2025 Bench Book for Judge Don Torgerson

Judge: Don Torgerson – Seventh District Court

Date of Bench Book: September 30, 2025

Discovery

Q: Has your district adopted any local rules with respect to resolving discovery disputes?

A: No

Q: What is your practice regarding statements of discovery disputes? Do you ordinarily set a telephonic or in-person hearing?

A: Hearings are rare. Most statements of discovery issues are resolved on the papers. If a hearing is set, it is for clarification and will usually be held remotely, by Webex.

Q: What is your approach to granting extraordinary discovery?

A: Stipulated extraordinary discovery is regularly granted. Disputed extraordinary discovery is decided on a case-by-case basis, but must be well-supported for consideration.

Q: What is your practice regarding sanctions for discovery abuses?

A: I grant them for obvious or persistent abuses. I usually reserve them for first-time or less serious violations.

Q: What insights do you have for litigants with respect to discovery matters in general?

A: Cooperate. Give liberal courtesies if it won't materially affect the case.

Motions

Q: Do you appreciate courtesy copies of briefs being delivered to your chambers prior to a motion hearing?

A: No

Q: Do you schedule motion hearings automatically upon receipt of notices to submit, or do you prefer or require that counsel call to schedule hearings?

A: I'll schedule the motion hearing once I've reviewed the pleadings.

Q: Do you typically hear motions in limine and other trial-related motions at the final pretrial conference, or at another time?

A: Another time

Q: How should counsel on busy law and motion calendar handle calling a case?

A: Turn on video when you and your client are ready to be called. If in-person, get my attention to take a case out of order.

Q: What documents do you want filed before appearing on a motion for temporary orders?

A: Affidavits, supporting documents, clear requests.

Q: What documents do you want filed before appearing on a motion for a custody evaluator?

A: A statement of financial ability to hire an evaluator. Proposed evaluators. Timelines for proposed evaluators.

Q: What are the special procedures for filing a Motion for an Order to Show Cause?

A: Follow the rule. Including the commissioner rules.

Q: Do you want any type of motion binder delivered? Is this helpful, or does e-filing render these obsolete?

A: No binders! Follow the district digital evidence plan.

Q: Do you appreciate courtesy copies of briefs being delivered to your chambers prior to a motion hearing?.1

A: No

Final Pretrial Conference

Q: In your view, what is the purpose of the final pretrial conference?

A: To discuss potential trial problems, answer any local practice questions of counsel, schedule any last-minute hearings, and generally wrap up outstanding issues for trial.

Q: What topics or issues should counsel come prepared to discuss at the final pretrial conference?

A: Those items listed above.

Q: What steps do you take, if any, at a final pretrial conference to encourage settlement of the case?

A: We will discuss it. But I expect counsel to have already made good faith settlement efforts.

Q: Do you require clients to be present at final pretrial conferences?

A: No

Q: How do you handle requests for continuance on pretrials, arraignments or roll calls?

A: I usually will allow one continuance for good cause. I don't typically continue hearings for "settlement discussions".

Jury Trials

Q: Do you allow or encourage the use of jury questionnaires?

A: Yes. 4 weeks prior to trial.

Q: Do you have a set of standard jury instructions that you use?

A: Yes. Contact a judicial assistant.

Q: When do you prefer to hear disputes over jury instructions?

A: At the pretrial conference, if possible. But during trial usually suffices.

Q: Do you have any particular guidelines or preferences that counsel should be aware of regarding bench trials as opposed to jury trials?

A: Follow the district digital evidence plan. Submit a trial brief in lieu of opening statements.

Q: Do you have any stock jury instructions, verdict forms, articles, standing orders, checklists, remote hearing protocols, or other information you would like hyperlinked to your bench book?

A: No

Post-trial Issues

Q: Do you appreciate or require post-trial briefs from counsel?

A: Yes

Technology in the Courtroom

Q: Do you have any guidelines or preferences regarding the use of technology at trial?

A: Yes. Follow the district's digital evidence plan.

Q: To what extent do you allow the use of technology in your courtroom?

A: Follow the district digital evidence plan.

Special Issues for Domestic Cases

Q: Do you have a policy on child interviews with respect to custody?

A: Yes. They are extremely rare.

Courtroom Protocol

Q: How is voir dire conducted in your courtroom? Do you allow counsel to participate in voir dire? If so, to what extent?

A: I ask preliminary questions. I usually allow liberal counsel participation after that, as long as I'm confident counsel will stay in-bounds.

Q: Do you allow counsel to move freely around the courtroom during trial?

A: Yes

Q: When may the issue of bail best be addressed in your courtroom?

A: At the first appearance, usually. At a requested detention hearing. Or any time for changed circumstances.

Q: What advice do you have for prosecutors to be most effective in your courtroom?

A: Be prepared about bail requests, protective order requests/information. Have restitution figures available at sentencing if possible.

Q: What advice do you have for defense counsel to be most effective in your courtroom?

A: Be prepared and on time. Plan to keep the case moving, including preliminary hearing settings.

Q: Is lack of civility ever a problem in your courtroom?

A: Yes. I will intervene when it gets egregious. I expect counsel to be courteous and professional.

Q: What are your opinions regarding courtroom dress?

A: Be professional.

Q: Do you allow children in your courtroom?

A: Yes

Q: What is your courtroom practice with respect to attorney cell phones? Clients? Those in the gallery?

A: They are tools in the courtroom for documents, calendars, and contact client information. Attorneys may use them to be productive. Clients should not access their phones in the courtroom. The gallery should also not access their phones in the courtroom.

Q: What, if anything, do you do to enforce promptness in your courtroom?

A: I start immediately on time and skip cases that aren't prepared to go forward.

Q: Is there anything else that you would like attorneys or parties to know about case management or proceedings in your courtroom?

A: Once I schedule a trial, I rarely move the trial dates. So please plan accordingly.

Comments from Case Managers and Judicial Assistants

Q: The name and phone number of my case manager(s) is:

A: Any judicial assistant in the district at the office where the case is filed.

Q: My case manager wants you to please do these things:

A: Be courteous. Follow the district digital evidence plan.

Q: The name and phone number of my judicial assistant(s) is:

A: Any assistant in the district at the office where the case is filed.

Q: My judicial assistant wants you to please do these things:

A: Be courteous. Follow the district digital evidence plan.

Other items

Q: Please provide the following information

A: Don Torgerson

Q: What is your practice with respect to modifying an initial case schedule under Rule 26?

A: Very liberal for stipulated modifications, as long as the case is moving forward. Disputed modifications are decided on a case-by-case basis.

Q: What is your approach to protective orders? Do you often use something similar to the federal court standard protective order?

A: I usually grant protective orders liberally.

Q: Are you generally available to hear disputes that arise during depositions?

A: Yes.

Q: Do you prefer that counsel provide copies of the cited authorities prior to a hearing?

A: No

Q: What about unpublished cases?

A: Yes

Q: What is your policy on allowing overlength memoranda? Extensions of the briefing schedule?

A: Avoid it whenever possible. Say it shorter and better. Unless the case is complex, no extensions of briefing schedules

Q: Under what circumstances do you decline to grant a request for oral argument?

A: If someone requests oral argument, I rarely deny it.

Q: Do you have any recommendations or preferences regarding written advocacy that you would like counsel to be aware of?

A: Get to your important points as soon as possible. Use plain English. Avoid legal jargon and write clearly and plainly.

Q: Do you have any particular guidelines or preferences that you expect counsel to follow at oral argument?

A: I've read the pleadings several times. I'm usually very prepared. Don't rehash the written briefs. Be prepared to answer my questions when I have them.

Q: Do you have any guidelines or preferences that you expect counsel to follow regarding temporary restraining orders or preliminary injunctions? In particular, do you have any preferences regarding the presentation of evidence during these proceedings? (For example, do you prefer exhibits to be marked in a certain manner,

or for counsel to proffer affidavits with the witnesses present for potential cross examination rather than proceeding with direct examination by default?)

A: Follow the rules. Normally, these are truncated hearings so it is important to have the evidence ready and available, and usually proffered. Our district has a digital evidence plan that you must follow.

Q: Do you appreciate or require pre-trial briefs from counsel?

A: Yes

Q: When do you require requested voir dire questions to be submitted?

A: If counsel wants specific questions, they should submit those before trial.

Q: When do you require instructions to be submitted?

A: Normally by the start of trial.

Q: What form do you prefer requested instructions to take (e.g., do you prefer instructions accompanied by supporting cases, etc.)? Is a citation to MUJI 1st or 2nd sufficient legal authority?

A: Submit authority with proposed instructions. Citations to MUJI are sufficient.

Q: Do you prefer to receive an electronic copy of requested instructions?

A: Yes

Q: What is your preferred trial schedule (e.g., 9 to 5 with an hour for lunch, 8 to 2 with no lunch, etc.)? Are there any set days/times when you schedule other matters and not trial?

A: 8:30 to 5:30 with 1 to 1.5 hours for lunch. I try to schedule consecutive days for trial.

Q: Do you prefer to hear disputes over trial exhibits before trial or during?

A: Before trial

Q: What is your practice regarding the use of trial exhibits or demonstratives during opening statements?

A: If stipulated, liberal use is fine. If disputed, those disputes need to be decided before opening statements.

Q: What are your preferences with respect to trial exhibits? What are the preferences of your clerks with respect to trial exhibits?

A: Please follow the district's digital evidence plan.

Q: What are your preferences and/or procedures related to witness scheduling?

A: Have witnesses available so there are no wasted trial hours.

Q: What is your preference or practice regarding witnesses appearing remotely at trial?

A: If parties agree, I usually permit it. If there's a dispute, I usually require in-person witnesses unless there are exceptional circumstances.

Q: Do you appreciate or require proposed findings of fact and conclusions of law from counsel?

A: Yes

Q: Do you have recommendations or requirements for counsel who will be participating in a remote hearing? (e.g., use of headphones, providing chambers with physical copies of all exhibits in advance, certain practices to avoid when appearing remotely, etc.)

A: Follow the district digital evidence plan.

Q: Do you find the use of any particular type of computer-assisted presentations effective and/or useful?

A: Follow the district digital evidence plan. A good presentation can be helpful.

Q: Do you find the use of any particular type of computer-assisted presentations unhelpful?

A: Follow the district digital evidence plan.

Q: What is your policy, if any, on pleas in abeyance?

A: They must be in writing.

Q: What information do you want from counsel at the time of sentencing?

A: Any counseling or treatment that has occurred; employment and family circumstances; criminal history information; and other information that is helpful to understand the Defendant's circumstances.

Q: Are private pre-sentence evaluations useful or encouraged?

A: Yes

Q: Do you have any standard sentences the bar should be advised about, i.e., DUI sentencings, acceptance of alcohol-related recklessness?

A: No.

Q: Do you have any preferences for completing and filing financial declarations? Any practice pointers for counsel as to how you would like these completed or filed?

A: Be complete and make sure you've exchanged supporting documents on time.

Q: Is there a special way that you would like proposed orders to be filed?

A: No.

Q: Do you have a judicial biography that you would like hyperlinked to your bench book?

A: No