

**Rule 41. Final Hearing in Uncontested Matters****41.01 Generally**

A final hearing is a hearing to determine whether an uncontested adoption petition should be granted.

**41.02 Commencement**

A final hearing relating to an uncontested adoption petition shall be held not sooner than ninety (90) days after the child is placed, unless there is a waiver of the residency requirement pursuant to Rule 35, but not later than ninety (90) days after the adoption petition is filed. If the petitioner has not requested a hearing date within sixty (60) days of the filing of the petition, the court administrator may schedule a hearing and serve notice of such hearing pursuant to Rule 31.04.

(Amended effective January 1, 2007.)

**41.03 Hearing Procedure**

At the beginning of the final hearing, the court shall on the record:

- (a) verify the name, age, and current address of the child who is the subject of the proceeding, except as provided in Rule 20.03;
- (b) determine whether the Indian child's tribe has been notified, if the child has been determined to be an Indian child;
- (c) determine whether all parties are present and identify those present for the record;
- (d) determine whether any necessary biological parent, guardian, or other person from whom consent to the adoption is required or whose parental rights will need to be terminated is present;
- (e) determine whether notice requirements have been met, and, if not, whether the affected person waives notice; and
- (f) determine whether the Interstate Compact on the Placement of Children, Minnesota Statutes, section 260.851, applies.

(Amended effective January 1, 2007; amended effective July 1, 2014.)

**41.04 Standard of Proof**

The petitioner shall prove by a preponderance of evidence the facts alleged in the adoption petition and that the adoption is in the best interests of the child.

***2004 Advisory Committee Comment***

*The Indian Child Welfare Act, 25 U.S.C. section 1901, et seq., does not state a standard of proof for adoption matters as it does for foster care and termination of parental rights matters.*

**41.05 Timing of Decision**

Within fifteen (15) days of the conclusion of the final hearing in an uncontested adoption, the court shall issue findings of fact, conclusions of law, order for judgment, and adoption decree pursuant to Rule 45. For good cause, the court may extend this period for an additional fifteen (15) days.

(Amended effective January 1, 2007.)