes passed by Congress, be secured in the products of the labor done by judicial officers in the discharge of their judicial duties. The whole work done by the judges constitutes the authentic exposition and interpretation of the law, which, binding every citizen, is free for publication to all, whether it is a declaration of unwritten law, or an interpretation of a constitution or a statute.”

Banks at 253.

Specifically, the Supreme Court held that judges may have “no pecuniary interest or proprietorship, as against the public at large, in the fruits of their judicial labors.” *Id.* “This extends to whatever work they perform in their capacity as judges, and as well to the statements of cases and head notes prepared by them as such, as to the opinions and decisions themselves.” *Id.*

In the *Georgia* case, the nonprofit organization Public.Resource.Org posted a copy of the Official Code of Georgia Annotated (“OCGA”) online, and the State of Georgia sued for copyright infringement, focusing their efforts on the annotations. The district court initially ruled in favor of the State, finding that “[o]nly those government documents having the force of law are uncopyrightable.” *Code Revision Comm’n v. Public.Resource.Org, Inc.*, 244 F. Supp. 3d 1350, 1356 (N.D. Ga. 2017). But the 11th Circuit, in “confronting profound and difficult issues about the nature of law in our society and the rights of citizens to have unfettered access to the legal edicts that govern their lives,” reversed in a holding that the entirety of the OCGA—including annotations—is in the public domain. *Code Revision Comm’n ex rel. Gen. Assembly of Ga. v. Public.Resource.Org, Inc.*, 906 F.3d 1229, 1232 (11th Cir. 2018).

As the 11th Circuit pointed out, the law cannot be copyrighted, but the annotations by a private party—the original work of a private publisher—could be. But, “the annotations in the OCGA are not exactly like either of these two types of works. Rather, they fall somewhere in between—their legal effect and ultimate authorship more indeterminate.” *Id.* In that case, the annotations were prepared by a private entity under the corporate umbrella of the LexisNexis Group in an agreement with the State, and then Lexis was given the exclusive right of publication, but it was adopted by the government. Ultimately, the 11th Circuit identified three factors—“the identity of the public officials who created the work, the authoritativeness of the work, and the process by which the work was created”—in reaching their decision that the OCGA’s annotations were in the public domain. *Id.* (emphasis in original).

The Supreme Court granted certiorari and then affirmed last year: “If judges, acting as judges, cannot be ‘authors’ because of their authority to make and interpret the law, it follows that legislators, acting as legislators, cannot be either.” *Georgia* at 1507. But the Court cast an even wider net than the 11th Circuit’s identity–authoritativeness–process rule, noting that the

Court's precedent "reveals a straightforward rule based on the identity of the author ... regardless of whether a given material carries the force of law." *Id.* at 1506.

"Rather than attempting to catalog the materials that constitute 'the law,' the [government edicts] doctrine bars the officials responsible for creating the law from being considered the author[s] of whatever work they perform in their capacity as lawmakers. Because these officials are generally empowered to make and interpret law, their whole work is deemed part of the authentic exposition and interpretation of the law and must be free for publication to all."

Id. at 1507 (cleaned up).

The rule is now thus quite simple: "copyright does not vest in works that are (1) created by judges and legislators (2) in the course of their judicial and legislative duties." *Id.* at 1508. The U.S. Supreme Court was right when it said "no one can own the law." *Id.*

III. A strong fact pattern powerfully demonstrates that Minnesota's jury instruction guides are not subject to copyright protection

When nearly all district court judges are members of an organization which authored the JIGs, and then those very judges use the JIGs in the courtroom to instruct juries on the law and establish from the bench an expectation that the parties and counsel before them also use the JIGs, those JIGs are (1) created in the course of their judicial duties; (2) authentic expositions and interpretations of law; and (3) edicts of government. They are not copyrightable.

(a) The JIGs were authored by state court judges

Whether starting with rule described in *Banks or Georgia*, the first question is whether the JIGs were created by judges, and the answer is yes. "The CRIMJIGS are published by a committee of the Minnesota District Judges Association." *State v. Peterson*, 673 N.W.2d 482, 484 n.1 (Minn. 2004). The authorship as identified on the U.S. Copyright Office application for the most recent version of the CRIMJIGs and in the title pages of the physical book is the "Minnesota District Judges Association Committee on Criminal Jury Instruction Guides."

The Minnesota District Judges Association ("MDJA") is the "professional association of Minnesota judges" and counts "virtually all of the district court judges, many court of appeals judges, and a couple of supreme court justices" as members. *See* Testimony of Hon. Teresa Warner, House Judiciary Finance and Civil Law Division (Jan. 23, 2019), 5:24–5:42, available at <<https://www.house.leg.state.mn.us/hjvid/91/890852>>. In the most recent version of the CRIMJIGs which I could locate in a format with a title page, the MDJA's Committee on Criminal Jury Instruction Guides consisted of 26 Minnesota state court judges and a reporter who I understand was at the time a Judicial Branch employee.

(b) The JIGs are an “authentic exposition and interpretation of the law”

There is substantial evidence that JIGs have the effect of law—because they *are* the law. As mentioned *supra*, when work done by judges is a “authentic exposition and interpretation of the law” it is “binding [for] every citizen” and thus must be “free for publication to all, whether it is a declaration of unwritten law, or an interpretation.” *Banks* at 253.

The JIGs are accurate statements of law, relied on as such by Minnesota courts. The JIGs self-declare such authenticity, as seen on the copyright page to the 2018–2019 Pocket Part of the CRIMJIGs: “This publication was created to provide you with accurate and authoritative information...” And the Minnesota Supreme Court has confirmed precisely that. *See State v. Goodloe*, 718 N.W.2d 413, 421 (Minn. 2006) (finding a CRIMJIG “continues to accurately state the law,” “tracks almost word-for-word the statutory definition,” and “correctly summarize[s]” case law).

But moreover, as JIGs are used in the courtroom, they stand in for the law. When the Court reads CRIMJIG 3.01 to the jury, the Court is advising the jurors they’re about to hear the “rules of law”—no doubt sourced from other CRIMJIGs—and that they “must follow and apply” those rules. The jury then hears the definitions and elements of crimes not by reading and interpreting the language of the statute themselves, but by having it read to them from interpretation expressed in CRIMJIGs. When a jury follows and applies rules of laws sourced from pattern jury instructions, the pattern jury instructions are the law.

(c) Minnesota courts expect use of pattern jury instructions

It is clear through the ways in which the JIGs are used and discussed that Minnesota courts have set an expectation that judges adopt and conform to the JIGs, the Minnesota Supreme Court stating as much: “...we believe that the trial court should not depart from the wording of the statute — *i.e.*, should follow the recommended CRIMJIG language...” *State v. Thunberg*, 492 N.W.2d 534, 537 (Minn. 1992).

Indeed, many practice pointers and preferences documents express judicial requirements for the baseline use of the CRIMJIGs and identification of CRIMJIG numbers in submitted documents, or that when counsel deviates from the CRIMJIGs, they must allow the Court extra time for review and provide legal support to justify each deviation from the JIGs. *See, e.g., Exhibit F* (The Honorable Judge Bev Benson’s Practice Pointers and Preferences, Fourth Judicial District, rev. Sep. 2017), and *Exhibit G* (The Honorable Judge Judge Juan Hoyos’ Practice Pointers and Preferences, Fourth Judicial District, rev. Sep. 2017), both highlighted.

In a guidebook the Court prepared for *pro se* defendants, the use of JIGs is expressed as being mandatory: “The final jury instructions will be drafted using the Minnesota Criminal Jury Instruction Guides (‘CrimJIGs’) as a guide.” *See Self-Represented Criminal Jury Trial Guidelines*, 10TH JUDICIAL DISTRICT, rev. Mar. 2020, available at <<https://mncourts.gov/>

mncourtsgov/media/tenth_district/SHC%20Documents/Self-Represented-Criminal-Jury-Trial-Guidelines.pdf> (emphasis added).

(d) Minnesota courts have adopted JIGs as government edicts

The authoritative nature of the JIGs is confirmed by how Minnesota judges invoke them, the state supreme court describing the CRIMJIGs as “the standard Minnesota jury instructions,” *State v. Kvale*, 302 N.W.2d 650 (Minn. 1981) (emphasis added), and attributing them not to a private corporation like MDJA or Thomson Reuters, but rather to the people: “Minnesota has ... a general self-defense jury instruction ... CRIMJIG 7.05.” *State v. Herrera-Torres*, A18-1341, at *6 (Minn. Ct. App. Jan. 11, 2021) (emphasis added). The comments to the Minnesota Judicial Branch’s court rules also reference JIGs. *See, e.g.*, Minn. R. Civ. P. 26.04 (“For a sample form for that purpose see CRIMJIG...”).

The Supreme Court has “recognize[d] the important role that the CRIMJIGS have in criminal jury trials, occasionally evaluating the language of the CRIMJIGS and recommending review by the Minnesota District Judges Association Committee on Criminal Jury Instruction Guides.” *Peterson* at 484. *See also State v. Ihle*, 640 N.W.2d 910, 917 n.5 (Minn. 2002) (recommending changes to CRIMJIG), *State v. Johnson*, 310 N.W.2d 96, 97 (Minn. 1981) (approving CRIMJIGs), *State v. Sanders*, 376 N.W.2d 196, 202 (Minn. 1985) (expressing a preference that additional language not be added to self-defense CRIMJIG), *State v. Campbell*, No. A09-902, at *2 (Minn. Ct. App. Apr. 27, 2010) (approving of self-defense CRIMJIG).

Minnesota judges look to the JIGs for legal support. *See, e.g., State v. Kjeldahl*, 278 N.W.2d 58, 62 n.9 (Minn. 1979) (“Support for our reading of the statute is found in ... *Crim.Jig.*”) What’s more, the appellate court has cited to the JIGs and JIG use notes as a primary source instead of any statute or rule. *See, e.g., Fick v. Edwardson*, A17-1388, at *6-7 (Minn. Ct. App. Apr. 16, 2018) (“Past damages for health-care expenses include medical supplies, hospitalization, and health-care services of every kind necessary for treatment up to the time of the verdict. 4A *Minnesota Practice*, CIVJIG 91.15 (2014).”), *State v. Milek*, A13-0665, at *5 (Minn. Ct. App. Dec. 30, 2013) (“In a civil case, the [cost of repair or the difference in value before and after the accident] election is made by the evidence introduced by the claimant. 4A *Minnesota Practice*, CIVJIG 92.10 use note (2006).”)

In addition to the obvious use of jury instruction guides in instructing juries, judges also use and apply the CRIMJIGs when making probable cause determinations and in conducting bench trials, relying on the definitions and elements of crimes as they appear in the CRIMJIGs. *See, e.g., State v. Glover*, Case No. 27-CR-19-16529, Doc. No. 27 at 9 (Hennepin Co. Dist. Ct., Oct. 15, 2019) (probable cause analysis based on and citing to CRIMJIGs), *State v. Sagvold*, Case No. 14-CR-18-840, Doc. No. 139 at 21–24 (Clay Co. Dist. Ct., Mar. 21, 2019) (bench trial conclusions of law based on and citing to CRIMJIGs).

When a court impermissibly alters a CRIMJIG, the Court of Appeals described it as amounting to “legislating from the bench,” *State v. Green*, 538 N.W.2d 698, 703 (Minn. Ct. App. 1995) (describing *Thunberg*), strongly suggesting that the Court sees the JIGs much like the law itself. And even more persuasively, when a trial court departs from the language of the CRIMJIGs, it can amount to a prejudicial error. *Green* at 705 (“On these facts the trial court erred in departing from the language of CRIMJIG 11.14. The error was prejudicial.”)

There’s a longstanding assumption that the JIGs are the touchstone of jury trials, such as when the Minnesota Court of Appeals shifted the burden onto a defendant to show the JIGs are wrong. *See State v. Ineh*, A20-0005, at *14 (Minn. Ct. App. Jan. 19, 2021) (“Nor does he cite to any authority suggesting that the language from the Jury Instructions Guides is in anyway misleading or confusing ... because the district court instructed the jury on the entrapment defense according to the Jury Instruction Guides and there is no authority to suggest that doing so was clearly erroneous, we conclude that Ineh has not demonstrated plain error with regard to the jury instructions. Therefore, Ineh has not demonstrated that reversal of his convictions is required.”)

As Judge Warner explained to the Minnesota Legislature:

“Lawyers know what the jury instruction guides are. When you try a case in the state of Minnesota, either in civil or criminal, you use jury instruction guides that are consistent throughout the state. They’re modified or tweaked for the individual type of case, but the guides are consistent. I mean, it makes sense that they’re consistent throughout the state. So if you’re trying a case in Anoka or Ramsey or Beltrami or Rock county, your jury instructions are the same. So our citizens are getting the same interpretation and application of the law. Those committees are Minnesota District Judges’ committees that put together those books ... when I try a case, the first thing I do is go to the jury instruction guides, because it’s the district judges’ responsibility.”

Testimony of Hon. Teresa Warner at 7:48–9:15.

(e) The U.S. Copyright Office refuses to register government edicts

The MDJA or anyone else claiming copyright over the JIGs does not comport with the Compendium of U.S. Copyright Office Practices, which provides that the Office will not register government edicts. *See Compendium*, 3d ed., § 313.6(C)(2) (updated Jan. 28, 2021). Though the Office will register annotations or explanatory materials, they will only do so if the author “lack[s] the authority to make or interpret the law,” consistent with last year’s *Georgia* opinion that “non-binding, explanatory legal materials are not copyrightable when created by judges who possess the authority to make and interpret the law.”

Documents written by those who make or interpret the law, used in the making and interpretation of the law, are government edicts. Any copyright registration for the text of the JIGs is invalid or, in the alternative, the text of the JIGs must be excluded from any copyright registration or assertion of copyright.

I did notice in reviewing the MDJA's over 60 copyright registrations that a recent registration included a limitation of claim stating that the "[r]egistration does not extend to government edicts that have been issued by any state, local, or territorial government, including legislative enactments, judicial decisions, administrative rulings, public ordinances, or similar types of official legal materials that have the force of law." However, this was prior to the *Georgia* decision and thus does not track the updated Compendium § 313.6(C)(2), providing no clarity about the copyright status of the text of the JIGs.

IV. Other states have embraced public, open access to model jury instructions

Many states have their model jury instructions online with free access, and without the requirement for registration or any agreement to terms. North Dakota's are hosted through Fastcase, but doesn't require registration, payment, or have any clickwrap agreements. See <<https://www.ndcourts.gov/legal-self-help/pattern-jury>>. Massachusetts' model jury instructions are also freely available online. Though a copyright notice appears, so is a statement welcoming reproduction as long as the source and any changes are identified. See <<https://www.mass.gov/lists/criminal-model-jury-instructions-for-use-in-the-district-court>>. Florida has no copyright notice and invitingly states: "The instructions are provided for your use." See <<https://www.floridabar.org/rules/florida-standard-jury-instructions/>>.

California's Judicial Council continues to assert copyright over their jury instructions, which is being actively challenged by a large coalition of civil liberties groups, public defenders, law professors and librarians, and law student organizations. However, they have granted a nonexclusive, noncommercial license to the public and have placed PDFs online. See <<https://www.courts.ca.gov/partners/juryinstructions.htm>>. Washington state reached an agreement with Thomson/West, and now has pattern instructions online through a Westlaw link with no registration, payment requirement, or clickwrap agreement. See <<https://www.courts.wa.gov/index.cfm?fa=home.contentDisplay&location=PatternJuryInstructions>>.

And in Wisconsin, where jury instructions were copyrighted by the University of Wisconsin system, Public.Resource.Org and the state criminal defense bar made a public domain argument much like the one I make to you today, and Wisconsin's model jury instructions are now all online, in both Word and PDF format, with indices and comments. See Wisconsin Association of Criminal Defense Lawyers, *Jury Instructions Now Free Due to Efforts of WACDL and Public.Resource.Org, Inc.* (Jan. 28, 2021), available at <<https://www.wacdl.com/blog/jury-instructions-now-free-due-efforts-wacdl-and-publicresourceorg-inc>>.

Minnesota should follow the good work of these other states.

V. The MDJA, Court, and Thomson Reuters/West Publishing should waive copyright to jury instruction guides, confirming the law belongs to the people

Given the apparent assertion of copyright over Minnesota's pattern jury instructions, I respectfully ask the following questions of the Minnesota District Judges Association, Minnesota District Judges Foundation, Minnesota Judicial Branch, West Publishing, Thomson Reuters, and anyone else who may claim to have rights in the JIGs, both current and prior versions:

- (1) Do you assert the text of CIVJIGs and CRIMJIGs are copyrighted material?
- (2) Which persons or entities can claim any intellectual property right over the text of the CIVJIGs and CRIMJIGs?
- (3) If anyone claims a copyright covers a broader work than just the text of the CIVJIGs and CRIMJIGs, what are the specific protectable elements in which you are and are not asserting copyright?
- (4) If a member of the public desires to post a copy of the text of the JIGs and use notes or comments thereto online in a noncommercial manner and without charging money or imposing conditions on access, do you maintain that such an action would violate any rights or laws?

Of course, nothing I've said here is meant to belittle what I have no doubt is a monumental effort to create and update the JIGs; it is because the JIGs are so important and authoritative that I raise this issue with you. I am hopeful you will agree the JIGs are in the public domain that no one would be subject to a claim for damages, costs, or attorney's fees under the Copyright Act or any other cause of action in copying them or making them available for free to the public, as a public service.

I also hope that you will agree that if the Minnesota Judicial Branch or Minnesota District Judges Association authoritatively published the JIGs online for free and open access, it would greatly advance the public interest, promote legal education and serve the legal community well, and prove beneficial for Minnesotans most at risk for lacking access to justice. If there's anything I can do to help make that happen, please let me know.

I hope to hear from you soon, and I deeply appreciate your time and attention.

Respectfully,

/s/ Tony Webster

Enclosures

cc: All potential copyright claimants including Thomson Reuters Global Resources; West, a Thomson Reuters Business; West Publishing Corporation; Copyright Clearance Center



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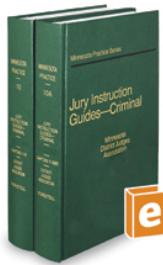
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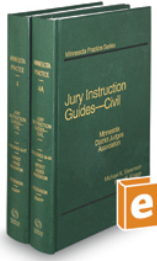
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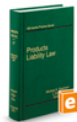
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Due to the regulated or private nature of some data in our information products such as credit header data, motor vehicle data, driver license data and voter registration data, you may need to complete a credentialing process which will include certifying what your legally permissible use of the data will be. You agree to immediately notify us if any of the information you provided in your ordering document or during the credentialing process changes. You agree and warrant that you are the end user of this data and that you will only use it for your own internal business purposes. You also warrant that you will strictly limit the access, use and distribution of this data to uses permitted under applicable laws, rules and regulations and as permitted by the third party additional terms. You will keep the data confidential. You will use industry standard administrative, physical and technical safeguards to protect the data. You will not disclose it to anyone except as necessary to carry out your permissible use. You will immediately report any misuse, abuse or compromise of the data. You agree to cooperate with any resulting inquiry. If we reasonably believe that the data has been misused, abused or compromised, we may block access without additional notice. You are responsible for all damages caused by misuse, abuse or compromise of the data by you, your employees and any person or entity with whom you shared the data. We will be responsible for damages caused by us. We are not a consumer reporting agency. You may use information product data to support your own processes and decisions but you may not deny any service or access to a service to a consumer based solely upon the information product data. Examples of types of service include eligibility for credit or insurance, employment decisions and any other purpose described in the Fair Credit Reporting Act (15 U.S.C.A. 1681b). If the Financial Industry Regulatory Authority regulations apply to you, you may use our information products to verify the accuracy and completeness of information submitted to you by each applicant for registration on Form U4 or Form U5 in compliance with the requirements of FINRA Rule 3110. You may use the information products in this manner only in furtherance of written policies and procedures that are designed to achieve your compliance with FINRA Rule 3110 or as otherwise allowed by the Thomson Reuters General Terms and Conditions.

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3. **CD-ROM Products.** Your license to use our CD-ROM USB and similar media (collectively "CD-ROM") libraries is restricted to a single office location. Each library license includes a proprietary control file which you may install on a single local area network (LAN). Employees working at or assigned to the licensed site may access the CD-ROM libraries by remote connection to the LAN installed at the licensed site. Access to CD-ROM libraries through wide area networks, multiple LANs, multiple sites or similar arrangements is prohibited. You may transfer the CD-ROM library data to a single storage drive under your exclusive control and maintain the data as a database searchable with our software. . We may terminate a CD-ROM library subscription on 30 days prior written notice if the library is no longer commercially available. Upon termination by either party, you shall immediately destroy the terminated CD-ROM libraries and destroy CD-ROM library data maintained on a permanent storage drive.

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Westlaw Edge				
Quick Check		-	-	Included
Litigation Analytics		-	-	Included
KeyCite Overruling Risk		-	-	Included
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1. OUR PRODUCTS & SERVICES

(a) **Limited License.** Together with our licensors, we own and retain ownership of all rights of whatever nature in and to our products, services, and data (whether tangible or intangible). You may access, view, install, use, copy, modify and distribute our property only as expressly specified in the Agreement and each of us shall at all times act in accordance with applicable laws, including export controls and economic sanctions that apply to us in connection with the Agreement.

(b) **Changes to Service.** Our products and services change from time to time.

(c) **Passwords.** Your access to certain products and services is password protected. You are responsible for assigning the passwords and for ensuring that passwords are kept confidential. Sharing passwords is strictly prohibited. Each of us shall maintain industry standard computing environments to ensure that both your and our property is secure and inaccessible to unauthorized persons.

(d) **Unauthorized Technology.** Unless previously authorized by Thomson Reuters, you must not (i) run or install any computer software or hardware on our products, services or network; use any technology to automatically download, mine, scrape or index our data; or (ii) automatically connect (whether through APIs or otherwise) our data to other data, software, services or networks. Neither of us will knowingly introduce any malicious software or technologies into any products, services or networks.

(e) **Usage Information.** We may collect information related to your use of our products, services and data. We may use this information to test, develop and improve our products and services and to protect and enforce our rights under the Agreement, and we may pass this information to our third party providers for the same purposes.

(f) **Third Party Providers.** Our products and services may include data and software from third parties. Some third party providers require Thomson Reuters to pass additional terms through to you. The third party providers change their terms occasionally and new third party providers are added from time to time. To see the current third party additional terms for our products and services click the following URL: www.thomsonreuters.com/thirdpartyterms. You agree to comply with all applicable third party terms.

(g) **Third Party Supplemental Software.** You may be required to license third party software to operate some of our products and services. Additional terms may apply to the third party software.

(h) **Limitations.** Unless otherwise expressly permitted in the Agreement, you may not: (i) sell, sublicense, distribute, display, store, copy, modify, decompile or disassemble, reverse engineer, translate or transfer our property in whole or in part, or as a component of any other product, service or material; (ii) use our property or our third party providers’ property to create any derivative works or competitive products; or (iii) allow any third parties to access, use or benefit from our property in any way. Exercising legal rights that cannot be limited by agreement is not precluded. If you are in the business of providing audit, tax, accounting, or legal services to your clients, this Section 1(h) does not preclude you from using our products to benefit your customers in the ordinary course of your business. Except as expressly set forth in the Agreement we retain all rights and you are granted no rights in or to our products, services and data.

(i) **Services.** We will provide the services using reasonable skill and care. The professional services applicable to your order, if any, are described in the ordering document or a statement of work.

(j) **Security.** Each of us will use and will require any third party data processors to use industry standard organizational, administrative, physical and technical safeguards to protect the other’s information. Each party will inform the other in accordance with applicable law if such party becomes aware of any unauthorized third-party access to the other party’s content and will use reasonable efforts to remedy identified security vulnerabilities.

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(a) **License.** In the ordinary course of your business and for your internal business purposes only you may view, use, download and print data from our information services for individual use and may on an infrequent, irregular and ad hoc basis, distribute limited extracts of our data. Neither such extracts nor downloaded, printed or stored data may reach such quantity as to have

independent commercial value and using such data as a substitute for any service (or a substantial part of it) provided by Thomson Reuters, our affiliates or our third party providers is prohibited. Thomson Reuters and the third party content provider, if applicable, must be cited and credited as the source where data is permitted to be used or distributed. Copyright notices must be retained on transmitted or printed items. Access to certain data may be restricted depending on the scope of your license.

(b) **Further Distribution.** You may also distribute our data: (i) to authorized users; (ii) to government and regulatory authorities, if specifically requested; and (iii) to third party advisors, limited to the extent required to advise you and provided they are not competitors of Thomson Reuters. Laws applicable in your jurisdiction may allow additional uses.

3. INSTALLED SOFTWARE

(a) **License.** You may install and use our software and documentation only for your own internal business purposes. Software licenses include updates (bug fixes, patches, maintenance releases), and do not include upgrades (releases or versions that include new features or additional functionality) or APIs unless expressly stated in the order form. Your order form details your permitted installations, users, locations, the specified operating environment and other permissions. You may use our software in object code only. You may make necessary copies of our software only for backup and archival purposes.

(b) **Delivery.** We deliver our software by making it available for download. When you download our software and documentation, if any, you are accepting it for use in accordance with the Agreement.

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(a) **License.** You may use our hosted software only for your own internal business purposes.

(b) **Delivery.** We deliver our hosted software by providing you with online access to it. When you access our hosted software, you are accepting it for use in accordance with the Agreement.

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6. PRIVACY

Each of us will at all times process and disclose personally identifiable information received as a result of the Agreement ("PII") in accordance with applicable law. Each of us will use reasonable efforts to assist one another in relation to the investigation and remedy of any claim, allegation, action, suit, proceeding or litigation with respect to the unauthorized or unlawful destruction, loss, alteration, disclosure or access to PII. You acknowledge and agree to the transfer and processing of PII in the geographical regions necessary for Thomson Reuters to fulfill our obligations. If you are located in the UK or the EEA you are the data controller and we are the data processor for any PII you transfer to Thomson Reuters, and you must transfer that PII in accordance with applicable laws. PII includes any information relating to an identified living natural person or a living natural person who can be identified directly or indirectly by means reasonably likely to be used by the controller of the information, or any other natural or legal person.

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Confidential information received from each other will not be disclosed to anyone else except to the extent required by law or as permitted under the Agreement. If a court or government agency orders either of us to disclose the confidential information of the other, the other will be promptly notified so that an appropriate protective order or other remedy can be obtained unless the court or government agency prohibits prior notification. This Section shall survive three (3) years after the termination of the Agreement or until the information is no longer deemed confidential under applicable law, whichever occurs first.

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THE WARRANTIES IN THIS SECTION ARE THE EXCLUSIVE WARRANTIES FROM US AND EXCLUDE ALL OTHER WARRANTIES, CONDITIONS OR OTHER TERMS (EXPRESS OR IMPLIED), INCLUDING WARRANTIES OF PERFORMANCE, MERCHANTABILITY, NON-INFRINGEMENT, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, COMPLETENESS AND CURRENTNESS. IN ENTERING THE AGREEMENT, NEITHER PARTY HAS RELIED UPON ANY STATEMENT, REPRESENTATION, WARRANTY OR AGREEMENT OF THE OTHER PARTY EXCEPT FOR THOSE EXPRESSLY CONTAINED IN THE AGREEMENT.

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9. LIABILITY

(a) **LIMITATION.** EACH PARTY'S OR ANY OF ITS THIRD PARTY PROVIDERS' ENTIRE LIABILITY IN ANY CALENDAR YEAR FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT, INCLUDING FOR NEGLIGENCE, WILL NOT EXCEED THE AMOUNT YOU PAID IN THE PRIOR 12 MONTHS FOR THE PRODUCT OR SERVICE THAT IS THE SUBJECT OF THE CLAIM FOR DAMAGES. NEITHER PARTY IS LIABLE TO THE OTHER FOR INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR

CONSEQUENTIAL DAMAGES, OR FOR LOSS OF DATA, OR LOSS OF PROFITS (IN EITHER CASE, WHETHER DIRECT OR INDIRECT) EVEN IF SUCH DAMAGES OR LOSSES COULD HAVE BEEN FORESEEN OR PREVENTED.

(b) **Unlimited Liability.** Section 9(a) does not limit either party's liability for (i) fraud, fraudulent misrepresentation, willful misconduct, or conduct that demonstrates reckless disregard for the rights of others; (ii) negligence causing death or personal injury; or (iii) infringement of intellectual property rights. Section 9(a) does not limit your liability in relation to Section 9(d) or for claims for reimbursement arising in that Section.

(c) **Third Party Intellectual Property.** If a third party sues you claiming that our products, services or data, excluding any portions of the same provided by our third party providers infringes their intellectual property rights and your use of such products, services or data has been in accordance with the terms of the Agreement, we will defend you against the claim and pay damages that a court finally awards against you or that are included in a settlement approved by Thomson Reuters, provided the claim does not result from: (i) a combination of all or part of our products, services or data with technology, products, services or data not supplied by Thomson Reuters; (ii) modification of all or part of our products, services or data other than by Thomson Reuters or our subcontractors; (iii) use of a version of our products, services or data after we have notified you of a requirement to use a subsequent version; or (iv) your breach of the Agreement. Our obligation in this Section 9(c) is conditioned on you (A) promptly notifying Thomson Reuters in writing of the claim; (B) supplying information we reasonably request; and (C) allowing Thomson Reuters to control the defense and settlement.

(d) **Your Responsibilities.** You are responsible for (i) complying with the Agreement; (ii) proper use of our products and services in accordance with all usage instructions; (iii) adhering to the minimum recommended technical requirements; (iv) changes you make to our product, services or data; (v) your combination of our products, services or other property with any other materials; (vi) implementing and maintaining proper and adequate virus or malware protection and proper and adequate backup and recovery systems; (vii) installing updates; (viii) claims brought by third parties using or receiving the benefit of our products, services or data through you, except claims covered by Section 9(c); and (ix) claims resulting from your violation of law, or violation of our or any third party rights. You must reimburse us for any losses we incur with respect to your failure to comply with or otherwise in relation to these responsibilities. We will not be responsible if our product fails to perform because of your third party software, your hardware malfunction, or your actions or inaction. If we learn that our product failed because of one of these, we reserve the right to charge you for our work in investigating the failure. At your request we will assist you in resolving the failure at a fee to be agreed upon.

10. TERM, TERMINATION

Term. The term for using the products and services is described in your order form. We may terminate the Agreement at any time for any reason.

(a) **Effect of Termination.** Upon termination, all your usage rights end immediately and each of us must uninstall or destroy all property of the other and, if requested, confirm this in writing. Termination of the Agreement will not affect other accrued rights and obligations; or terminate those parts of the Agreement that by their nature should continue.

(b) **Amendments.** We may amend the license from time to time including access restrictions and usage limitations.

11. FORCE MAJEURE

We are not liable for any damages or failure to perform our obligations under the Agreement because of circumstances beyond our reasonable control. If those circumstances cause material deficiencies in the products or services and continue for more than 30 days, either of us may terminate any affected product or service on notice to the other.

12. THIRD PARTY RIGHTS

Our affiliates and third-party providers benefit from our rights and remedies under the Agreement. No other third parties have any rights or remedies under the Agreement.

13. GENERAL

(a) **Assignment.** You may not assign, delegate or otherwise transfer the Agreement (including any of your rights or remedies) to anyone else without our prior written consent. We may assign or otherwise transfer the Agreement (including any of our rights or remedies) in whole or in part to an affiliate or any entity that succeeds to all or substantially all of the assets or business associated with one or more products or services, and will notify you of any such assignment or transfer. We may subcontract any of the services in our sole discretion. Any assignment, delegation or other transfer in contravention of this Section 13(a) is void.

(b) **Feedback.** You grant Thomson Reuters a perpetual, irrevocable, transferable, non-exclusive right to use any comments, suggestions, ideas or recommendations you provide related to any of our products or services in any manner and for any purpose.

(c) **Agreement Compliance.** We or our professional representatives may review your compliance with the Agreement throughout the term of the Agreement.

(d) **Governing Law.** If not otherwise stated in the order form, the Agreement will be governed by the laws of the State of New York and each of us hereby irrevocably submits to the exclusive jurisdiction of the federal and state courts of the State of New York located in New York County to settle all disputes or claims arising out of or in connection with the Agreement.

(e) **Precedence.** The descending order of precedence is: third party license terms contained in Section 1(f) of these terms; the product specific terms contained in Section 5, the applicable order form; and the remaining provisions of the Agreement.

(f) **Trials.** Access to our products and services for trials may only be used for your evaluation purposes.

(g) **Support Provided.** To assist in resolving technical problems with the Services, Thomson Reuters may provide telephone and/or online access to its helpdesk, or may provide self-help tools. Additional information related to the support provided by Thomson Reuters may be described on <http://thomsonreuters.com/support-and-training> or as otherwise provided by Thomson Reuters.

**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.

THE HONORABLE JUDGE HOYOS
FOURTH JUDICIAL DISTRICT
PRACTICE POINTERS & PREFERENCES

I. Contact with Chambers

- It is recommended that all communication, whether scheduling, logistics, or substantive be sent to staff at 4thJudgeHoyosStaff@courts.state.mn.us.
- All communication via e-mail must have opposing party copied on the e-mail. Judge Hoyos asks that counsel include probation or other agencies when applicable.
- In special situations, Judge Hoyos may allow telephone conferences in accordance with the rules. Counsel should contact staff to make arrangements.

II. Motion Practice

- 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.
- 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

- Generally, Judge Hoyos prefers to have oral arguments after motions are filed, followed by briefings if necessary.
- All written submissions must be e-filed by the end of business on the due date.
- Courtesy copies should be sent to staff by e-mail. Counsel should ensure that all parties are included in the e-mail.
- Counsel is encouraged to submit copies of case authority along with their written submissions.

IV. In-Court Proceedings

- Judge Hoyos prefers that counsel arrive on time for hearing, and that they notify staff if there will be a delay.

- Notice for a waiver of appearance should be done in writing in accordance with the rules.
- Judge Hoyos prefers that counsel stand while speaking on the record.
- Oral arguments do not need to recap the material from written submissions. Oral arguments should be focused on highlighting the most important issues.
- 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 Hoyos encourages the use of technology in the courtroom. Counsel should have the technology prepared ahead of time.
- Counsel should be prepared to engage in an active discussion of the issues during oral arguments.

V. Pretrial Procedures

- Judge Hoyos does not have standing orders in regards to pretrial procedures. He 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 theories of the case. If there are sensitive questions, Judge Hoyos is willing to ask those questions if requested to do so.
- Jury instructions, special verdict forms, and witness lists should be filed as soon as practical.
- Special jury instructions that differ from the CRIMJIGs should be submitted beforehand – ideally at least one week before trial.
- Witness lists must be submitted at least 7 days in advance of the trial.
- Counsel should keep Judge Hoyos and opposing party aware of any limited availability and time restrictions for witnesses.
- Motions *in limine* are open to all potential issues. The motions will normally be argued on the first day before trial. Complex issues should be handled before trial.
- Judge Hoyos is willing to engage in chambers discussions if it would be beneficial. All offers should be placed on the record.
- Judge Hoyos is happy to schedule settlement conferences if they would be beneficial to the case. Counsel should contact staff to make those arrangements.

VI. Trial

- Trial days are generally scheduled to start at 9:00 am with a 20-minute break every hour and a half. Normally, there will be a break at noon for lunch. Trial will continue until 4:30 pm, but it may be extended to 5:00 pm if need be to finish with a witness.
- Judge Hoyos strongly prefers to start *voir dire* on the first day of trial.
- 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, counsel should ensure that argument is not made before the jury.
- Counsel should remain at their table when examining witnesses.
- Counsel may move about while addressing the jury, but must maintain a reasonable distance from the jury.
- Counsel should request permission to publish evidence to the jury. Counsel may not ask questions while evidence is being published to the jury. For that reason, the use of technology is encouraged to facilitate presenting evidence to the jury.
- Counsel must ask permission to approach witnesses.
- Ideally, all exhibits should be marked the day they would be presented at trial.
- In the case of audio or video recordings, transcripts must be produced by the offeror and exchanged prior to trial.
- At the conclusion of the trial, Judge Hoyos will let the jury know that they are free to talk, or not talk, to the attorneys. Judge Hoyos uses jury evaluation forms and is happy to share information from the jury.

VI. Sentencing in Criminal Cases

- Counsel should inform staff if there are any victim impact statements, or if there are any security concerns.
- Counsel should also inform staff if there are any other witness statements or character witnesses that will be presented at sentencing.
- All motions for a departure should follow the rules. Notice should be given at the plea hearing, followed by a written motion with the basis.