

## **Judge Skavdahl's Procedure for Presenting Direct Testimony from Expert Witness by Written Statement in Bench Trials**

In bench trials, the parties shall prepare, exchange, and file a narrative written statement for each expert witness or any witness whose direct testimony will involve significant technical matters. These expert witness statements are not to be used for adverse parties or for witnesses whose attendance is compelled by subpoena. Expert witness statements shall be prepared and presented at trial as follows.

**Form of Expert Witness Statement.** Counsel shall prepare a written statement setting forth in declaratory form all the facts and opinions to which that expert witness will testify. The facts and opinions shall be stated in a narrative form, not by question and answer. The statement shall contain all of that witness's direct testimony so that a person reading it will know all the relevant facts and expert opinions to which the witness would testify on direct examination. It shall not be sworn or notarized.

**Presentation of Statement as Direct Examination.** At trial, each expert witness shall take the stand and, under oath, adopt their expert witness statement as true and correct. The party offering that witness shall then offer the expert witness statement as an exhibit, subject to appropriate objections by the opposing party on which the Court will then rule.

The witness will then be allowed, in a limited manner, to supplement his/her written statement by any additional live direct examination considered necessary by counsel. The Court expects any such supplemental direct examination to be minimal, though, because the purpose of the expert witness statement is to unambiguously set forth the expert witness's direct examination in written form for the opposing party and Court's careful consideration.

Thereafter, cross-examination and redirect examination will proceed in the ordinary course.

**Exhibits.** Documents to be offered as exhibits through the expert witness shall not be attached to the expert witness statement, but shall be pre-marked and exchanged along with other proposed exhibits in the usual fashion.

**Schedule for Exchange of Statements.** The parties shall exchange and file their expert witness statements **no later than fourteen (14) days** prior to trial, or as otherwise scheduled in the Initial Pretrial Order.