Rule 115. Motion Practice

Rule 115.01 Scope and Application

This rule shall govern all civil motions, except those in family court matters governed by Minn. Gen. R. Prac. 301 through 379 and in commitment proceedings subject to the Special Rules of Procedure Governing Proceedings Under the Minnesota Commitment and Treatment Act.

(a) **Definitions.** Motions are either dispositive or nondispositive, and are defined as follows:

(1) Dispositive motions are motions which seek to dispose of all or part of the claims or parties, except motions for default judgment. They include motions to dismiss a party or claim, motions for summary judgment and motions under Minn. R. Civ. P. 12.02(a)-(f).

(2) Nondispositive motions are all other motions, including but not limited to discovery, third party practice, temporary relief, intervention or amendment of pleadings.

(b) **Time.** The time limits in this rule are to provide the court adequate opportunity to prepare for and promptly rule on matters, and the court may modify the time limits, provided, however, that in no event shall the time limited be less than the time established by Minn. R. Civ. P. 56.02. Computation of time under this rule is governed by Minn. R. Civ. P. 6.

(c) **Post-Trial Motions.** The timing provisions of sections 115.03 and 115.04 of this rule do not apply to post-trial motions. Except as limited by Minn. R. Civ. P. 59.03, on the request of any party, the procedures for bringing, briefing, and hearing post-trial motions shall be governed by order of the court in the action.

(Amended effective January 1, 1993; amended effective September 5, 2001; amended effective July 1, 2015; amended effective July 1, 2018; amended effective January 1, 2020; amended effective July 1, 2021.)

Rule 115.02 Obtaining Hearing Date; Notice to Parties

A hearing date and time shall be obtained from the court administrator or a designated motion calendar deputy. A party obtaining a date and time for a hearing on a motion or for any other calendar setting, shall promptly give notice advising all other opposing counsel and self-represented litigants who have appeared in the action so that cross motions may, insofar as possible, be heard on a single hearing date.

(Amended effective January 1, 1993; amended effective July 1, 2015.)

Rule 115.03 Dispositive Motions

(a) **Service by Moving Party.** No motion shall be heard until the moving party pays any required motion filing fee, serves the following documents on all opposing counsel and self-represented litigants, and files the documents with the court administrator at least 28 days before the hearing:

(1) Notice of motion and motion;

(2) Proposed order;

(3) Any affidavits and exhibits to be submitted in conjunction with the motion; and

(4) Memorandum of law.

(b) **Response to Motion.** The party responding to the motion shall pay any required motion filing fee, serve the following documents on all opposing counsel and self-represented litigants, and file the documents with the court administrator at least 14 days before the hearing:

(1) Memorandum of law; and

(2) Supplementary affidavits and exhibits.

(c) **Reply Memoranda.** The moving party may submit a reply memorandum, limited to new legal or factual matters raised by an opposing party's response to a motion, by serving it on all opposing counsel and self-represented litigants and filing it with the court administrator at least 7 days before the hearing.

(d) **Additional Requirement for Summary Judgment Motions.** For summary judgment motions, the memorandum of law shall include:

(1) A statement by the moving party of the issues involved which are the grounds for the motion for summary judgment;

(2) A statement identifying all documents (such as depositions or excerpts thereof, pleadings, exhibits, admissions, interrogatory answers, and affidavits) which comprise the record on which the motion is made. Opposing parties shall identify in their responding Memorandum of Law any additional documents on which they rely;

(3) A recital by the moving party of the material facts as to which there is no genuine dispute, with a specific citation to that part of the record supporting each fact, such as deposition page and line or page and paragraph of an exhibit. A party opposing the motion shall, in like manner, make a recital of any material facts claimed to be in dispute; and

(4) The party's argument and authorities. These additional requirements also apply to a motion under Minn. R. Civ. P. 12 if factually based. Part (3) is excluded from the page limitations of this rule.

(Amended effective January 1, 1993; amended effective January 1, 2004; amended effective July 1, 2015; amended effective January 1, 2020.)

Rule 115.04 Nondispositive Motions

(a) **Service by Moving Party.** No motion shall be heard until the moving party pays any required motion filing fee, serves the following documents on all opposing counsel and self-represented litigants, and files the documents with the court administrator at least 21 days before the hearing:

(1) Notice of motion and motion;

(2) Proposed order;

(3) Any affidavits and exhibits to be submitted in conjunction with the motion; and

(4) Any memorandum of law the party intends to submit.

(b) **Response to Motion.** The party responding to the motion shall pay any required motion filing fee, serve the following documents on all opposing counsel and self-represented litigants, and file the documents with the court administrator at least 14 days before the hearing:

(1) Any memorandum of law the party intends to submit; and

(2) Any relevant affidavits and exhibits.

(c) **Reply Memoranda.** The moving party may submit a reply memorandum, limited to new legal or factual matters raised by an opposing party's response to a motion, by serving it on all opposing counsel and self-represented litigants and filing it with the court administrator at least 7 days before the hearing.

(d) **Expedited, Informal Non-Dispositive Motion Process.** The moving party is encouraged to consider whether the motion can be informally resolved through a remote technology conference with the judge or judicial officer. The moving party may invoke this informal resolution process by written notice to the court and all opposing counsel and self-represented litigants. The moving party must also contact the appropriate court administrative or judicial staff to schedule a conference. The parties may (but are not required to) submit short letters, with or without a limited number of documents attached (no briefs, declarations or sworn affidavits are to be filed), prior to the conference to set forth their respective positions.

The court may, in its discretion, direct the manner of submission of the letters. The court will read the written submissions of the parties before the conference, hear arguments of counsel and self-represented litigants at the conference, and issue its decision at the conclusion of the conference or shortly after the conference. Depending on the nature of the dispute, the court may or may not issue a written order. The court may also determine that the dispute must be presented to the court via formal motion and hearing. The conferences held under this rule will not be recorded or transcribed.

(Amended effective January 1, 1993; amended effective January 1, 2004; amended effective July 1, 2013; amended effective July 1, 2015; amended effective January 1, 2020; amended effective July 1, 2026.)

Rule 115.05 Page Limits

No memorandum of law submitted in connection with either a dispositive or nondispositive motion shall exceed 35 pages, exclusive of the recital of facts required by Minn. Gen. R. Prac. 115.03(d)(3), except with permission of the court. For motions involving discovery requests, the moving party's memorandum shall set forth only the particular discovery requests and the response or objection thereto which are the subject of the motion, and a concise recitation of why the response or objection is improper. If a reply memorandum of law is filed, the cumulative total of the original memorandum and the reply memorandum shall not exceed 35 pages, except with permission of the court.

(Amended effective January 1, 1993; amended effective January 1, 1994.)

Cross Reference: Minn. R. Civ. P. 7, 56.

Rule 115.06 Failure to Comply

If the moving documents are not properly served and filed, the hearing may be canceled by the court. If responsive documents are not properly served and filed in a nondispositive motion, the court may deem the motion unopposed and may grant the relief requested without a hearing. For a dispositive motion, the court, in its discretion, may refuse to permit oral argument by the party not filing the required documents, may allow reasonable attorney's fees, or may take other appropriate action.

(Amended effective July 1, 2015.)

Rule 115.07 Relaxation of Time Limits

If irreparable harm will result absent immediate action by the court, or if the interests of justice otherwise require, the court may waive or modify the time limits established by this rule.

Rule 115.08 Witnesses

No testimony will be taken at motion hearings except under unusual circumstances. Any party seeking to present witnesses at a motion hearing shall obtain prior consent of the court and shall

notify the adverse party in the motion documents of the names and addresses of the witnesses which that party intends to call at the motion hearing.

(Amended effective July 1, 2015.)

Rule 115.09 Remote Technology Hearings

Whether a hearing will be held in-person or by remote technology is based on the type of case and the type of hearing, as set forth by Judicial Council Policy, which can be found on the Minnesota Judicial Branch website.

(Amended effective January 1, 1996; amended effective July 1, 2026.)

Rule 115.10 Settlement Efforts

No motion will be heard unless the parties have conferred in an attempt to resolve their differences prior to the hearing. The moving party shall initiate the conference. The moving party shall certify to the court, before the time of the hearing, compliance with this rule or any reasons for not complying, including lack of availability or cooperation of opposing counsel. Whenever any pending motion is settled, the moving party shall promptly advise the court.

(Amended effective July 1, 2026.)

Cross Reference: Minn. R. Civ. P. 7, 56.

Rule 115.11 Motions to Reconsider

Motions to reconsider are prohibited except by express permission of the court, which will be granted only upon a showing of compelling circumstances. Requests to make such a motion, and any responses to such requests, shall be made only by letter to the court of no more than two pages in length, a copy of which must be served on all opposing counsel and self-represented litigants.

(Added effective January 1, 1998; amended effective July 1, 2015.)

Advisory Committee Comment - 1997 Amendment

This rule is derived primarily from Rule 15 of the Local Rules of the Seventh District. Provisions are also included from Rule 8 of the Local Rules of the Second District (2d Dist. R. 8(h)(1) & 8(j)(1)).

This rule is intended to create uniform motion practice in all districts of the state. The existing practices diverge in many ways. The inconsistent requirements of having a motion heard impose significant burdens on litigants and their counsel. The Task Force is confident that this new rule will make civil practice more efficient and fairer, consistent with the goals of the rules of civil procedure set forth in Minn. R. Civ. P. 1.

The rule applies to all motions except the timing provisions do not apply to post-trial motions. These motions are excepted because they are governed by other, stringent timing requirements. See Minn. R. Civ. P. 59.03 (motions for a new trial), 52.02 (amendment of findings), 50.02(c) (time for j.n.o.v. motion same as for new trial motion). Other post-trial motions excluded from this rule include those relating to entry of judgment, stays, taxation of costs, and approval of supersedeas bonds. See Minn. R. Civ. App. P. 108.01, subdivision 1. These matters are routinely and necessarily heard on shorter notice than that required by the rule.

The time limits set forth in this rule were arrived at after extensive discussion. The Task Force attempted to balance the needs of the courts to obtain information on motions sufficiently in advance of the hearing to permit judicial preparation and the needs of counsel and litigants to have prompt

hearings after the submission of motions. The time limits for dispositive motions are admittedly longer than the 10-day requirement set forth in Minn. R. Civ. P. 56.03. The Task Force is of the view that these requirements are not necessarily inconsistent because the rules serve two different purposes. The civil procedure rule establishes a minimum notice period to the adversary, while this provision in the general rules of practice sets forth a standard to facilitate the court's consideration of the motions. The time requirements of this rule may be readily modified by the court, while the minimum notice requirements of Minn. R. Civ. P. 56.03 is mandatory unless waived by the parties themselves. See McAllister v. Independent School District No. 306, 276 Minn. 549, 149 N.W.2d 81 (1967). The time limits have been slightly modified from the Task Force's original to reflect the motion practice deadlines now established and followed in the federal court by Minnesota. The local rules of the United States District Court for the District of Minnesota were recently amended, effective Feb. 1, 1991. See Rule LR7.1 (b)(1) (D. Minn.) (moving papers for dispositive motions now due 28 days before hearing). The Task Force believes it is desirable to remove minor differences between state and federal court practice where no overriding purpose exists for the differences.

The amendment to this rule in 1992 added an express provision for reply briefs. Reply briefs are now allowed for all motions, with the total page limits remaining unchanged. This change is appropriate because of the number of situations where truly new factual or legal matters are raised in response to a motion. In many cases, however, a reply brief will be unnecessary or, where no new matters are raised, inappropriate. The requirement that reply briefs be served and filed three days before the hearing contemplates actual delivery three days before the hearing is scheduled. If service or filing will be accomplished by mail, the deadline is three days earlier by operation of Minn. R. Civ. P. 5.02 & 6.05 and Minn. Gen. R. Prac. 115.01(b).

The statements of facts required by this rule are made for the purpose of the then-pending motion only, and are not to be judicial admissions for other purposes. The Task Force modified the existing local rule in the seventh district to remove any provision that might suggest that summary judgment motions would be treated as defaults if the required statements of fact were not submitted or that might be interpreted to reduce the factual record for summary judgment motions from that specified in Minn. R. Civ. P. 56.05. This will avoid the conflict dealt with by the Minnesota Court of Appeals in Bunkowske v. Briard, 461 N.W.2d 392 (Minn. Ct. App. 1990). Counsel seeking to have the court consider matters located elsewhere in the court file will need to identify those materials in the statements of facts required by the rule, but will not have to refile the documents.

Rule 115.10 is a new requirement in the statewide rules, but is a familiar one to most lawyers. Many state and federal courts require parties to meet and confer in an attempt to resolve discovery disputes. See Second Dist. Rule 8(h); Fourth Dist. Rule 2.02; R. Haydock & D. Herr, Discovery Practice section 8.2 & n.3 (2d ed. 1988) (federal court local rules collected). The Task Force believes that it is reasonable and worthwhile to require informal efforts to attempt to resolve all motion disputes, not just discovery disputes. The Task Force also believes, however, that a rule requiring a face-to-face meeting in all situations would be unwise. This rule requires that some appropriate efforts be made to resolve motion disputes before hearing with the court, but does not specify a specific mechanism. In some instances, a face-to-face meeting will be productive; in other cases a short phone call will suffice to exhaust any possibility of resolution of the matter. The Task Force considered exempting dispositive motions from the requirements of the rule in view of the likely futility of conferring with adversaries over matters that would be dispositive, but determined that the effort expended in conferring in these matters is justified by the likely resolution or narrowing of some disputes or focusing of the dispute for judicial resolution.

Rule 115.02 is a new provision intended both to give parties notice of hearings in advance of the minimum required by other rules. It is intended primarily to prevent a party from obtaining a

hearing date and time weeks in advance of a hearing but then delaying giving notice until shortly before the hearing. This practice appears to give an unnecessary tactical advantage to one side. Additionally, by requiring that more than the minimum notice be given in many cases, it will be possible for the responding parties to set on for hearing any additional motions they may have. This may result in the more efficient hearing of multiple motions on a single hearing date.

The definitions of "dispositive" and "nondispositive" motions should be fairly easy to follow in practice. The definitions are similar to those used in Minnesota federal court practice, see Local Rule 4 (D. Minn.), reprinted in Minn. Rules of Ct. 885-86 (West. 1990). Federal court practice treats motions for interlocutory injunctive relief as dispositive because these matters are heard with other dispositive motions before judges rather than magistrates, but there is no reason to treat these motions as dispositive in state-court practice. Indeed, most such motions in state court are heard on expedited schedules set at the time of initial appearance.

The language of rule 115.06 permits the court, but does not require it, to strike a motion where the rule is not followed. The permissive language is included to make it clear the court retains the discretion to hear matters even if the rules have been ignored, but should not be viewed as suggesting that the court needs to provide a hearing on whether such a motion will be stricken. Courts may administratively provide that hearings on motions not served and filed in accordance with the rule will be automatically or routinely canceled.

The Task Force considered the adoption of the Seventh District's rule that called for the trial judge to "make every effort" to rule on nondispositive motions on the day of hearing and dispositive motions within 30 days of hearing. Seventh Dist. R. 15(8). That provision was adopted as part of the revision of motion practice in that district whereby earlier briefing was required with the expected result of earlier decision. Although the purpose of that rule is laudable, the Task Force decided it is not good practice to adopt rules that are purely hortatory in nature, and do not impose any specific requirements or standards. Nonetheless, the Task Force hopes that those benefits of early briefing will flow from the proposed changes on a statewide basis. The Task Force also noted that a statute governs the outer limits of the time for decision. See Minnesota Statutes 1990, section 546.27, subdivision 1 (establishing 90-day period for decision).

Rule 115.09 has been amended to make it clear that telephone hearings may not be recorded unofficially by one party. This rule is consistent with the broader mandate of Minn. Gen. R. Prac. 4 which prohibits pictures or voice recordings except if taken as the official record for matters that are heard in court rather than by phone.

Rule 115.11 is added to establish an explicit procedure for submitting motions for reconsideration. The rule permits such motions only with permission of the trial court. The request must be by letter, and should be directed to the judge who issued the decision for which reconsideration is sought. The rule is drawn from a similar provision in the Local Rules of the United States District Court for the District of Minnesota. The rule is intended to remove some of the uncertainty that surrounds use of these motions in Minnesota, especially after the Minnesota Court of Appeals decision in Carter v. Anderson, 554 N.W.2d 110 (Minn. Ct. App. 1996). See Eric J. Magnuson, Motions for Reconsideration, 54 Bench & Bar of Minn., July 1997, at 36.

Motions for reconsideration play a very limited role in civil practice, and should be approached cautiously and used sparingly. It is not appropriate to prohibit them, however, as they occasionally serve a helpful purpose for the courts. Counsel should understand that although the courts may have the power to reconsider decisions, they rarely will exercise it. They are likely to do so only where intervening legal developments have occurred (e.g., enactment of an applicable statute or issuance of a dispositive court decision) or where the earlier decision is palpably wrong in some respect. Motions for reconsideration are not opportunities for presentation of facts or arguments

available when the prior motion was considered. Motions for reconsideration will not be allowed to "expand" or "supplement" the record on appeal. See, e.g., Sullivan v. Spot Weld, Inc., 560 N.W.2d 712 (Minn. App. 1997); Progressive Cos. Ins. Co. v. Fiedler, 1997 WL 292332 (Minn. App. 1997) (unpublished). Most importantly, counsel should remember that a motion for reconsideration does not toll any time periods or deadlines, including the time to appeal. See generally 3 Eric J. Magnuson & David F. Herr, Minnesota Practice: Appellate Rules Annotated, section 103.17 (3rd ed. 1996, Supp. 1997).

(Amended 1993; 1996; 1998.)

Advisory Committee Comment - 2003 Amendment

The rule is amended in 2003 to include a reference to the requirement for paying a motion filing fee. A new statute in 2003 imposes a fee for "[filing a motion or response to a motion in civil, family, excluding child support, and guardianship case." See Minnesota Laws 2003, First Special Session chapter 2, article 2, section 2, to be codified at Minnesota Statutes, section 357.021, subdivision 2, clause (4).

Advisory Committee Comments - 2021 Amendments

Rule 115.0l(c) is amended in conjunction with the amendment to Minn. R. Civ. P. 59.04 to clarify the procedure for scheduling and hearing post-trial motions. Rule 115 historically exempted post-trial motions from the detailed and structured scheduling for other motions. The amended rule provides the court flexibility to allow the motions to be submitted, briefed, and argued on a schedule suitable to the needs of the case. In some cases, the motion or motions can be filed quickly, briefed quickly, and heard at an early date. In other cases, the parties may want to obtain a partial transcript or for other reasons may need a longer briefing schedule. Similarly, the court may desire a reply brief in some cases but in many cases might view a reply brief as unnecessary.

The rule does not modify, however, the deadlines in Minn. R. Civ. P. 59.03 for bringing the motion itself and having the motion heard. The 30-day deadline for bringing a motion contained in Rule 59.03 should be viewed as absolute; the 60-day deadline for holding a hearing may be modified, but only upon a showing of good cause.