

**Rule 308. Final Order, Judgment, or Decree****Rule 308.01 Notices; Service**

**(a) Awards of Child Support and/or Maintenance.** All orders, judgments, and decrees that include awards of child support or maintenance, unless otherwise directed by the court, shall include the provisions set forth in Minnesota Statutes, section 518.68 (Appendix A).

**(b) Public Assistance.** When a party is receiving or has applied for public assistance, the party obtaining the judgment and decree shall serve a copy on the agency responsible for child support enforcement, and the decree shall direct that all payments of child support and spousal maintenance shall be made to the Minnesota Child Support Central Payment Center for as long as the custodial parent is receiving assistance.

**(c) Child Support Enforcement.** When a private party has applied for or is using the services of the local child support enforcement agency, a copy of the decree shall be served by mail or other authorized means by the party submitting the decree for execution upon the county agency involved. The party may serve the copy of the decree by electronic means if the county agency has agreed to accept service by electronic means.

**(d) Supervised Parenting Time or Visitation.** A copy of any judgment and decree or other order directing ongoing supervision of parenting time or visitation shall be provided to the appropriate agency by the party obtaining the decree or other order.

(Amended effective May 1, 2012; amended effective July 1, 2015.)

***Family Court Rules Advisory Committee Commentary\****

*Minnesota Statutes, section 518.551, requires that maintenance or support must be ordered payable to the public agency so long as the obligee is receiving public assistance.*

*Agencies responsible for enforcement of child support in private cases also require a copy of the judgment and decree.*

*\*Original Advisory Committee Comment-Not kept current.*

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

*Subdivision (a) of this rule is derived from existing Rule 7.01 of the Rules of Family Court Procedure. The list of provisions is not set forth in this rule, as it was set forth in full in new Minn. Gen. R. Prac. 303.06.*

*Subdivision (b) is derived from Rule 7.02 of the Rules of Family Court Procedure, and also in part from Second District Local Rule 7.021.*

*Subdivision (c) is derived from Second District Local Rule 7.022.*

*Subdivision (d) of this rule, replacing existing Rule 7.03 of the Rules of Family Court Procedure, was recommended to the Task Force by the Minnesota State Bar Association Family Law Section.*

***Advisory Committee Comment - 2015 Amendments***

*The amendment to Rule 308.01(c) makes explicit that service of a decree by electronic means is effective only if the recipient has consented to service by this means. Consent will be an integral part of registration for service using the court's e-filing and e-service system. Service by alternate means, such as by e-mail outside of the court's system, can be effective if the party to be served has expressly consented to that means of service. But inclusion of a fax number or e-mail address in a*

*pleading signature block, letterhead or other correspondence, even if required by court rule, or use of these methods for other purposes, is not sufficient to establish consent to alternative means of service.*

### **Rule 308.02 Statutorily Required Notices**

Where statutes require that certain subjects be addressed by notices attached to an order or decree, the notices may be set forth in an attachment and incorporated by reference. The attachment may be physically attached (e.g., by staple) if in paper form or, if in electronic form, it may be set forth in the same electronic document or in a separate electronic document that accompanies the order or decree when filed with or distributed by the court. Notwithstanding the absence of language referencing the attachments, they shall be deemed incorporated by reference.

(Amended effective May 1, 2012; amended effective September 1, 2018.)

#### ***Family Court Rules Advisory Committee Commentary\****

*See Rule 10.01, Form 3, for the concept of the form of the attachment.*

*\*Original Advisory Committee Comment--Not kept current.*

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

*This rule is derived from existing Rule 7.04 of the Rules of Family Court Procedure.*

### **Rule 308.03 Sensitive Matters**

Whenever the findings of fact include private or sensitive matters as determined by the court, a judgment and decree may be supported by separate documents comprising findings of fact, conclusions of law, and order for judgment.

(Amended effective May 1, 2012.)

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

*The Task Force recommends repeal of existing Rule 7.05 of the Rules of Family Court Procedure because the requirement for findings is well established by the common law, and a rule recodifying the settled law is surplusage.*

*The recommended rule is patterned after Second District Rule 7.051. Its purpose is to allow sensitive factual and legal matters to be preserved in separate documents so that the need for disseminating confidential and sensitive matters can be minimized. This rule does not create a right to maintain the privacy of any portion of the findings; it allows the court to create documents that may be useful for some public purposes without including all other parts of the findings.*

### **Rule 308.04 Joint Marital Agreement and Decree**

The parties to any marital dissolution proceeding may use a combined agreement and judgment and decree. A judgment and decree that is subscribed to by each party before a notary public, or signed by each party under penalty of perjury pursuant to Minnesota Statutes, section 358.116, and contains a final conclusion of law with words to the effect that "the parties agree that the foregoing Findings of Fact and Conclusions of Law incorporate the complete and full agreement" shall, upon approval and entry by the court, constitute an agreement and judgment and decree for marriage dissolution for all purposes.

(Added effective January 1, 2007; amended effective May 1, 2012; amended effective May 23, 2016.)

***Advisory Committee Comment - 2007 Amendment***

*Rule 308.04 is new. The rule allows parties in any marriage dissolution proceeding, whether commenced by petition or joint petition, to use a combined marital termination agreement and judgment and decree. The primary benefit of this procedure is to reduce the risk of discrepancy between the terms of a marital termination agreement and the judgment and decree it purports to authorize. This procedure should benefit both the parties and the court in streamlining the court procedure where the parties are in agreement. The rule permits the parties to use this procedure by agreement, but does not require its use.*

*The procedure in Rule 308.04 is similar to the procedure for use of combined Joint Petition, Agreement and Judgment and Decree under Rule 302.01(b)(2), but it is available in all cases where the parties agree on all issues (the Rule 302 procedure may be used only in cases not involving children).*

*The use of this procedure will result in the marital termination agreement becoming an integral part of the judgment and decree, which will render it a public record. To the extent the parties' agreement contains confidential information, they should consider alternative methods of protecting that information, such as use of separate documents as provided for in Rule 308.03 so the agreement is not filed or the use of the confidentiality protection procedures contained in Minn. Gen. R. Prac. 11.*

***Advisory Committee Comment - 2012 Amendment***

*Rule 308.02 refers to statutory notice. The legislature has established numerous forms of notice including those required by Minnesota Statutes, section 518.68. These requirements are met in a two-page notice form, which is known as Appendix A and labeled as FAM 301 on the state court website ([www.mncourts.gov](http://www.mncourts.gov), under "Court Forms" click on "Other").*

*Rule 308.04 allows parties in any marriage dissolution proceeding, whether commenced by petition or joint petition, to use a combined agreement and judgment and decree. The agreement is often termed a "marital termination agreement," but that label is not required by the rule. The primary benefit of this procedure is to reduce the risk of discrepancy between the terms of a marital termination agreement and the judgment and decree it purports to authorize. This procedure should benefit both the parties and the court in streamlining the court procedure where the parties are in agreement. The rule permits the parties to use this procedure by agreement, but does not require its use.*

*The procedure in Rule 308.04 is similar to the procedure for use of a combined Joint Petition, Agreement and Judgment and Decree under Rule 302.01(b)(2), and is available in all cases where the parties agree on all issues.*

*The use of this procedure will result in the marital termination agreement becoming an integral part of the judgment and decree, which will render it a public record. To the extent the parties' agreement contains confidential information, they should consider alternative methods of protecting that information, such as use of separate documents as provided for in Rule 308.03 so the agreement is not filed or the use of the confidentiality protection procedures contained in Minn. Gen. R. Prac. 11.*

***Advisory Committee Comment - 2016 Amendments***

*The Court made numerous changes to the court rules in 2015 to allow use of signature under penalty of perjury in lieu of notarization for most court documents where notarization was previously required. These changes followed the 2014 adoption of Minnesota Statutes, section 358.116 (2014)*

*(codifying 2014 Minnesota Laws, chapter 204, section 3). The advisory committee is not aware of any good reason to require that this form to be signed before a notary public, and therefore recommends adding the joint marital agreement and decree to the list of forms for which verification under penalty of perjury in accordance with the statute is sufficient.*

***Advisory Committee Comment - 2018 Amendments***

*The amendment to Rule 308.02 in 2018 establishes an electronic corollary to stapling an attachment to a signed order. When orders are signed without the attachments being included as a referenced attachment to an order or decree, the historical practice has been to simply staple the attachments to the orders when distributed by the court. When the order or decree is in electronic form, physically adding the attachments to the same document after a judge electronically signs will render the signature subject to challenge as the document will indicate that it has been changed. The electronic corollary to stapling the order to the already signed order or decree is to set it forth in a separate electronic document and add it to the case record, and send a notice to the parties that explains this.*