

JUDGE BOBBI J. RANK
Circuit Court Judge
Sixth Judicial Circuit

Procedural and Courtroom Preferences
Revised June 24, 2019

1. **6th Circuit Rules and Policies:** The 6th Circuit has rules and policies which apply to all courts in the Sixth Circuit. Please read them. Go to http://uj.s.sd.gov/Sixth_Circuit and search for forms and policies. The preferences listed herein are intended as a supplement to those policies.

2. **Contact Information:**

Judge Bobbi J. Rank
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Sandra DeMers
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My chambers are located on the third floor of the Tripp County Courthouse.

3. **Court Recorder:**

- For all hearings except jury trials, I utilize an electronic recording system. Sandra DeMers is my court recorder. She monitors the recording device during the entire hearing to make sure the record is clear and complete.
- If you want a record of a trial or hearing, you must order the transcript. Direct all transcript requests to Sandra DeMers, and she will get the recording to an official court reporter. The court reporter will send you the transcript and billing.
- Sandra DeMers also does my scheduling as further detailed below.

4. **Notice of Appearance:** The State's Attorney and court appointed counsel in a criminal case, and the lawyer filing the initial complaint or petition in a civil case, do not need to file a notice of appearance. All others, please file a formal notice of appearance as soon as you are retained.

5. **Scheduling:**

- The Sixth Circuit covers a large rural land area, so most of the counties have a regular criminal and civil court day calendar, usually two weeks apart.
- Routine matters should be scheduled on a regular court day directly with the respective clerk of court. Routine criminal matters include initial appearances, arraignments, status

hearings, most preliminary hearings, and sentencings. Routine civil matters include child support enforcement status hearings, uncontested probate and guardianship, default judgments, and temporary protection order advisory hearings. Please be aware that if you schedule a lengthy, non-routine hearing on a regular court day without notice and approval, I will continue it, even if witnesses have traveled a long distance.

- The clerk of court is authorized to grant one continuance of an initial appearance or arraignment in a criminal case without Court approval so long as both parties agree.
- It is the State's responsibility to track the 180 day count on all criminal cases and schedule accordingly. Block off trial dates early because schedules are tight.
- All trials, evidentiary hearings, and other hearings longer than ten minutes should be scheduled directly with Sandra DeMers. Additionally, Hughes and Stanley County criminal and civil conflict cases should be scheduled directly with Sandra DeMers.
- The initial hearing on all temporary protection orders in the Sixth Circuit is an advisory hearing, not an evidentiary hearing. The respondent will be advised of his or her right to a hearing on the request for permanent protection order. The respondent may also stipulate to the entry of a protection order without findings. If the respondent wants an evidentiary hearing, it will be scheduled at a later date, and the temporary protection order will be extended.
- Sandra DeMers will send out a standard scheduling order with deadlines on almost every matter scheduled for trial or evidentiary hearing. These are orders, not suggestions. Do not go past a deadline without a request to extend the time and order granting it, even if there is a stipulation.
- If you settle or reach a plea agreement on a case, please let Sandra DeMers and the clerk of court know immediately. Also, if the clerk asks you whether a case is going to trial, you are expected to respond immediately. The clerk goes through preparation work for trial, some of which results in a direct cost to taxpayers. Failure to timely inform the clerk and Court when a case goes away results in a waste of judicial resources and taxpayer money.
- If you need a matter taken early or late in the calendar because of scheduling conflicts in other counties, please let Sandra DeMers know in advance so I can try to accommodate.
- Telephonic or ITV appearances must be approved in advance through Sandra DeMers.
- Counsel are required to meet and confer under SDCL 15-6-26(c) before bringing a discovery dispute to the Court. No motion to compel or motion for protective order will be scheduled for hearing until the written certification has been filed.

- When Sandra DeMers gives you potential dates for a trial or hearing, you are expected to respond within 24 hours. Failure to do so could result in a date being assigned without your input.

6. **E-filing, Orders, and Findings/Conclusions**

- Every licensed attorney is required to e-file in Odyssey. This includes out of state counsel who are licensed in South Dakota and local counsel on pro hac vice cases.
- I do not need courtesy copies of filings unless you are filing them in the afternoon on the last business day before a hearing. I cannot see documents in Odyssey until they are accepted for filing by the clerk of court.
- Emails and attachments to the Court may not be filed. Additionally, emails may not be responded to immediately. If it is important, then file it with the clerk and set a hearing.
- Routine, uncontested orders and court appointed attorney vouchers should be e-filed in Odyssey as a proposed order, and I will electronically sign them. I prefer to sign routine orders in Odyssey because they are tracked by the system and cannot fall through the cracks. Proposed orders must be filed as such and accepted for filing by the clerk before I can see them in Odyssey.
- Contested or complex orders should be provided to me via email in Word so I can revise and file. File any proposed order that you want in the record if refused or modified.
- Proposed findings of fact and conclusions of law should be filed in Odyssey and provided to me via email in Word so I can revise. Proposed findings and conclusions should reflect the testimony and exhibits that you presented, not the evidence that you wish you would have presented.
- If you have a motion, pleading, affidavit, or brief with multiple, properly marked exhibits, it is my preference that you file all of it as one document. Filing them as separate documents forces me to click on each document to determine its contents, which is time-consuming.

7. **Briefs**

- I require pre-trial and pre-hearing briefs for most issues, including suppression hearings.
- I do not need copies of authority cited in a brief unless it is unavailable on Westlaw.
- All briefs should address the burden of proof and which party shoulders it. Briefs should include citation to the applicable statute(s), rules, and controlling caselaw. All lawyers are expected to know and comply with their ethical obligations under South Dakota Rule of Professional Conduct 3.3(a).

- All lawyers, including pro hac vice counsel, are expected to find and cite controlling and persuasive authority in this jurisdiction.
- If you submit a deposition or other lengthy document in support of a motion, cite to the specific line and page that you believe is relevant to your motion.

8. **Plea Agreements**

- Defendants in drug cases will normally be ordered to submit to a urinalysis before sentencing pursuant to bond conditions.
- Presentence investigation reports are common practice in the Sixth Circuit in felony cases. If your client intends to plead guilty and request to be sentenced the same day, I appreciate knowing that in advance.
- Let me know in advance if you have reached a complex or uncommon plea agreement so we are not wasting time figuring it out on the record. Written plea agreements and factual basis statements are always appreciated.
- Defendants sentenced to jail or penitentiary time will typically be remanded immediately.

9. **Courtroom Procedure**

- Those present in the courtroom are expected to stand (if able) and be silent when the judge or jury is entering and leaving the courtroom. This is out of respect for the judicial system and process, and that respect is essential to running a safe and efficient courtroom. Lawyers' actions in this regard set an example for all litigants and observers.
- All criminal defendants are expected to be in the courtroom at the scheduled time for a joint advisement of rights. If you need to meet with your client, do it before or after the advisement.
- I do not require lawyers to stand every time they address the Court or examine a witness. Go with your preference.
- It is important to have a clean recording for the court reporter if a transcript is needed. Therefore, please ask each witness to spell their name and caution them to answer out loud and to let you finish your question before they answer.
- Please conduct your examination from the podium or counsel table (sitting or standing) unless you are approaching a witness with an exhibit.
- Lawyers must ask the Court to approach the bench or an adverse witness.
- Lawyers must ask permission to publish an exhibit.

- Lawyers are expected to cite their legal objection to a question or exhibit, not give a speech.
- Lawyers are allowed to have and use smart phones and tablets as they are waiting between cases, but please make sure they are on silent mode.
- Audio and video recording of proceedings is prohibited without court order.
- Water bottles are allowed in the courtroom, so long as they are removed or discarded after court.

10. **Jury Instructions and Selection**

- Counsel are expected to confer before the deadline for proposed jury instructions and to submit one joint set of instructions that both request and one individual set of other requested instructions.
- All proposed instructions shall be numbered and filed and provided to the Court in Word via email.
- I will generally address statutory qualifications and allow counsel to conduct the majority of voir dire.
- The clerk will typically pre-draw the panel or panels and provide counsel with the pre-drawn list. Jurors will be called and replaced in order of pre-draw number. If a potential juror is so connected to a party or the case that you are requesting his or her dismissal for cause before trial, let the Court and counsel know at least three days before trial.
- The court reporter will not report the reading of the preliminary and final jury instructions unless an attorney requests in advance that this be done.

11. **Mediation**: Mediation will typically be ordered before a hearing, even an interim hearing, is granted on child custody or visitation. If counsel believes mediation is not appropriate or available, counsel must file an affidavit with reasons.

12. **Continuing Representation**

- Court appointed counsel may continue to represent a defendant or juvenile on appeal without a new appointment order.
- Court appointed counsel will not be appointed to represent a defendant or juvenile on a probation revocation matter unless the defendant or juvenile specifically requests representation. Therefore, counsel is not required to appear at an initial appearance on a revocation petition unless specifically requested by the Court or clerk.

- Attorneys are counsel of record in a case until there is an order of withdrawal. In domestic relations cases, custody and visitation disputes often arise after the entry of the divorce decree or custody order. If an attorney knows that he or she will not be representing a client in later proceedings, the attorney should file a motion and order to withdraw before those disputes arise.
13. **Miscellaneous**: Attorneys, parties, and witnesses in telephonic hearings often mistakenly assume that I am male because of my name and deep voice. I am used to it, and it does not offend me. However, making your clients and witnesses aware of this in advance of a telephonic hearing might save them some embarrassment.