



United States District Court
DISTRICT OF MINNESOTA

LR 39.2 CONDUCT OF TRIALS AND HEARINGS

(a) Addressing the Court and Examining Witnesses.

(1) When addressing the court, counsel must stand and speak clearly and audibly from the counsel table or the lectern. Counsel must not approach the bench for private communications except at the judge's request or with the judge's permission.

(2) Ordinarily, counsel must examine a witness from the lectern. But counsel may, if necessary, approach the witness or the court reporter's table to present or examine an exhibit.

(3) Unless the court orders otherwise, only one attorney for each party may examine a witness or present argument to the court with respect to a motion or other matter.

(b) Examining Jurors.

(1) *In General.* Unless the court orders otherwise, the court will conduct voir dire examination of jurors. A party may submit proposed voir dire questions to the court.

(2) *Peremptory Challenges.*

(A) *When Exercised.* No party may exercise a peremptory challenge until a full panel has been called, sworn, and qualified.

(B) *Ordinary Civil Cases.* In an ordinary civil case, the defendant and plaintiff will take turns — in that order — exercising their peremptory challenges by striking one juror each until each party has exhausted or waived its peremptory challenges.

(C) *Civil Cases with Third-Party Defendants.* In a civil case involving a third-party defendant, the defendant, the third-party defendant, and the plaintiff will take turns — in that order — by striking one juror each until each party has exhausted or waived its peremptory challenges.

(D) *Criminal Cases.* In a normal criminal case with a panel of 28 jurors, the parties will exercise peremptory challenges as follows:

- 3 by defendant;
- 2 by the government;
- 3 by defendant;
- 2 by the government;
- 2 by defendant;
- 1 by the government;
- 2 by defendant; and
- 1 by the government.

(c) Opening Statements and Final Arguments

(1) Opening Statements.

(A) In General. Unless the court orders otherwise, an opening statement must not exceed one hour.

(B) Civil Cases. After a jury has been selected and before evidence is presented, a party may make an opening statement that summarizes generally what the party expects to prove. If the party with the burden of proof wishes to make an opening statement, that party makes the first opening statement. Unless the court orders otherwise, a party may not make an opening statement after evidence has been presented.

(C) Criminal Cases. The defendant in a criminal case may make an opening statement either:

(i) after the jury has been selected and before any evidence is presented; or

(ii) after the prosecution rests.

(2) Final Arguments.

(A) In General. Unless the court orders otherwise, a final argument must not exceed one hour.

(B) Civil Cases. Each party may make a final argument. The party without the burden of proof on a claim makes its final argument first, with no opportunity for rebuttal.

(C) Criminal Cases. The government makes its final argument first. The defendant makes his or her final argument next. The government may make a brief rebuttal, to which the defendant may not respond.

[Adopted effective February 1, 1991; amended May 14, 2013]

2013 Advisory Committee's Note to LR 39.2

The language of LR 39.2 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

The title of the rule has been revised to eliminate an inconsistency between the previous rule's title and its text. Specifically, former LR 39.2(a)(3) referred to "the presentation of a motion or other matter," which would seem to refer to hearings other than trials, but the rule's title was "Conduct of Trials." The rule's new title clarifies that LR 39.2's non-trial-specific provisions apply to hearings as well as trials. To be consistent with the time limit imposed for final arguments, LR 39.2(c)(1) imposes a time limit of one hour for opening statements.