

MINNESOTA PRACTICE SERIES™

Volume 5

Methods of Practice: Civil Advocacy

2026–2027 Edition
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2026–2027 Highlights

Methods of Practice: Civil Advocacy

Minnesota Practice Volume 5

This 2026-2027 Edition continues to be essential part of your civil advocacy practice. Updated and revised sections include:

- Caselaw updates that affect Minnesota motion practice.
- Guidance around co-counseling and taking over representation.
- Information about state court decisions that impact the doctor-patient privilege and the introduction of social media exhibits.
- Discussion of implicit bias and restorative justice.
- Summaries of other recent state and federal decisions, including U.S. Supreme Court decisions.
- An Appendix with the latest versions of relevant Minnesota statutes and court rules.

Dedication

TO

SILVE S. HAYDOCK,

JAMES M. KNAPP

without whom we would

not be who we are

and

MALAIKA LARSEN

who inspires me daily

Acknowledgments

You have made this book possible. Without the lawyers of the State of Minnesota, we would not have had the opportunity to compose this text. Without clients, there would not be the need for these materials. Without our grand system of civil justice, there would not have been any purpose in publishing this book.

Colleagues at the Mitchell Hamline School of Law have contributed in various ways to the development of this book. They include John Sonsteng, James Coben, Carolyn Grose, Kate Kruse, Ann Juergens, Nancy Ver Steegh, Brad Colbert, Eric Janus, and James Morrow.

Minnesota lawyers and judges further made this book a reality, including Judge Michael Davis, Judge Lucinda Jesson, and Ed Anderson. The many lawyering skills instructors who have worked with us over the years also deserve special recognition.

Other individuals who helped produce this book include Jean Backes, Sue McKenzie, Sonja Huesman, and Jenifer Miller, all of Mitchell Hamline. Kerri Nelson, Laura Busian, Melissa Jensen, Lisa Ashley, Leah Weaver, Julie Stout, and Codias Brown took time from their legal studies to assist us.

Of course, none of this would have happened without the support of those who welcomed us home every day and night, well almost every time. They are in ascending order of years spent with us, or seeming so: Marian, James, Mallory, Megan, Brady, Blake, Chase, Will, Brooks, Emma, Olivia, Cole, John, Nathan, Kelsey, Chris, Brad, Gabe, Jeff, Dan, Marci, Chuck, Marni, Cindy, and Elaine. We love all of them and each of them.

We lastly acknowledge our great appreciation of the law and practice. It has provided us with a wonderfully fulfilling professional life. It has consumed too much of our other life a bit too often. And it has made us realize how fortunate we are to be writing this book—for you.

Preface

This annual soft-cover text explains the way cases are, can be, and may be tried in Minnesota courtrooms, hearing rooms, and arbitration forums. The materials provide lawyers with the information they need to effectively prepare and try disputes before judges, jurors, administrative judges, and arbitrators.

Each chapter focuses on a major part of the Minnesota civil advocacy process. Together the chapters explain the overall law, rules, statutes, decisions, theories, strategies, ethics, tactics, and techniques that govern and apply to the advocacy of civil trial, administrative, and arbitration cases.

Lawyers of all levels of experience will find these materials instructive and helpful. Novice lawyers will learn the fundamentals of how to effectively try civil cases. Lawyers who occasionally advocate on behalf of a client will have available what they need to properly proceed. And, experienced attorneys will find new and refreshing approaches, insights, and ideas.

All the information contained in this book reflects the broad range of civil cases and explains the whys and why nots and shoulds and should nots of civil practice. Interspersed throughout the text are comments and suggestions on why and how and what to do. You will need to determine whether to apply all these ideas and suggestions to your own cases and, if so, how.

We crafted this text with the notion that you will also discover the excitement, passion, and adventure—as well as the frustration and anxiety—that accompany the practice of civil law. It was a privilege for us to author this book. We trust you will use these materials and provide the best possible advocacy representation you can for your clients. As always, please send us your comments and suggestions for future editions.

ROGER S. HAYDOCK
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Companion Advocacy Materials

This book is designed to be used in conjunction with other sources of Minnesota law and advocacy. An advocate will also need a copy of the rules applicable to the type of cases being tried, as well as a copy of the relevant statutes and controlling decisions. References to treatises and commentaries will also be useful or essential in preparing for and presenting a case, including:

David F. Herr & Roger S. Haydock, *Civil Rules Annotated* Volumes 1, 1A, 2, and 2A (Thomson Reuters/West).

Roger S. Haydock, David F. Herr & Sonja Dunnwald Peterson, *Civil Practice Forms*, Volumes 15, 16 & 16A (Thomson Reuters/West).

Michael K. Steenson & Peter B. Knapp, *Minnesota Jury Instruction Guides: Civil (CIVJIG)* (Thomson Reuters/West).

Peter N. Thompson, *Evidence* (Thomson Reuters/West).

David F. Herr, *General Rules of Practice Annotated* (Thomson Reuters/West).

Additional suggestions and advice about trying cases appear in other texts.

Examples and illustrations of lawyers engaged in witness examinations, openings and closings, introduction of exhibits, asserting objections, selecting jurors, and other facets of civil trials, hearings, and arbitrations appear in:

Ron Meshbesh, *Trial Handbook for Minnesota Lawyers* (Thomson Reuters/West).

David Herr and Roger Haydock, *Fundamentals of Litigation Practice* (Thomson Reuters/West).

Roger Haydock and John Sonsteng, *Trial: Advocacy Before Judges, Jurors, and Arbitrators* (West Academic).

Roger Haydock, David Herr, and Jeffrey Stempel, *Fundamentals of Pretrial Litigation* Eleventh Edition (West Academic).

Roger Haydock and Peter Knapp, *Lawyering: Practice and Planning* (West Academic).

Lawyers who try administrative cases will need access to the rules, regulations, and statutes that apply to the applicable administrative tribunal and case.

METHODS OF PRACTICE: CIVIL ADVOCACY

Attorneys who represent parties in arbitration will need a copy of the applicable code of procedure, available from the major arbitration organizations at: The Forum (adrforum.com); American Arbitration Association (ADR.org); and Judicial Arbitration and Mediation Services (jamsadr.com).



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