

Judge John R. Tunheim  
Practice Pointers and Preferences

**Contact with Chambers**

- Judge Tunheim prefers that attorneys and their staff contact his courtroom deputy, rather than his law clerks.

**Standing Order on Diversity in the Courtroom**

- Please see Chief Judge Tunheim's Standing Order on Diversity in the Courtroom attached to this document.

**Motion Scheduling**

- Judge Tunheim schedules motion hearings after the motion is filed and fully briefed by all the parties. You may email or call the courtroom deputy to request a hearing date once briefing is complete. The courtroom deputy will generally email the parties with a suggested date when the court is ready to schedule the hearing.
- It is up to the attorneys to file their papers in compliance with the Local Rules.
- Judge Tunheim hears *Daubert* motions himself.
- Judge Tunheim usually holds *Markman* hearings himself. This should be scheduled prior to summary judgment.
- On occasion, Judge Tunheim refers dispositive motions to the magistrate judge. This is decided on a case-by-case basis.

**Written Submissions**

- Parties should follow the page limits and/or word count requirements and filing procedures in accordance with the Local Rules. Courtesy copies are not required.
- Page or word count extensions may be in a form of a motion or a letter and must be requested in advance.

**In-Court Proceedings**

- Parties should stand at the podium and formally address the Court and counsel unless Judge Tunheim directs otherwise.

- Judge Tunheim does not have a preference as to which table the parties choose to sit at.
- Judge Tunheim's motion hearings are 20 minutes per side unless permission has been given to exceed that amount of time.
- Attorneys are encouraged to use the technology in the courtroom for motions if appropriate.
- Attorneys should not repeat the facts stated in the briefs, should focus on the key issues in dispute and should be prepared to answer questions from Judge Tunheim.
- Any additional case law presented at or after oral argument must be furnished to the opposing counsel prior to submitting it to the Court. If submitting the case law the day of oral argument, please supply the Court with two copies.
- If attorneys wish to contact jurors after the trial, they must seek written permission from Judge Tunheim in all cases. If permission is granted, the attorneys may write a letter to the jurors. They may not telephone the jurors. It is fine if the juror responds to the letter by telephoning the attorneys.

### **Settlement Conferences**

- Judge Tunheim refers all settlement conferences to the magistrate judge.
- The parties may request a settlement conference at any time by contacting the magistrate judge. Judge Tunheim may also request the magistrate judge to hold additional settlement conferences.

### **Trial**

- Judge Tunheim issues a Notice of Trial and a Memorandum with instructions as to when trial papers are due six weeks prior to the trial date.
- Judge Tunheim generally hears oral argument on motions in limine before jury selection on the first day of trial. The courtroom deputy will contact the parties regarding a motion hearing before that date should the court determine it is necessary. Parties may also request a hearing. Judge Tunheim may or may not hear argument on all motions in limine.
- Judge Tunheim conducts the *voir dire* examination of potential jurors.
- Attorneys must use the technology in the courtroom during all trial proceedings. Any other use of technology must be pre-approved.

- Judge Tunheim requires attorneys to be trained using the technology in the courtroom and encourages parties to practice prior to the start of trial. Please contact Judge Tunheim's courtroom deputy to schedule training and a time to practice using the technology.

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### **Proceedings at Other Locations**

- If a court proceeding is scheduled in either the Duluth or Fergus Falls courthouse, please contact the courtroom deputy to discuss the use of technology in the courtroom.

### **Transcripts and other Court Reporter-related Issues**

- Attorneys should contact Judge Tunheim's court reporter, Kristine Mousseau, before the start of any trial or hearing if realtime or daily copy transcripts are being requested. Attorneys should give the court reporter as much lead time as possible.

### **Questions or Concerns**

- If attorneys have any questions or concerns regarding Judge Tunheim's practices or preferences, they should contact his courtroom deputy.

## **STANDING ORDER ON DIVERSITY IN THE COURTROOM**

### **Chief Judge John Tunheim**

Fewer cases are going to trial and, as a result, there are fewer opportunities for lawyers in Court, especially newer lawyers. The Court feels strongly that the legal profession, including the Court, owes a duty to provide opportunities in court for newer lawyers, many of whom are more representative of our community at large.

**Motion Hearings.** The Court permits oral argument on most dispositive civil case motions and most criminal case motions. The Court encourages counsel to permit lawyers with less experience to argue motions. In particular, the Court prefers to see more diverse lawyers in the courtroom when they are integral members of the legal team and encourages newer lawyers who are women and members of underrepresented, diverse communities to argue motions. When requested, the Court will permit arguments to be split to enable newer lawyers to argue parts of motions. This Order should not be construed to encourage unnecessary motions as the Court always encourages parties to resolve issues short of motion practice.

**Trials.** The Court also encourages newer lawyers who are women, members of other underrepresented and diverse communities to participate actively in trials by making opening and closing statements, questioning witnesses, and arguing motions or jury instructions.