

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

**NOTICE OF ASSIGNMENT
OF CASES FOR TRIAL
MAY 11, 2009**

Date and Location of Trial

Attached is a list of cases for trial before the undersigned beginning May 11, 2009, at the Warren E. Burger Federal Building and United States Courthouse, 7th Floor, Courtroom 7C, St. Paul, Minnesota 55101. This calendar will run from **May 11, 2009 to May 29, 2009**. Although listed in the order in which they are expected to be tried, counsel are on notice that cases may be called out of order, and each case is deemed ready for trial as of May 11, 2009. Counsel should be aware that, upon receipt of this notice, the Magistrate Judge assigned to each case will be scheduling a full settlement conference. Further, a pretrial conference will be scheduled by the Court once it is aware of the day certain of each case to be tried.

Documents to be Submitted for Trial

Unless otherwise ordered, counsel shall deliver two copies of the following documents marked to the attention of the Court's chambers and be delivered to the Warren E. Burger Federal Building and United States Courthouse, Suite 100, St. Paul, Minnesota 55101, by **April 27, 2009, at 4:30 p.m.**

1. Documents Required for All Trials:

Document	E-file	E-mail*	No Later Than
<p>A. Statement of the Case. A statement of the case indicating the facts which the party intends to prove and indicating any unresolved substantive, evidentiary and procedural issues. The statement shall include the citation and discussion of authority upon which the party relies for its positions on the unresolved issues.</p>	✓	✓	April 27, 2009
<p>B. Exhibit List. If exhibits are to be offered at trial, the following procedure must be followed:</p> <p>(i) Mark all exhibits for identification. All exhibits shall be marked, as much as possible, in the sequence they will be offered, with Arabic numbers. Each exhibit should also be marked with the case number. Example: Pltf. or Deft. #1 Civ. 04-397 (Multiple parties list name, <i>e.g.</i>, Pltf. <u>Smith</u> #1)</p> <p>(ii) Counsel shall make available for examination and, if requested, copying by all counsel, all exhibits which will be offered into evidence at trial. Only exhibits so made available shall be offered into evidence at trial, except for good cause shown.</p>	✓	✓	April 27, 2009
<p>(iii) Submit a list of exhibits that will be presented at trial on behalf of their client(s). The list shall indicate the exhibits the parties agree are admissible. For the exhibits not so agreed upon, the list shall include the grounds for objection. Only exhibits so listed shall be offered into evidence at trial, except for good cause shown.</p>	✓	✓	April 27, 2009

Document	E-file	E-mail*	No Later Than
C. Witness List. The list shall include the names and addresses of the witnesses, along with a short statement of the substance of the expected testimony of each witness. Only witnesses so listed shall be permitted to testify except for good cause shown.	✓	✓	April 27, 2009
D. List of Deposition Testimony. (i) List of deposition testimony to be offered into evidence in lieu of live testimony. The list shall designate those specific parts of depositions to be offered at trial. Only depositions so listed shall be offered into evidence at trial except for good cause shown.	✓	✓	April 27, 2009
(ii) Any party who wishes to object to listed deposition testimony shall submit objections.	✓	✓	May 4, 2009
E. Motions in limine. (i) All motions must be filed as outlined in Local Rule 5.1. If a motion has tabbed attachments, please mail or deliver to 700 Federal Courts Building 316 North Robert Street, St. Paul, MN 55101 one copy marked to the attention of the Court's chambers.	✓	✓	April 27, 2009
(ii) All responses to motions in limine must be filed as outlined in Local Rule 5.1. If a response has tabbed attachments, please mail or deliver to 700 Federal Courts Building 316 North Robert Street, St. Paul, MN 55101 one copy marked to the attention of the Court's chambers.	✓	✓	May 4, 2009

2. Additional Documents for Jury Trials. In all jury trials, counsel shall submit the following documents in addition to those listed above:

Document	E-file	E-mail*	No Later Than
A. Joint Statement of the Case. The Court expects the parties to jointly submit a proposed statement of the case. The statement of the case should be a summary of the case, including the title, nature of the action, plaintiff's position, nature of the defense, and defendant's position. (The Court's intent is to give the parties input into the statement that will be read to the jury during voir dire.)	✓	✓	April 27, 2009
B. Proposed Voir Dire Questions.	✓	✓	April 27, 2009
C. Proposed Jury Instructions. Exceptions are provided for those instructions whose need could not be foreseen. Each proposed instruction shall be numbered and on a separate page and shall contain citation to legal authority. Jury instructions are to be submitted in the following format: (i) The parties are required to jointly submit one set of agreed upon instructions. To this end, the parties are required to serve their proposed instructions upon each other two weeks prior to the filing deadline. The parties should then meet, confer, and submit one complete set of agreed upon instructions.	✓	✓	April 27, 2009
D. Proposed Special Verdict Forms.	✓	✓	April 27, 2009

3. Additional Documents for Non-Jury Trials.

Document	E-file	E-mail*	No Later Than
Proposed Findings of Fact and Conclusions of Law. In all non-jury trials, counsel shall submit proposed findings of fact and conclusions of law in addition to the documents listed in section 1, above.	✓	✓	April 27, 2009

4. All documents shall be e-filed, e-mailed, and delivered by **4:30 p.m.** on their respective due date.

5. Counsel for all parties are strongly encouraged to meet prior to trial to:
- A. Stipulate to all uncontested facts and matters not in controversy.
 - B. Stipulate to which exhibits may be received without objection prior to trial.
 - C. Discuss settlement.

Failure to Comply

The failure of any party to comply with the procedures outlined herein shall result in the imposition of an appropriate sanction.

Questions regarding the calendar may be directed to Gina Olsen, Calendar Clerk to Judge Frank, Warren E. Burger Federal Building and United States Courthouse, Suite 724, St. Paul, Minnesota 55101, (651) 848-1296.

UNDER THE SPEEDY TRIAL ACT, THE TRIAL OF CRIMINAL CASES MAY BE REQUIRED TO TAKE PRECEDENCE OVER THE TRIALS OF CIVIL CASES.

Dated: February 20, 2009

s/Donovan W. Frank
DONOVAN W. FRANK
Judge of United States District Court

* E-mail to Frank_Chambers@mnd.uscourts.gov in WordPerfect X3 or Microsoft Office Word 2003 format.

**BEFORE JUDGE DONOVAN W. FRANK
MONDAY, MAY 11, 2009 - 9:00 AM
WARREN E. BURGER FEDERAL BUILDING AND UNITED STATES COURTHOUSE
7TH FLOOR, COURTROOM 7C
316 NORTH ROBERT STREET
ST. PAUL, MINNESOTA**

1.

State of Minnesota,

Bench Trial

v. Civ. 08-603 (DWF/AJB)

Christopher D. Jacobsen, Robert J. Bergstrom,
Craig A. Zenobian, and Shane M. Steffensen,

v.

CMI of Kentucky, Inc.

For Pltf:

Emerald A. Gratz and Jeffrey F. Lebowski

For Intervenor Pltf:

Charles A. Ramsay, Daniel J. Koewler, and John J. Gores

For Deft:

David M. Aafedt, Jessica Slattery Karich, and
William A. McNab

For Amicus

Minnesota Society for Criminal Justice:

Marshal J. Halberg

For Amicus

Minnesota DWI Taskforce:

Joshua P. Graham

For Amicus

Minnesota County Attorneys Association:

William A. Lemons

2.

DataCard Corporation,

Bench Trial

v. Civ. 07-321 (DWF/AJB)

Softek, Inc.

For Pltf: James J. Long, Jay W. Schlosser, and Lindsey D. Saunders

For Deft: Leny K. Wallen-Friedman, Paul M. Floyd

3.

Anthony Ray Spann,

Jury Trial

v. Civ. 08-41 (DWF/JJK)

City of Minneapolis, et al.

For Pltf: Karl E. Robinson

For Deft: Darla Jo Boggs and Timothy S. Skarda
