

**Section 9. Availability of Witnesses**

**(a) Exchange of Information as to Future Scheduling.** In order to facilitate efficient scheduling of future witnesses and court time, all parties shall communicate with one another and exchange good faith estimates as to the length of witness examinations together with any other information pertinent to trial scheduling.

**(b) "On-Call" Witnesses.** It is the responsibility of an "on-call" witness proponent to have the witness present in court when needed.

**(c) Completion of Witness' Testimony.** Except with the court's approval, a witness' testimony shall be pursued to its conclusion and not interrupted by the taking of other evidence.

Upon the conclusion of a witness's testimony the court should inquire of all counsel whether the witness may be excused from further attendance and if affirmative responses are given, the court may then excuse the witness.

**(d) Excluding Witnesses.** Exclusion of witnesses shall be in accordance with Minn. R. Evid. 615.

**(e) Issuance of Warrants.** A warrant for arrest or body attachment for failure of a witness to attend shall not be released for service unless it is shown by the applicant party, in a hearing outside the presence of jurors, that (1) service of the process compelling attendance was made at a time providing the witness with reasonable notice and opportunity to respond, and (2) no reasonable excuse exists for the failure to attend or, if the reason for the failure to attend is unknown to the applicant party, due diligence was used in attempting to communicate with such witness to ascertain the reason for the failure to attend.

**Cross Reference:** Minn. R. Civ. P. 43.

***Task Force Comment - 1991 Adoption***

*Subsection (a) is derived from existing Trialbook paragraph 54.*

*Subsection (b) is derived from existing Trialbook paragraph 55.*

*Subsection (c) is derived from existing Trialbook paragraph 56.*

*Subsection (d) is derived from existing Trialbook paragraph 57, with significant change.*

*Subsection (e) is derived from existing Trialbook paragraph 61.*

*Subsection (d) now simply makes it clear that Minn. R. Evid. 615 governs the sequestration of witnesses. The existing provision of existing Trialbook paragraph 57 appears to be inconsistent with the Rules of Evidence, and should be superseded.*