



## MINNESOTA JUDICIAL TRAINING UPDATE



### JUDICIAL RESOURCE: “ONLINE JUDGE’S BENCH BOOK”

- 1) Prof. Steve Simon At The U Of M Law School Has Created An “Online Bench Book” That Addresses Evidentiary, Procedural And Courtroom Issues That Frequently Arise Prior To Or During Trial.
- 2) The “Online Bench Book” Is Designed To Give Judges A Quick Answer To Evidentiary And Procedural Questions That Arise During Trial.
- 3) It Can Be Accessed From A Judge’s Laptop On The Bench During Trial Or You Can Print The Contents And Refer To Them Separately.
- 4) Each Topic Has A Short Concise Statement Of The Rule, Procedure Or Practice Followed By A Short Discussion And Analysis.
- 5) The “Online Bench Book” Once Opened, Jumps To The Topic Selected When The Judge Clicks On The Topic. There Is Also A Built In Search Feature located on the left side of the main page.

The “Online Bench Book” can be accessed at:

<http://law-judges.oit.umn.edu/>

This Bench Book is designed to be edited online. Judges are invited and encouraged to send Steve Simon suggestions for additional topics, procedures and practices that they have developed that address the suggested topic. The Bench Book will be expanded to include the collective wisdom and experience of members of the bench.

**Prof Simon can be reached at: [simon001@umn.edu](mailto:simon001@umn.edu)**

**THE FOLLOWING TOPICS ARE CURRENTLY ADDRESSED IN THE ONLINE BENCH BOOK**

**ISSUES TO BE DECIDED BEFORE TRIAL**

1. LOTHENBACK, NORGAARD AND ALFORD PLEAS
2. VALID WAIVER OF THE RIGHT TO A JURY TRIAL
3. STIPULATION BY DEFENDANT:
  - a. TO AN ELEMENT
  - b. EVIDENCE OR FOUNDATION TO EVIDENCE,
  - c. PROCEDURE WAIVER OF TRIAL RIGHTS & FACTUAL BASIS
  - d. INSTRUCTION AFTER ELEMENT STIPULATION: SAMPLE INSTRUCTION-FELON WITH A FIREARM
4. IMPEACHING THE DEFENDANT WITH A PRIOR CRIMINAL CONVICTION
5. PRIOR BAD ACTS OF THE DEFENDANT AND OTHER PERPETRATOR EVIDENCE
6. WITNESS SEQUESTRATION
7. RULES OF DECORUM

**ISSUES THAT ARISE DURING TRIAL**

25. CRITICAL STAGE OF TRIAL-- DEFENDANT'S PRESENCE REQUIRED
26. WAIVER OF 5TH AMENDMENT RIGHT; DEFENDANT TESTIFYING/NOT TESTIFYING IN CRIMINAL CASE
27. JURY VIEWING SCENE
28. CURATIVE AND CAUTIONARY INSTRUCTIONS
29. BENCH CONFERENCES
30. MOTION FOR JUDGMENT OF ACQUITTAL AND ALLOWING THE STATE TO REOPEN AFTER A MOTION FOR JUDGMENT OF ACQUITTAL IS MADE
31. EXCLUSION OF PUBLIC FROM COURTROOM DURING TRIAL
32. SEQUESTRATION OF JURY DURING DELIBERATION

**EVIDENTIARY ISSUES**

8. RULES FOR HANDLING PHYSICAL EVIDENCE AT TRIAL
9. CHAIN OF CUSTODY ANALYSIS FOR PHYSICAL EVIDENCE
10. STATUTORY FOUNDATION
11. COMPETENCY OF WITNESSES
12. PRIVILEGES
13. ADMISSIBILITY OF COMPUTER AND BUSINESS RECORDS
14. FOUNDATION FOR VIDEO RECORDING: ABSENT WITNESS WITH 1<sup>ST</sup> HAND KNOWLEDGE OF CONTENTS
15. ADMISSIBILITY OF SCIENTIFIC EVIDENCE IN CRIMINAL CASES
16. RELATIONSHIP EVIDENCE
17. FOUNDATION OBJECTION SUSTAINED- PROPONENT'S DUTY TO STATE GROUNDS
18. CONSEQUENCES/SANCTIONS FOR FAILURE OF A PARTY IN CRIMINAL CASE TO PUT A NAME ON WITNESS LIST
19. JUDGE INTERVENTION/OBJECTION TO STOP A WITNESS FROM ANSWERING A QUESTION IN THE ABSENCE OF AN OBJECTION
20. OBJECTIONS
21. VOIR DIRE TO LAY FOUNDATION FOR OBJECTION
22. JUDGE ASKING QUESTIONS OF WITNESSES
23. JURY ASKING QUESTIONS IN CIVIL OR CRIMINAL CASES
24. JUDICIAL RESPONSE TO BIAS STATEMENTS OF WITNESSES

**PROBLEMS THAT ARISE DURING TRIAL**

33. DEALING WITH DISRUPTIVE DEFENDANT & DEF'S FORFEITURE OF RIGHT TO BE PRESENT AT TRIAL.
34. SCHWARTZ HEARINGS; ADDRESSING CLAIMS OF JURY MISCONDUCT
35. CONTEMPT
36. MISTRIAL
37. JUDGE'S RIGHT TO COMMENT ON INAPPROPRIATE BEHAVIOR OF DEFENSE ATTORNEY OR PROSECUTOR
38. SLEEPING JUROR
39. PROSECUTORIAL MISCONDUCT

THE END