GENERAL RULES OF PRACTICE

General Rules of Practice for the District Courts

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General Rules of Practice for the District Courts

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TEXT OF RULES

TITLE I - RULES APPLICABLE TO ALL COURT PROCEEDINGS

Rule 1. Scope of Rules; Modification; Service on Parties; Applicability to Self-Represented Litigants

Rule 1.01 Scope

These rules shall apply in all trial courts of the state. These rules may be cited as Minn. Gen. R. Prac. ___.

Rule 1.02 Modification

A judge may modify the application of these rules in any case to prevent manifest injustice.

Rule 1.03 Service on Parties

When a document is to be served on a party under these rules, service shall be made on the party's lawyer if represented, otherwise on the self-represented litigant directly.

Rule 1.04 Responsibility of Self-Represented Litigants

Whenever these rules require that an act be done by a lawyer, the same duty is required of a self-represented litigant.

Cross Reference: Minn. R. Civ. P. 5.02, 83.

(Amended effective July 1, 2015.)

Advisory Committee Comment - 2015 Amendments

The amendments to Rules 1.03 and 1.04 are not substantive in nature or intended effect. The replacement of "paper" with "document" is made throughout these rules, and simply advances precision in choice of language. Most documents will not be filed as "paper" documents, so paper is retired as a descriptor of them. "Self-represented litigant" is defined in Rule 14.01(a)(12). This term is being used uniformly throughout the judicial branch, and is preferable to "non-represented party" and "pro se party," both to avoid a Latin phrase not used outside legal jargon and to facilitate the drafting of clearer rules.

Rule 2. Court Decorum; Conduct of Judges and Lawyers

Rule 2.01 Behavior and Ceremony in General

(a) Acceptable Behavior. Dignity and solemnity shall be maintained in the courtroom. There shall be no unnecessary conversation, loud whispering, newspaper, electronic device or magazine reading, or other distracting activity in the courtroom while court is in session. The court or presiding judicial officer has discretion to limit or prohibit the use of electronic devices in the courtroom. The court or presiding officer's discretion is limited by Rule 4 of these Rules as it pertains to electronic devices used to photograph or record the proceedings. Permitted electronic devices must in all instances be set to silent mode, and must be used in an unobtrusive manner.

(b) Flag. The flags of the United States and the State of Minnesota shall be displayed on or in close proximity to the bench when court is in session.

(c) Formalities in Opening Court. At the opening of each court day, the formalities to be observed shall consist of the following: court personnel shall direct all present to stand, and shall say clearly and distinctly:

Everyone please rise! The District Court of the _____ Judicial District, County of _____, State of Minnesota is now open. Judge _____ presiding. Please be seated.

(Rap gavel or give other signal immediately prior to directing audience to be seated.)

At any time thereafter during the day that court is reconvened court personnel shall give warning by gavel or otherwise, and as the judge enters, cause all to stand until the Judge is seated.

(The above rule (to) or (to not) apply to midmorning and midafternoon recesses of the court at the option of the judge.)

(d) The Jury. Jurors shall take their places in the jury box before the judge enters the courtroom. Court personnel shall assemble the jurors when court is reconvened.

When a jury has been selected and is to be sworn, the presiding judge or clerk shall request everyone in the courtroom to stand.

(e) Court Personnel. Court personnel shall maintain order as litigants, witnesses and the public assemble in the courtroom, during trial and during recesses. Court personnel shall direct them to seats and refuse admittance to the courtroom in such trials where the courtroom is occupied to its full seating capacity.

(f) Swearing of Witnesses. When the witness is sworn, court personnel shall request the witness's full name, and after being sworn, courteously invite the witness to be seated on the witness stand.

(g) Manner of Administration of Oath. Oaths and affirmations shall be administered to jurors and witnesses in a slow, clear, and dignified manner. Witnesses should stand near the bench, or witness stand as sworn. The swearing of witnesses should be an impressive ceremony and not a mere formality.

(Amended effective January 1, 1998; amended effective July 1, 2015; amended effective September 1, 2018.)

Advisory Committee Comment - 2015 Amendments

The amendments to Rule 2.01 bring the rule up to date with respect to modern distractions. The use of hand-held devices (such as mobile phones, smart phones, and laptop computers), or myriad other devices that are now ubiquitous can be just as distracting or disruptive as newspaper reading or loud conversation. The rule permits the presiding judge to place appropriate restrictions on the use of these devices. The rule incorporates the limitations of Rule 4 of these rules on the use of devices for audio- or video-recording of court proceedings.

Rule 2.02 Role of Judges

(a) Dignity. The judge shall be dignified, courteous, respectful and considerate of the lawyers, the jury and witnesses. The judge shall wear a robe at all trials and courtroom appearances. The judge shall at all times treat all lawyers, jury members, and witnesses fairly and shall not discriminate on the basis of race, color, creed, religion, national origin, sex, marital status, sexual orientation, status with regard to public assistance, disability, or age.

(b) Punctuality. The judge shall be punctual in convening court, and prompt in the performance of judicial duties, recognizing that the time of litigants, jurors and attorneys is of value and that habitual lack of punctuality on part of a judge justifies dissatisfaction with the administration of the business of the court.

(c) Impartiality. During the presentation of the case, the judge shall maintain absolute impartiality, and shall neither by word or sign indicate favor to any party to the litigation. The judge shall be impersonal in addressing the lawyers, litigants and other officers of the court.

(d) Intervention. The judge should generally refrain from intervening in the examination of witnesses or argument of counsel; however, the court shall intervene upon its own initiative to prevent a miscarriage of justice or obvious error of law.

(e) Decorum in Court. The judge shall be responsible for order and decorum in the court and shall see to it at all times that parties and witnesses in the case are treated with proper courtesy and respect.

(f) Accurate Record. The judge shall be in complete charge of the trial at all times and shall see to it that everything is done to obtain a clear and accurate record of the trial. It is a duty to see that the witnesses testify clearly so that the reporter may obtain a correct record of all proceedings in court.

(g) Comment Upon Verdict. The judge should not comment favorably or adversely upon the verdict of a jury when it may indirectly influence the action of the jury in causes remaining to be tried.

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

Advisory Committee Comment - 2015 Amendments

Rule 2.02(a) is amended to refer to "sexual orientation" rather than "sexual preference." This change is consistent with terms used in legislative definitions of prohibited discriminatory conduct. See, e.g., Minnesota Statutes, section 363A.02 (Minnesota Human Rights Act); 82B.195, subdivision 3 (vii) (real estate appraisers).

Rule 2.03 Role of Attorneys

(a) Officer of Court. The lawyer is an officer of the court and should at all times uphold the honor and maintain the dignity of the profession, maintaining at all times a respectful attitude toward the court.

(b) Addressing Court or Jury. Except when making objections, lawyers should rise and remain standing while addressing the court or the jury. In addressing the court, the lawyer should refer to the judge as "Your Honor" or "The Court." Counsel shall not address or refer to jurors individually or by name or occupation, except during voir dire, and shall never use the first name when addressing a juror in voir dire examination. During trial, counsel shall not exhibit familiarity with the judge, jurors, witnesses, parties or other counsel, nor address them by use of first names (except for children).

(c) Approaching Bench. The lawyers should address the court from a position at the counsel table. If a lawyer finds it necessary to discuss some question out of the hearing of the jury at the bench, the lawyer may so indicate to the court and, if invited, approach the bench for the purpose indicated. In such an instance, the lawyers should never lean upon the bench nor appear to engage the court in a familiar manner.

(d) Non-Discrimination. Lawyers shall treat all parties, participants, other lawyers, and court personnel fairly and shall not discriminate on the basis of race, color, creed, religion, national origin, sex, marital status, sexual orientation, status with regard to public assistance, disability, or age.

(e) Attire. Lawyers shall appear in court in appropriate courtroom attire.

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

Advisory Committee Comment - 1997 Amendment

The majority of this rule was initially derived from the former Rules of Uniform Decorum. The adoption of these rules in 1991 included these provisions in Part H, Minnesota Civil Trialbook. They are recodified here to make it clear that the standards for decorum, for lawyers and judges, apply in criminal as well as civil proceedings.

The Task Force on Uniform Local Rules considered the recommendations of the Minnesota Supreme Court Task Force on Gender Fairness, and recommended Rule 2.03(d) be adopted to implement, in part, the recommendations of that body. See Minnesota Supreme Court Task Force

for Gender Fairness in the Courts, 15 Wm. Mitchell L. Rev. 825 (1989). The rule specifically incorporated the definition of discriminatory conduct in the Minnesota Human Rights Act, Minnesota Statutes 1990, section 363.01, subdivision 1, clause (1). The Task Force added to the statutory definition of discrimination the category of sexual preference.

The inclusion of these provisions in the rules is intended to establish uniform standards to be followed in most cases. Nothing in this rule limits the power of the court to modify the rules or their application in a particular case. See Rule 1.02. It is not intended that the failure to follow these rules, in itself, would be the subject of claimed error in the conduct of the trial court proceedings in the absence of aggravating circumstances, such as repeated violations or persistent violation after objections by a party or direction from the court.

Advisory Committee Comment - 2015 Amendments

Rule 2.03(d) is amended to refer to "sexual orientation" rather than "sexual preference." This change is consistent with terms used in legislative definitions of prohibited discriminatory conduct. See, e.g., Minnesota Statutes, section 363A.02 (Minnesota Human Rights Act); 82B.195, subdivision 3 (vii) (real estate appraisers).

Rule 3. Ex Parte Orders

Rule 3.01 Notice

In any application for ex parte relief, the court may require a demonstration or explanation of the efforts made to notify affected parties, or the reasons why such efforts were not made. The reasons supporting ex parte relief should be recited in the order.

Rule 3.02 Prior Application

Before an ex parte order is issued, an affidavit shall be submitted with the application showing:

(1) No prior applications for the relief requested or for a similar order have been made; or,

(2) The court and judge to whom the prior application was made; the result of the prior application; and what new facts are presented with the current application.

Failure to comply with this rule may result in vacation of any order entered.

Task Force Comment - 1991 Adoption

Rule 3.01 is new, although it codifies the practice of the vast majority of judges.

Rule 3.02 is derived from Rule 10 of the Code of Rules for the District Courts. This rule applies in all trial court proceedings, including criminal actions. The Minnesota Supreme Court Advisory Committee on Criminal Procedure joins the Task Force in recommending that this rule apply in all trial court proceedings.

The review of the efforts made to provide notice is an integral part of permitting ex parte relief to be granted. The rule does not specify what showing must be made and does not state how it is to be made because the Task Force recognizes that a wide variety of circumstances apply to the seeking and obtaining of ex parte orders. In some circumstances, there may be proper reasons to justify ex parte relief even if notice could be given, and in those limited instances, a showing of those reasons should be made and reviewed by the court. The more common situation will involve description of the efforts made to give notice. The court may require the information in written or affidavit form, may take oral testimony, or may base the decision on the statements of counsel,

either in person or by telephone. The Task Force also believes that if notice to affected parties is deemed unnecessary, the order should state the facts supporting ex parte relief without notice.

Rule 4. Visual and Audio Recordings

Rule 4.01 General Rule

Except as set forth in this rule, no visual or audio recordings, except the recording made as the official court record, shall be taken in any courtroom, area of a courthouse where courtrooms are located, or other area designated by order of the chief judge made available in the office of the court administrator in the county, during a trial or hearing of any case or special proceeding incident to a trial or hearing, or in connection with any grand jury proceedings. Visual coverage or recording includes film, video, and still photography.

This rule may be superseded by specific rules of the Minnesota Supreme Court relating to use of cameras in the courtroom for courtroom security purposes, for use of video or audio recording of proceedings to create the official recording of the case, or for interactive video hearings pursuant to rule or order of the Supreme Court. This Rule 4 does not supersede the provisions of the Minnesota Rules of Public Access to Records of the Judicial Branch.

(Amended effective March 1, 2009; amended effective September 1, 2018.)

Rule 4.02 Exceptions

(a) A judge may authorize the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record or for other purposes of judicial administration.

(b) A judge may authorize the broadcasting, televising, recording or photographing of investitive, ceremonial or naturalization proceedings.

(c) In civil proceedings, a judge may authorize, without the consent of all parties, the visual or audio recording and reproduction of appropriate court proceedings under the following conditions:

(i) There shall be no visual or audio coverage of jurors at any time during the trial, including *voir dire*.

(ii) There shall be no visual or audio coverage of any witness who objects thereto in writing or on the record before testifying.

(iii) Visual or audio coverage of judicial proceedings shall be limited to proceedings conducted within the courtroom, and shall not extend to activities or events substantially related to judicial proceedings that occur in other areas of the court building.

(iv) There shall be no visual or audio coverage within the courtroom during recesses or at any other time the trial judge is not present and presiding.

(v) Preceding or during a jury trial, there shall be no visual or audio coverage of hearings that take place outside the presence of the jury. This provision does not prohibit visual or audio coverage of appropriate pretrial hearings in civil proceedings, such as hearings on dispositive motions.

(vi) There shall be no visual or audio coverage in cases involving child custody, marriage dissolution, juvenile proceedings, child protection proceedings, paternity proceedings, petitions for orders for protection, and proceedings that are not accessible to the public.

(d) In criminal proceedings occurring before a guilty plea has been accepted or a guilty verdict has been returned, a judge may authorize, with the consent of all parties in writing or made on the

record prior to the commencement of the trial, the visual or audio recording and reproduction of appropriate court proceedings. Coverage under this paragraph is subject to the following limitations:

(i) There shall be no visual or audio coverage of jurors at any time during the trial, including *voir dire*.

(ii) There shall be no visual or audio coverage of any witness who objects thereto in writing or on the record before testifying.

(iii) Visual or audio coverage of judicial proceedings shall be limited to proceedings conducted within the courtroom, and shall not extend to activities or events substantially related to judicial proceedings that occur in other areas of the court building.

(iv) There shall be no visual or audio coverage within the courtroom during recesses or at any other time the trial judge is not present and presiding.

(v) Preceding or during a jury trial, there shall be no visual or audio coverage of hearings that take place outside the presence of the jury. Without limiting the generality of the foregoing sentence, such hearings would include those to determine the admissibility of evidence, and those to determine various motions, such as motions to suppress evidence, for judgment of acquittal, *in limine* and to dismiss.

(e) In criminal proceedings occurring after a guilty plea has been accepted or a guilty verdict has been returned, a judge must, absent good cause, allow visual or audio coverage. The fact that a guilty plea will be accepted or a guilty verdict returned at the same hearing when sentencing will occur is not a basis to deny coverage of a sentencing proceeding. The consent of the parties is not required for coverage under this paragraph and lack of consent is not good cause to deny coverage. To determine whether there is good cause to prohibit coverage of the proceeding, or any part of it, the judge must consider (1) the privacy, safety, and well-being of the participants or other interested persons; (2) the likelihood that coverage will detract from the dignity of the proceeding; (3) the physical facilities of the court; and, (4) the fair administration of justice. Coverage under this paragraph is subject to the following limitations:

(i) No visual or audio coverage is permitted when a jury is present, including for hearings to determine whether there are aggravating factors that would support an upward departure under the sentencing guidelines, or new pretrial and trial proceedings after a reversal on appeal or an order for a new trial.

(ii) No coverage is permitted at any proceeding held in a treatment court, including drug courts, mental health courts, veterans courts, and DWI courts.

(iii) No coverage is permitted in cases involving charges under Minnesota Statutes, sections 609.293 to 609.352 or 609.185, paragraph (a), clause (2), or in any case in which a victim is a family or household member as defined in Minnesota Statutes, section 518B.01, subdivision 2, paragraph (b), and the charges include an offense listed in Minnesota Statutes, section 609.02, subdivision 16.

(iv) No visual or audio coverage is permitted of a victim, as defined in Minnesota Statutes, section 611A.01, paragraph (b), or a person giving a statement on behalf of the victim as the victim's proxy, unless the victim and when applicable the victim's proxy, affirmatively acknowledges and agrees in writing before testifying to the proposed coverage.

(v) Visual or audio coverage must be limited to proceedings conducted within the courtroom, and shall not extend to activities or events substantially related to judicial proceedings that occur in other areas of the court building.

(vi) No visual or audio coverage within the courtroom is permitted during recesses or at any other time the trial judge is not present and presiding.

(Added effective March 1, 2009; amended effective March 12, 2009; amended effective July 1, 2011; amended effective November 10, 2015; amended effective September 1, 2018.)

Rule 4.03 Procedures Relating to Requests for Visual and Audio Coverage of Authorized District Court Proceedings

The following procedures apply to visual or audio coverage of district court proceedings where authorized under Rule 4.02:

(a) **Notice.** Unless notice is waived by the trial judge, as far in advance as practicable, and at least 7 days before the commencement of the hearing or trial, the media shall provide written notice of their intent to cover authorized district court proceedings by either visual or audio means to the trial judge, and to the court administrator, who shall promptly provide a copy of the notice to all counsel of record, and any parties appearing without counsel. The media shall also provide a copy of the written notice to the State Court Administrator's Court Information Office. The media shall also notify their respective media coordinator identified as provided under part (e) of this rule of the request to cover proceedings in advance of submitting the request to the trial judge, if possible, or as soon thereafter as possible.

(b) **Objections.** If a party opposes visual or audio coverage, the party shall provide written notice of the party's objections to the presiding judge, the other parties, and the media requesting coverage as soon as practicable, and at least 72 hours before the commencement of the hearing or trial in cases where the media have given at least 7 days' notice of their intent to cover the proceedings. The media is not a party and is not entitled to file a written response to any objections. The judge shall rule on any objections and make a decision on visual or audio coverage before the commencement of the hearing or trial. However, the judge has the discretion to limit, terminate, or temporarily suspend visual or audio coverage of an entire case or portions of a case at any time.

(c) **Witness Information and Objection to Coverage.** At or before the commencement of the hearing or trial in cases with visual or audio coverage, each party shall inform all witnesses the party plans to call that their testimony will be subject to visual or audio recording unless the witness objects in writing or on the record before testifying. This provision does not apply to victims giving a statement at a sentencing hearing, which is governed by Rule 4.02, paragraph (e), clause (iv).

(d) **Appeals.** No ruling of the presiding judge relating to the implementation or management of visual or audio coverage under this rule shall be appealable until the underlying matter becomes appealable, and then only by a party.

(e) **Media Coordinators.** Media coordinators for various areas of the state shall be identified on the main state court web site. The media coordinators shall facilitate interaction between the courts and the media regarding visual or audio coverage of authorized district court proceedings. Responsibilities of the media coordinators include:

(i) Compiling basic information (e.g., case identifiers, judge, parties, attorneys, dates and coverage duration) on all requests for use of visual or audio coverage of authorized trial court proceedings for their respective court location(s) as identified on the main state court web site, and making aggregate forms of the information publicly available;

(ii) Explaining to persons requesting visual or audio coverage of trial court proceedings for their respective court location(s) the local practices, procedures, and logistical details of the court related to visual and audio coverage;

(iii) Resolving all issues related to pooling of cameras and microphones related to visual or audio coverage of trial court proceedings for their respective court location(s).

(Added effective July 1, 2011; amended effective May 1, 2012; amended effective December 3, 2013; amended effective November 10, 2015; amended effective September 1, 2018; amended effective January 1, 2020.)

Rule 4.04 Technical Standards for Visual, Audio, and Broadcast Coverage of Judicial Proceedings

The trial court may regulate any aspect of the proceedings to ensure that the means of recording will not distract participants or impair the dignity of the proceedings, including limiting coverage of non-parties present in the courtroom. In the absence of a specific order imposing additional or different conditions, the following provisions apply to all proceedings.

(a) Equipment and personnel.

(1) Not more than one portable television or movie camera, operated by not more than one person, shall be permitted in any trial court proceeding.

(2) Not more than one still photographer, utilizing not more than two still cameras with not more than two lenses for each camera and related equipment for print purposes, shall be permitted in any proceeding in any trial court.

(3) Not more than one audio system for radio broadcast purposes shall be permitted in any proceeding in any trial court. Audio pickup for all media purposes shall be accomplished from existing audio systems present in the court. If no technically suitable audio system exists in the court, microphones and related wiring essential for media purposes shall be unobtrusive and shall be located in places designated in advance of any proceeding by the trial judge.

(4) Any "pooling" arrangements among the media required by these limitations on equipment and personnel shall be the sole responsibility of the media without calling upon the trial judge to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding. In the absence of advance media agreement on disputed equipment or personnel issues, the trial judge shall exclude from a proceeding all media personnel who have contested the pooling arrangement.

(b) Sound and light.

(1) Only television camera and audio equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. Excepting modifications and additions made pursuant to Paragraph (e) below, no artificial, mobile lighting device of any kind shall be employed with the television equipment.

(2) Only still camera equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings.

(3) Media personnel must demonstrate to the trial judge adequately in advance of any proceeding that the equipment sought to be utilized meets the sound and light requirements of this rule. A failure to demonstrate that these criteria have been met for specific equipment shall preclude its use in any proceeding.

(c) Location of equipment and personnel.

(1) Television camera equipment shall be positioned in such location in the court as shall be designated by the trial judge. The area designated shall provide reasonable access to coverage.

When areas that permit reasonable access to coverage are provided, all television camera and audio equipment must be located in an area remote from the court.

(2) A still camera photographer shall be positioned in such location in the court as shall be designated by the trial judge. The area designated shall provide reasonable access to coverage. Still camera photographers shall assume a fixed position within the designated area and, once a photographer has established that position, the photographer shall act so as not to attract attention by distracting movement. Still camera photographers shall not be permitted to move about in order to obtain photographs of court proceedings.

(3) Broadcast media representatives shall not move about the court facility while proceedings are in session.

(d) Movement of equipment during proceedings. News media photographic or audio equipment shall not be placed in, or removed from, the court except before commencement or after adjournment of proceedings each day, or during a recess. Microphones or recording equipment, once positioned as required by (a)(3) above, may not be moved from their position during the pendency of the proceeding. Neither television film magazines nor still camera film or lenses may be changed within a court except during a recess in the proceedings.

(e) Courtroom light sources. When necessary to allow news coverage to proceed, modifications and additions may be made in light sources existing in the facility, provided such modifications or additions do not produce distracting light and are installed and maintained without public expense. Such modifications or additions are to be presented to the trial judge for review prior to their implementation.

(f) Conferences of counsel. To protect the attorney-client privilege and the effective right to counsel, there shall be no video or audio pickup or broadcast of the conferences which occur in a court between attorneys and their client, co-counsel of a client, opposing counsel, or between counsel and the trial judge held at the bench. In addition, there shall be no video pickup or broadcast of work documents of such persons.

(g) Impermissible use of media material. None of the film, video, still photographs or audio reproductions developed during, or by virtue of, coverage of a judicial proceeding shall be admissible as evidence in the proceeding out of which it arose, any proceeding subsequent or collateral thereto, or upon any retrial or appeal of such proceedings.

(Added effective March 1, 2009; amended effective July 1, 2011; amended effective December 3, 2013; amended effective September 1, 2018.)

Advisory Committee Comment - 2009 Amendment

This rule was initially derived from the local rules of three districts.

The Supreme Court has adopted rules allowing cameras in the courtrooms in limited circumstances, and it is inappropriate to have a written rule that does not accurately state the standards which lawyers are expected to follow. See In re Modification of Canon 3A(7) of the Minnesota Code of Judicial Conduct, No. C7-81-300 (Minn. Sup. Ct. May 22, 1989). The court has ordered an experimental program for videotaped recording of proceedings for the official record in the Third, Fifth and Seventh Judicial Districts. In re Videotaped Records of Court Proceedings in the Third, Fifth, and Seventh Judicial Districts, No. C4-89-2099 (Minn. Sup. Ct. Nov. 17, 1989) (order). The proposed local rule is intended to allow the local courts to comply with the broader provisions of the Supreme Court Orders, but to prevent unauthorized use of cameras in the courthouse where there is no right to access with cameras.

The rule was amended in 2009 to add Rule 4.02, comprising provisions that theretofore were part of the Minnesota Rules of Judicial Conduct. This change is not intended to be substantive in nature, but the provisions are moved to the court rules so they are more likely to be known to litigants. Canon 3(A)(11) of the Minnesota Code of Judicial Conduct is amended to state the current obligation of judges to adhere to the rules relating to court access for cameras and other electronic reporting equipment.

The extensive amendment of Rule 4 in 2009 reflects decades of experience under a series of court orders dealing with the use of cameras in Minnesota courts. See In re Modification of Canon 3A(7) of the Minnesota Code of Judicial Conduct, Order re: Audio and Video Coverage of Trial Court Proceedings, No. C7-81-300 (Minn. Sup. Ct. April 18, 1983); Order Permitting Audio and Video Coverage of Supreme Court Proceedings, No. C6-78-47193 (Minn. Sup. Ct. April 20, 1983); Amended Order Permitting Audio and Video Coverage of Appellate Court Proceedings, No. C7-81-3000 (Minn. Sup. Ct. Sept. 28, 1983); In re Modification of Canon 3A(7) of the Minnesota Code of Judicial Conduct to Conduct and Extend the Period of Experimental Audio and Video Coverage of Certain Trial Court Proceedings, Order, C7-81-300 (Minn. Sup. Ct. Aug. 21, 1985); In re Modification of Canon 3A(7) of the Minnesota Code of Judicial Conduct, Order re: Audio and Video Coverage of Trial Court Proceedings (Minn. Sup. Ct. May 22, 1989); and In re Modification of Canon 3A(10) of the Minnesota Code of Judicial Conduct, Order, No. C7-81-3000 (Minn. Sup. Ct. Jan. 11, 1996) (reinstating April 18, 1983, program and extending until further order of Court). The operative provisions of those orders, to the extent still applicable and appropriate for inclusion in a court rule, are now found in Rule 4.

Amended Rule 4.01 defines how this rule dovetails with other court rules that address issues of recording or display of recorded information. The primary thrust of Rule 4 is to define when media access is allowed for the recording or broadcast of court proceedings. Other rules establish limits on access to or use of court-generated recordings, such as court-reporter tapes and security tapes. See, e.g., Minnesota Rules of Public Access to Records of the Judicial Branch.

Amended Rules 4.02(a) & (b) are drawn from Canon 3A(11)(a) & (b) of the Minnesota Code of Judicial Conduct prior to its amendment in 2008. Rule 4.02(c) and the following sections (i) through (vii) are taken directly from the Standards of Conduct and Technology Governing Still Photography, Electronic and Broadcast Coverage of Judicial Proceedings, Exhibit A to In re Modification of Canon 3A(7) of the Minnesota Code of Judicial Conduct, Order re: Audio and Video Coverage of Trial Court Proceedings, No. C7-81-300 (Minn. Sup. Ct. April 18, 1983).

Amended Rule 4.04 establishes rules applicable to the appellate courts, and is drawn directly from Amended Order Permitting Audio and Video Coverage of Appellate Court Proceedings, No. C7-81-3000 (Minn. Sup. Ct. Sept. 28, 1983).

Rule 5. Appearance by Out-of-State Lawyers

Rule 5.01 Eligibility

(a) Who is Eligible. Lawyers duly admitted to practice in the trial courts of any other jurisdiction who have been retained to appear in a particular case pending in a district court of this state may in the discretion of such court be permitted upon written application to appear as counsel *pro hac vice* provided:

(1) the out-of-state lawyer certifies to the satisfaction of the Minnesota Board of Law Examiners the lawyer's good standing in the jurisdiction in which the lawyer is admitted and that the lawyer is not suspended or disbarred in any jurisdiction for reasons of discipline or disability in lieu of discipline;

(2) the out-of-state lawyer pays a non-refundable fee of $450 to the Minnesota Board of Law Examiners;

(3) the pleadings and other documents in the case are also signed by a lawyer who is and remains duly admitted to practice in the State of Minnesota; and

(4) such lawyer admitted in Minnesota:

(i) accepts service of all papers, and

(ii) is present before the court, in chambers or in the courtroom or participates by permitted remote means in any hearing conducted by remote means.

In a subsequent appearance in the same action the out-of-state lawyer may, in the discretion of the court, conduct the proceedings without the presence of Minnesota counsel.

(b) When Required; Urgent Matter. *Pro hac vice* admission under this rule is required for any lawyer either arguing before the court in an action or signing pleadings or other documents in an action. The court may allow a non-admitted lawyer to argue or submit an urgent matter upon the lawyer's representation to the court that the lawyer qualifies for admission under this rule and that an application for *pro hac vice* admission will be promptly submitted.

Rule 5.02 Exceptions

(a) Other Rules. Rule 5 shall not apply if another rule expressly exempts a case or proceeding from requiring *pro hac vice* admission. These rules include, without limitation, Rule 3.06 of the Rules of Juvenile Protection Procedure (attorneys representing Indian tribes in juvenile protection cases), Rule 3.09 of the Rules of Adoption Procedure (attorneys representing Indian tribes in adoption cases), and Rule 45.06(b) of the Rules of Civil Procedure (application for a subpoena for use in an action pending outside Minnesota).

(b) Fee Waiver.

(1) Pro Bono Representation. A lawyer who represents a person with limited means and will not charge an attorney fee in the case or seek or receive attorney fee reimbursement in the case in which the lawyer seeks admission *pro hac vice* shall not be required to pay the fee set forth in Rule 5.01(a)(2).

(2) Public Attorney. A lawyer who is representing a federal, state, or local government entity shall not be required to pay the fee set forth in Rule 5.01(a)(2).

(3) Other Fee Waivers Prohibited. No other requests to waive the *pro hac vice* fee shall be made to or granted by the Board of Law Examiners, including for related cases that involve one or more common questions of fact or law.

Rule 5.03 Application to Minnesota Board of Law Examiners

The application to the Minnesota Board of Law Examiners shall be submitted electronically, shall be accompanied by the fee in Rule 5.01(a)(2) unless waived as provided in Rule 5.02(b), shall include a certificate of good standing from the attorney licensing authority in the jurisdiction in which the applicant is admitted, and shall include any other information requested by the Minnesota Board of Law Examiners.

Rule 5.04 Motion to Court

(a) Requirements. An active member in good standing of the bar of this state who is attorney of record for the client(s) whom the applicant proposes to represent, must move the applicant's

admission in the action. The motion shall be served on all parties to the action and must be accompanied by:

(1) an affidavit or declaration of the applicant stating whether the applicant has applied for *pro hac vice* admission in Minnesota in the preceding two years, and for each such application, the caption, venue, and file number of the case and whether admission was allowed; and

(2) a copy of the application submitted under Rule 5.03 along with a copy of the notice from the Board of Law Examiners confirming good standing.

(b) Withdrawal of Local Counsel. If the moving attorney is suspended, disbarred, or ceases to be an attorney of record for such client(s) after admission *pro hac vice* has been granted, another Minnesota lawyer must be promptly substituted and file a notice of appearance in the action.

(c) Fee. The motion shall be accompanied by the appropriate motion fee, if any.

(d) Standard. After confirmation of good standing by the Board of Law Examiners, the court shall promptly consider the motion for admission *pro hac vice*. Discretion shall be liberally exercised to grant motions for admission *pro hac vice*.

(e) Revocation. Admission to appear as counsel *pro hac vice* in a suit may be revoked for conduct violating any applicable rules, or conduct justifying sanctions under the court's inherent power.

Rule 5.05 Subject to Minnesota Rules and Jurisdiction

The out-of-state lawyer is subject to all rules that apply to lawyers admitted in Minnesota, including rules related to e-filing and the registration requirements for e-filing in Rule 14.02(a) of the General Rules of Practice for the District Court. To the extent that electronic service on the out-of-state lawyer under Rule 14 is unavailable, service of documents on the lawyer admitted to the bar of this state and who appears as counsel of record with the out-of-state lawyer shall constitute notice to and service on the party.

Any lawyer appearing pursuant to this rule is subject to the disciplinary rules and regulations governing Minnesota lawyers, including the Minnesota Rules of Professional Conduct and the Rules on Lawyers Professional Responsibility, and by applying to appear or appearing in any action is subject to the jurisdiction of the Minnesota courts.

(Amended effective July 1, 2015; amended effective June 1, 2021.)

Task Force Comment - 1991 Adoption

This rule is derived from 3rd Dist. R. 1.

This rule is intended to supplement Minnesota Statutes 1990, section 481.02, and would supersede the statute to the extent the rule may be inconsistent with it. This rule recognizes and preserves the power and responsibility of the court to determine the proper role to be played by lawyers not admitted to practice in Minnesota.

Advisory Committee Comment - 2015 Amendments

The amendments to Rule 5 are not substantive in nature or intended effect. They make explicit what the courts have recognized as within their inherent power to regulate the practice of law before the courts. The court's jurisdiction over the person of lawyers applying to appear or appearing in the Minnesota courts is not open to serious question, at least as to disciplinary matters relating to that application or appearance. This rule makes clear the court's jurisdiction over a pro hac

vice applicant, and similarly makes it clear that e-filing of documents with the Minnesota courts would have this consequence. The application for a subpoena in an action pending outside Minnesota does not create an appearance under R. Civ. P. 45 as proposed by the civil rules advisory committee, but nonetheless subjects the applicant to the court's jurisdiction and disciplinary authority. The subpoena and procedures to enforce it are subject to Minnesota procedural rules and rules governing the conduct of lawyers.

Advisory Committee Comment - 2020 Amendment

Rule 5 is substantially revised to provide greater guidance to the trial courts and counsel for the consideration of the admission of pro hac vice counsel. The rule is substantially consistent with the earlier version of the rule, but is expanded and the standards for admission as well as the process for obtaining leave to participate as pro hac vice counsel is established in greater detail.

This comment is intended to be comprehensive in scope and essentially incorporates the portions of the earlier advisory committee comments to the extent they are still applicable. The earlier comments are retained for any historic value they may have.

Rule 5.01 sets forth the requirements for admission pro hac vice. The threshold requirements are that 1) the lawyer to be admitted must be a lawyer in good standing in the jurisdiction where the lawyer primarily practices; 2) the lawyer is not suspended or disbarred in any jurisdiction; and 3) the lawyer pays a $450 fee to the Minnesota Board of Law Examiners. The application to the board may be made without notice to other parties in any pending or proposed action. The subsequent motion to the court must be made with notice to all parties to the action. See Rule 5.

The determination that these three requirements are satisfied is delegated to the Board of Law Examiners. The application process is established in Rule 5.03.

The amended Rule 5.0l(b) establishes precisely when pro hac vice admission is required: whenever a non-admitted lawyer either appears in a proceeding to argue before the court or is the lawyer signing any pleading or other document in the case. This standard is consistent with the definition of when pro hac vice admission is required by the appellate courts under Minn. R. Civ. App. P. 143.05, subd. 1. Rule 5.0l(b) is intended to establish a bright-line standard. Non-admitted lawyers who merely attend hearings, trial, or other proceedings in a non-speaking role are not required to be admitted pro hac vice. Similarly, mere appearance in the signature block of pleadings or other documents does not require admission.

The rule contemplates that the application for and approval of pro hac vice admission must be completed before the lawyer may argue or sign pleadings in a Minnesota action. Rule 5.0l(b) recognizes, however, that judges have the inherent discretion to allow a non-admitted lawyer to appear on shorter notice when exigent circumstances are present. This rule does not allow an extended or routine exception to the "apply first, then appear" rule and is intended to apply only when unusual urgency exists, such as at the inception of an action where time is short or where temporary injunctive relief is sought. The court then relies on the Minnesota attorney's and proposed pro hac vice counsel's representations that the criteria for admission are present and that the complete application and motion will be promptly filed.

Pro hac vice admission under Rule 5 is intended to be an isolated or occasional event.

Rule 5.02 contains exceptions to its requirements generally as well as exceptions to the requirement that an application fee be paid. Rule 5.02(a) recognizes that other rules specifically exempt non-admitted lawyers from being required to be admitted in Minnesota or even to commence an action in the Minnesota courts as provided in Minn. R. Civ. P. 45.06(b). Rule 5.02(b) identifies the only two circumstances that will allow payment of the fee to be waived: for out-of-state lawyers

handling a pro bono case and lawyers representing a governmental entity. The rule provides a specific definition of what pro bono means - the lawyer must represent a client of limited means and must do so without expectation of recovering a fee from any source, including the client or under any fee-shifting statute or rule. The fee waiver for representation of a governmental entity applies to federal, state, or local governments or other political subdivisions or agencies.

Rule 5 is intended to require an attorney appearing in a case to pay the application fee once in the case. Pro hac vice admission will typically last for the duration of the case in the district court; separate application to the appellate courts must be made to appear pro hac vice on appeal under the Rules of Civil Appellate Procedure.

Rule 5.03 sets forth the requirements for submitting the application to the Minnesota Board of Law Examiners. The application must be verified in the manner required by the Board of Law Examiners. The rule requires certification of good standing from the single jurisdiction where the lawyer primarily practices but requires disclosure of any suspension or disbarment in any jurisdiction. The rule enumerates information required in every application, but also provides for the requirement of additional information if requested by the Board of Law Examiners.

The actual motion for admission pro hac vice is made by an active member of the Minnesota Bar. That lawyer must have appeared in the case and be representing the same client or clients. The motion must be served on all parties and be accompanied by an affidavit from the lawyer to be admitted setting forth the particular detailed information for the court. Rule 5.04(d) defines the standard for deciding the application for admission. It recognizes that admission should be liberally granted.

Rule 5.04(c) recognizes that a motion filing fee may be required by statute. See Minn. Stat. section 357.021, subd. 2(4). Although documents can be rejected for filing under R. Civ. P. 5.04(c) only for limited reasons, failure to tender a required filing fee is one such reason.

Rule 5.04(e) underscores that appearance pro hac vice is inherently allowed in the discretion of the court, and is subject to revocation. This is an important and practical sanction. Rule 5.05 makes it clear that pro hac vice lawyers are required to adhere to the Minnesota Rules of Professional Conduct and any other rules governing the conduct of Minnesota lawyers.

Rule 5.05 also contains an important provision regarding service on pro hac vice counsel. Simply put, they are required under Rule 14 of the General Rules of Practice to register for e-filing and must designate an e-mail address for service of documents upon them in each case. If they fail to do so or service cannot be accomplished via that registered address, they are deemed served by service on the Minnesota lawyer who moved their admission. This provision eliminates any need to serve pro hac vice counsel by mail or means other than using the court's e-filing and e-service system.

Rule 5.05 requires that a lawyer admitted pro hac vice to register for use of the court's e-filing and e-service system. Additionally, the rule makes it unnecessary in that circumstance for other parties to serve the pro hac vice lawyer by other means. Thus, the involvement of pro hac vice counsel should not increase the burden on other parties to accomplish service.

Rule 6. Form of Pleadings that Are Not Filed Electronically

Rule 6.01 Format

All pleadings or documents that are not filed electronically shall be double spaced and legibly handwritten, typewritten, or printed on one side on plain, unglazed paper of good texture. Every page shall have a top margin of not less than one inch, free from all typewritten, printed, or other

written matter. Under Rule 14 of these rules, all pleadings or documents filed electronically must comply with the format requirements established by the state court administrator in the *Minnesota District Court Registered User Guide for Electronic Filing*.

(Amended effective January 1, 2006; amended effective September 1, 2012; amended effective July 1, 2015.)

Advisory Committee Comment - 2006 Amendment

Rule 6.01 is amended to delete a sentence dealing with filing by facsimile. The former provision is, in effect, superseded by Minn. R. Civ. P. 5.05, as amended effective January 1, 2006.

Advisory Committee Comment - 2012 Amendment

Rule 6.01 is amended to dovetail the requirements for the form of paper pleadings, as set forth in the prior text of this rule, with the fundamentally different format required for documents electronically filed and served. Those format requirements are generally set forth in new Rule 14.05.

Rule 6.02 Paper Size

All papers served or filed by any party that are not served or filed electronically shall be on standard size 8-1/2 X 11 inch paper.

(Amended effective July 1, 2015.)

Rule 6.03 Backings Not Allowed

No pleading, motion, order, or other paper submitted to the court administrator for non-electronic filing shall be backed or otherwise enclosed in a covering. Any papers that cannot be attached by a single staple in the upper lefthand corner shall be clipped or tied by an alternate means at the upper lefthand corner.

(Former Rule 102 adopted effective January 1, 1992; renumbered effective January 1, 1993; amended effective July 1, 2015.)

Cross Reference: Minn. R. Civ. P. 5.05, 10.

Advisory Committee Comment - 1992 Amendment

This rule is based on 4th Dist. R. 1.01 (a) & (b), with changes.

Although the rule permits the filing of handwritten documents, the clearly preferred practice in Minnesota is for typewritten documents. Similarly, commercially printed papers are rarely, if ever, used in Minnesota trial court practice, and the use of printed briefs in appellate practice is discouraged.

All courts in Minnesota converted to use of "letter size" paper in 1982. See Order Mandating 8-1/2 x 11 Inch Size Paper For All Filings in All Courts in the State, Minn. Sup. Ct., Apr. 16, 1982 (no current file number assigned), reprinted in Minn. Rules of Ct. 665 (West pamph. ed. 1992). Papers filed in the appellate courts must also be on letter-sized paper. See Minn. R. Civ. App. P. 132.01, subdivision 1. This rule simply reiterates the requirement for the trial courts.

Advisory Committee Comment - 2015 Amendments

The amendments to Rule 6 recognize that upon the adoption of mandatory e-filing for some courts and some types of cases, other documents will be filed in paper form. The rule does not change the requirements for paper documents.

Rule 6.01 also provides a cross-reference to the Minnesota District Court Registered User Guide for Electronic Filing, which will contain the format requirements for electronic documents that are e-filed or e-served. See Minn. Gen. R. Prac. 14. That guidance document will be regularly updated and maintained on the judicial branch website, www.mncourts.gov, which will allow it to be kept current as technical requirements evolve without repeated amendatory Supreme Court orders.

Rule 7. Proof of Service

When a document has been conventionally served before filing, proof of service shall be affixed to the document so that the identity of the document is not obscured. If a document is filed before conventional service has been made, proof of service shall be filed within 7 days after service is made. When a document has been both eFiled and eServed together using the E-Filing System in accordance with Rule 14, the record of service on the E-Filing System shall constitute proof of service.

(Former Rule 103 adopted effective January 1, 1992; renumbered effective January 1, 1993; amended effective January 1, 1996; amended effective September 1, 2012; amended effective July 1, 2015; amended effective January 1, 2020; amended effective January 1, 2021.)

Cross Reference: Minn. R. Civ. P. 4.06, 5.04.

Advisory Committee Comment - 1995 Amendment

This rule derived from Rule 13 of the Code of Rules for the District Courts.

The second sentence is new, drafted to provide for filing of documents where service is to be made after filing.

The Committee recommends amendment of the rule to require a specific rather than subjective standard for the filing of proof of service. Although the Committee heard requests to change the rule to require that all documents be filed with proof of service attached, the Committee believes that such a rule is neither helpful nor necessary. Such a rule would make it difficult to serve and file documents at the same time, and would probably result in greater problems relating to untimely service and filing. Nonetheless, there appear to be a number of situations where proof of service is not filed for a substantial period of time, resulting in confusion in the courts. The rule is accordingly amended to change the requirement from filing "promptly" after service to "within ten days" after service. The Committee believes this period is more than sufficient for filing a proof of service. The Committee is also sensitive to a potential problem that would arise with a requirement that proof of service accompany documents at the time of filing. The Committee continues to believe that documents, in whatever form, should not be rejected for filing by the court administrators. Rather, documents should be filed as submitted and the court should deal with any deficiencies or irregularities in the documents in an orderly way, having in mind the mandate of Minn. R. Civ. P. 1 that the rules be interpreted to advance the "just, speedy, and inexpensive" determination of every action.

Advisory Committee Comment - 2012 Amendment

Rule 7 is amended to make it clear that a separate proof of service is not required for documents served using the court's e-service system in cases where that method is authorized by the rules. Proof of service exists in the system's records and that record of service suffices to prove service for all purposes.

Advisory Committee Comment - 2015 Amendments

Rule 7 is amended to provide for proof of service for all methods of service allowed under the rules. E-service is proved by the record maintained by and available from the court's e-filing and e-service system, obviating any additional filings to prove service. All other means of service are defined as "conventional service" by Rule 14.01, which is proved by a written affidavit, certificate, or acknowledgment of service filed shortly after service is made.

Rule 8. Interpreters

Definitions

1. "Coordinator" means the Court Interpreter Program Coordinator assigned to the State Court Administrator's Office.

2. "Roster" means the Minnesota statewide roster of court interpreters.

(Added effective September 19, 1996; amended effective January 2, 2006; amended effective July 1, 2020.)

Rule 8.01 Statewide Roster

The State Court Administrator shall maintain and publish a statewide roster of certified and non-certified interpreters.

(a) Spoken Language Court Interpreters: To be included on the Statewide Roster, spoken language court interpreters must have: (1) reached the age of at least 18 years; (2) completed the interpreter orientation program sponsored by the State Court Administrator; (3) filed with the State Court Administrator an affidavit agreeing to be bound by the Code of Professional Responsibility for Interpreters in the Minnesota State Court System, the State Court Administrator's Office Enforcement Procedures for the Code of Professional Responsibility for Court Interpreters, and all applicable Court Interpreter Program policies; (4) met the character and fitness standards in Rule 8.06 and any other eligibility standards published by the State Court Administrator; and (5) received a passing score on the English proficiency, ethics, and court terminology examination administered or approved by the State Court Administrator.

(b) Certified Spoken Language Court Interpreters: To be included on the Statewide Roster as a certified spoken language court interpreter, interpreters must have satisfied all requirements in paragraph (a), and met all requirements for certification pursuant to Rules 8.04 and 8.05. Certification is not available for all languages.

(c) Sign Language Court Interpreters: To be included on the Statewide Roster, sign language court interpreters must:

(1) have satisfied all requirements in paragraph (a);

(2) be a member in good standing with the Registry of Interpreters for the Deaf (RID); and,

(3) possess certificate(s) from RID that demonstrate minimum competency in sign language or another equivalent valid qualification approved by the State Court Administrator.

(d) Certified Sign Language Court Interpreters: To be included on the Statewide Roster as a certified sign language court interpreter, interpreters must have satisfied all requirements of

paragraph (c), and possess the special certification "Legal" from the Registry of Interpreters for the Deaf or another equivalent valid certification approved by the State Court Administrator.

(Added effective January 1, 1996; amended effective January 1, 1998; amended effective March 15, 2002; amended effective January 1, 2006; amended effective January 1, 2007; amended effective July 1, 2020.)

Advisory Committee Comment - 1997 Amendment

It is the policy of the state to provide interpreters to litigants and witnesses in civil and criminal proceedings who are handicapped in communication. Minnesota Statutes 1996, sections 611.30 to 611.32; Minn. R. Crim. P. 5.01, 15.01, 15.03, 15.11, 21.01, 26.03, 27.04, subd. 2; Minnesota Statutes 1996, section 546.44, subdivision 3; see also 42 U.S.C. section 12101; 28 C.F.R. Part 35, section 130 (prohibiting discrimination in public services on basis of disability).

To effectuate that policy, the Minnesota Supreme Court has initiated a statewide orientation program of training for court interpreters and promulgated the Rules on Certification of Court Interpreters. Pursuant to Rule 8.01 of the Minn. Gen. R. Prac. for the District Courts, the State Court Administrator has established a statewide roster of court interpreters who have completed the orientation program on the Minnesota court system and court interpreting and who have filed an affidavit attesting that they understand and agree to comply with the Code of Professional Responsibility for Court Interpreters adopted by the Minnesota Supreme Court on September 18, 1995. The creation of the roster is the first step in a process that is being undertaken to ensure the competence of court interpreters. To be listed on the roster, a non-certified court interpreter must attend an orientation course provided or approved by the State Court Administrator. The purpose of the orientation is to provide interpreters with information regarding the Code of Professional Responsibility, the role of interpreters in our courts, skills required of court interpreters, the legal process, and legal terminology. Merely being listed on the roster does not certify or otherwise guarantee an interpreter's competence.

In 1997, two key changes were made to this rule. First, interpreters are now required to receive a passing score on the ethics examination before they are eligible to be listed on the Statewide Roster. This change was implemented to ensure that court interpreters on the Statewide Roster have a demonstrated knowledge of the Code of Professional Responsibility.

Second, to be eligible to be listed on the Statewide Roster, non-certified sign language court interpreters are required to possess certificates from the Registry of Interpreters for the Deaf (RID), which demonstrate that the interpreter has minimum competency skills in sign language. This change was recommended by the Advisory Committee because of reports to the Committee that courts were hiring sign language interpreters who completed the orientation training, but who were not certified by RID. This practice was troubling because prior to the promulgation of Rule 8, courts generally adopted the practice of using only RID certified sign language interpreters to ensure a minimum level of competency. Unlike most spoken language interpreting fields, the field of sign language interpreting is well established with nationally developed standards for evaluation and certification of sign language interpreters. Because of the long history of RID, its certification program, the availability of RID certified sign language interpreters in Minnesota and the recent incidents when courts have deviated from their general practice of appointing RID certified sign language interpreters, the Advisory Committee determined that it is appropriate and necessary to amend Rule 8 to maintain the current levels of professionalism and competency among non-certified sign language court interpreters.

Advisory Committee Comment - 2007 Amendment

Rule 8.01(b) is amended to add a new subsection (4). This subsection imposes an additional requirement that court interpreters demonstrate proficiency in English as well as the foreign languages for which they will be listed. This provision is necessary because certification is currently offered only in 12 languages and many of the state's interpreters are not certified. This change is intended to minimize the current problems involving need to use non-certified interpreters who now often do not possess sufficient English language skills to be effective.

Rule 8.02 Appointment; Applicability of Ethics Rules to All Interpreters

(a) Use of Certified Court Interpreter. Whenever an interpreter is required to be appointed by the court, the court shall appoint a certified court interpreter who is listed on the statewide roster of interpreters established by the State Court Administrator under Rule 8.01, except as provided in Rule 8.02(b), (c), (d), and (e). A certified court interpreter shall be presumed competent to interpret in all court proceedings. The court may, at any time, make further inquiry into the appointment of a particular certified court interpreter. By objection made at the commencement of a proceeding, or by motion made appropriately in advance of a proceeding, special circumstances which render the certified court interpreter unqualified to interpret in the proceeding must be presented to the court. The court shall use a certified court interpreter except when no certified court interpreter is reasonably available. A certified interpreter is not reasonably available if the hearing would have to be unreasonably delayed to secure the presence of the interpreter, if the interpreter would have to travel an unreasonable distance to attend the hearing, or if the interpreter is unwilling to provide interpreting services by remote means at the request of the court.

(b) Use of Non-certified Court Interpreter on the Statewide Roster. If no certified or employee court interpreter is reasonably available, the court shall appoint a non-certified court interpreter who is otherwise competent and is listed on the Statewide Roster established by the State Court Administrator under Rule 8.01. If the Roster includes additional information regarding an interpreter's level or experience, competency, and qualification, the court shall appoint from among the highest ranked interpreters available. In determining whether a non-certified court interpreter is competent, the court shall apply the screening standards published by the State Court Administrator.

(c) Use of Spoken Language Court Interpreter not on the Statewide Roster. Only after the court has determined that the requirements of Rule 8.02(a) and (b) cannot be met may the court appoint a spoken language interpreter who is not listed on the Statewide Roster and who is otherwise competent. In determining whether a spoken language interpreter is competent, the court shall apply the screening standards published by the State Court Administrator. The court may appoint an interpreter certified in another state.

(d) Use of Non-certified Sign Language Court Interpreter not on the Statewide Roster. Only after determining that the requirements of Rule 8.02(a) and (b) cannot be met may the court appoint a non-certified sign language interpreter(s) who is not listed on the Statewide Roster. The court must appoint an interpreter(s) who can establish effective communication and who meets the requirements of Rule 8.01(c), paragraphs (2) and (3).

(e) Use of Employee Court Interpreter. In recognition that certification is not available for all languages and that non-certified interpreters can nevertheless be competent and qualified to perform interpretation services for the courts, and in recognition that availability of court interpreters on a statewide basis is a critical concern, the Minnesota Judicial Branch may employ qualified and competent interpreters to perform interpreter services for the courts. Employee interpreters must have (1) satisfied all requirements in Rule 8.01(a); (2) satisfied all requirements for certification in

Rule 8.05, or met the competency standards established by the State Court Administrator; and (3) been found to be qualified and competent by the Chief Judge in the judicial district of primary employment and taken the oath required by Minnesota Statutes, sections 546.44, subdivision 2, and 611.33, subdivision 2. An employee interpreter who has taken the required oath is not required to take the oath at any subsequent court proceedings. An employee court interpreter shall be presumed competent to interpret in all court proceedings. The court may, at any time, make further inquiry into the appointment of a particular employee court interpreter. By objection made at the commencement of the proceeding, or by motion made appropriately in advance of a proceeding, special circumstances which render the employee court interpreter unqualified to interpret in the proceeding must be presented to the court.

(f) Applicability of Ethics Rules to All Interpreters. All interpreters providing court interpreting services are subject to the Code of Professional Responsibility for Interpreters in the Minnesota State Court System and Court Interpreter Program policies, without regard to whether they are certified or on the Statewide Roster. Interpreters on the Statewide Roster are also subject to the State Court Administrator's Office Enforcement Procedures for the Code of Professional Responsibility for Court Interpreters.

(Added effective January 1, 1996; amended effective January 1, 1998; amended effective March 15, 2002; amended effective July 1, 2020.)

Advisory Committee Comment - 2002 Amendment

Rule 8.02(a) requires that courts use certified court interpreters. If certified court interpreters are not available or cannot be located, courts should next use only interpreters listed on the statewide roster maintained by the State Court Administrator. Rule 8.02 recognizes, however, that in rare circumstances it will not be possible to appoint an interpreter from the statewide roster. Non-roster interpreters and telephone interpreting services, such at AT & T's Language Lines Service, should be used only as a last resort because of the limitations of such services including the lack of a minimum orientation to the Minnesota Court System and to the requirements of court interpreting. For a detailed discussion of the issues, see Court Interpretation: Model Guides for Policy and Practice in the State Courts, chapter 8 (National Center for State Courts, 1995), a copy of which is available from the State Court Administrator's Office.

To avoid unreasonable objections to a certified court interpreter in a proceeding, the rule makes a presumption that the certified court interpreter is competent. However, the rule also recognizes that there are situations when an interpreter may be competent to interpret, but not qualified. Examples of such situations include when an interpreter has a conflict of interest or the user of the interpreter services has unique demands, such as services tailored to a person with minimal language skills, that the interpreter is not as qualified to meet.

Rule 8.02(b) requires that courts make "diligent" efforts to locate a certified court interpreter before appointing a non-certified court interpreter. Because the certification process is still in an early stage and because it is important to ensure that courts use competent interpreters, courts should seek the services of certified court interpreters who are located outside the court's judicial district if none can be found within its own district. In addition, courts should consider modifying the schedule for a matter if there is difficulty locating a certified interpreter for a particular time.

Because the certification program being implemented by the State Court Administrator is still new, interpreters are being certified in only certain languages at this time. The Advisory Committee recognizes that it may be some time before certification is provided for all languages used in our courts. However, the committee feels strongly that for those languages for which certification has been issued, the courts must utilize certified court interpreters to ensure that its interpreters are

qualified. If a court uses non-certified court interpreters, court administrators should administer the screening standards prior to hiring an interpreter. However, the presiding judge is still primarily responsible for ensuring the competence and qualifications of the interpreter. A model voir dire to determine the competence and qualifications of an interpreter is set forth in the State Court Administrator's Best Practices Manual on Court Interpreters.

The Supreme Court has received reports that courts do not always comply with Rule 8.02(b)'s requirements that courts make "diligent" efforts to locate a certified court interpreter before appointing a non-certified court interpreter. Apparently there is some confusion about the meaning of "diligent" efforts. To clarify, to satisfy the diligent efforts requirement a court must demonstrate that, after receiving a request for an interpreter, the court made prompt attempts to hire a certified court interpreter. If the court could not find a certified court interpreter within its judicial district, it must show that it attempted to locate a certified interpreter in another judicial district. If no certified interpreter is available, the court must consider modifying the schedule for the matter before resorting to hiring a non-certified court interpreter.

Rule 8.03 Disqualification from Appointment or Proceeding

A judge may disqualify a court interpreter from an appointment under Rule 8.02 or a proceeding for good cause. Good cause for disqualification includes, but is not limited to, an interpreter who engages in the following conduct:

(a) Knowingly and willfully making a false interpretation while serving in a proceeding;

(b) Knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity;

(c) Failing to follow applicable laws, rules of court, the Code of Professional Responsibility for Interpreters in the Minnesota State Court System, or Court Interpreter Program policies.

(Added effective January 1, 1996; amended effective January 1, 1998; amended effective July 1, 2020.)

Advisory Committee Comment - 1995 Amendment

Interpreters must take an oath or affirmation to make a true interpretation to the best of their ability, to the person handicapped in communication and to officials. Minnesota Statutes 1994, sections 546.44, subdivision 2; 611.33, subdivision 2. Interpreters cannot disclose privileged information without consent. Minnesota Statutes 1994, sections 546.44, subdivision 4; 611.33, subdivision 4. These and other requirements are also addressed in the Code of Professional Responsibility for Interpreters in the Minnesota State Court System.

Rule 8.04 General Requirement for Court Interpreter Certification

(a) Eligibility for Certification. An applicant is eligible for certification if the interpreter:

(1) meets the requirements under Rule 8.01 and is included on the Statewide Roster of court interpreters; and

(2) receives a passing score on the court interpreting competency examination under Rule 8.05 administered or approved by the State Court Administrator's Office.

(Added effective January 1, 2006; amended effective July 1, 2020.)

Rule 8.05 Court Interpreter Certification Examination

(a) Eligibility for Examination. An applicant is eligible to take the court interpreting competency examination if the applicant:

(1) meets the requirements under Rule 8.01 and is included on the Statewide Roster;

(2) has paid the examination fee; and

(3) has registered to take the examination and met all other requirements for examination as determined by the State Court Administrator.

(b) Examination. Examinations for court interpreting competency in specific languages shall be administered at such times and places as the Coordinator may designate.

(1) Scope of Examination. Applicants for certification in interpreting in a spoken language may be tested on any combination of the following:

a. Sight Interpretation;

b. Consecutive Interpretation; and

c. Simultaneous Interpretation.

(2) Denial of Opportunity to Test. An applicant may be denied permission to take an examination if an application, together with the application fee, is not complete and filed in a timely manner.

(3) Results of Examination. The results of the examination, which may include scores, shall be delivered to examinees to the address listed in the Coordinator's files. Statistical information relating to the examinations, applicants, and the work of the State Court Administrator's Office may be released at the discretion of the State Court Administrator's Office. Pass/fail examination results may be released to (1) District Administrators by the State Court Administrator's Office for purposes of assuring that interpreters are appointed in accordance with Rule 8.02, and (2) any state court interpreter certification authority, including the National Center for State Courts.

(4) Testing Accommodations. A qualified applicant with a disability who requires reasonable accommodations must submit a written request to the Coordinator at the same time the application is filed. The Coordinator will consider timely requests and advise the applicant of what, if any, reasonable accommodations will be provided. The Coordinator may request additional information, including medical evidence or other written documentation, from the applicant prior to providing accommodations to the applicant.

(5) Confidentiality. Except as otherwise provided in Rule 8.05(b)(3), all information relating to the examinations is confidential unless the examinee waives confidentiality. The State Court Administrator's Office shall take steps to ensure the security and confidentiality of all examination information.

(c) Notification of Certification. The Coordinator shall notify applicants in writing, including by electronic means, regarding whether the applicant has passed the examination and has met all other requirements for certification.

(Added effective January 1, 2006; amended effective January 1, 2007; amended effective July 1, 2020.)

Drafting Committee Comment - 1996 Amendment

The Minnesota Supreme Court is one of the founding states of the State Court Interpreter Certification Consortium. It is the function of the Consortium to develop tests for court interpretation in various languages and administration standards, and to provide testing materials to individual states and jurisdictions. The Minnesota State Court Administrator's Office will in most circumstances utilize tests and standards established by or in conjunction with the Consortium.

Advisory Committee Comment - 2007 Amendment

Rule 8.05(a)(3) is amended to facilitate verification of interpreters' qualification by permitting the release of the interpreter test results to court administrators or interpreter program administrators.

Rule 8.05(a)(5) is amended to provide for the waiver of confidentiality by examinees for the purpose of permitting the release of examination information upon their request.

Rule 8.06 Character and Fitness Standards for Inclusion on the Statewide Roster

The State Court Administrator's Office shall perform its duties in a manner that ensures the protection of the public by including on the Statewide Roster only those who qualify and who meet character and fitness standards. A court interpreter should be one whose record of conduct justifies the trust of the courts, witnesses, jurors, attorneys, parties, and others with respect to the official duties owed to them. A record manifesting significant deficiency in the honesty, trustworthiness, diligence or reliability of an applicant may constitute a basis for denial of inclusion on the Statewide Roster.

(a) Relevant Conduct. The revelation or discovery of any of the following should be treated as cause for further inquiry before the State Court Administrator's Office decides whether the interpreter possesses the character and fitness to qualify for inclusion on the Statewide Roster:

(1) conviction of a crime which resulted in a sentence or a suspended sentence;

(2) misconduct involving dishonesty, fraud, deceit or misrepresentation;

(3) revocation or suspension of certification as an interpreter, or for any other position or license for which a character check was performed in this state or in other jurisdictions; and

(4) acts that indicate abuse of or disrespect for the judicial process.

(b) Evaluation of Character and Fitness. The State Court Administrator's Office shall determine whether the present character and fitness of a court interpreter qualifies the interpreter for inclusion on the roster. In making this determination, the following factors should be considered in assigning weight and significance to prior conduct:

(1) the interpreter's age at the time of the conduct;

(2) the recency of the conduct;

(3) the reliability of the information concerning the conduct;

(4) the seriousness of the conduct;

(5) the factors underlying the conduct;

(6) the cumulative effect of the conduct;

(7) the evidence of rehabilitation;

(8) the interpreter's positive social contributions since the conduct;

(9) the interpreter's candor in the certification process; and

(10) the materiality of any admissions or misrepresentations.

(c) Notification of Results of Character and Fitness Evaluation. The Coordinator shall notify interpreters in writing of a determination that the interpreter failed to meet the character and fitness requirements for inclusion on the roster or for certification. A decision by the State Court Administrator's Office to not add an applicant to the roster is not governed by Rule 8.08 and is not appealable or reviewable under these rules. Suspension or removal from the Statewide Roster of Interpreters included on the roster is governed by Rule 8.08.

(d) Information Disclosure.

(1) Court Interpreter's File. An interpreter may review the contents of his or her file, except for the work product of the Coordinator and the State Court Administrator's Office, at such times and under such conditions as the State Court Administrator's Office may provide.

(2) Investigation Disclosures for Purposes of Character and Fitness Evaluation. Information may be released to appropriate agencies for the purpose of obtaining information related to the applicant's character and fitness.

(3) Confidentiality.

i. Evaluation Data: Information obtained by the Coordinator and the State Court Administrator's Office during the course of their evaluation is confidential and may not be released to anyone absent a court order. The court shall consider whether the benefit to the person requesting the release of the data outweighs the harm to the public, the agency or any person identified in the data.

ii. File Data: All information contained in the files of court interpreters in the State Court Administrator's Office except as otherwise provided in Rule 8.06(d)3 of these rules is confidential and will not be released to anyone except upon order of a court of competent jurisdiction or the consent of the interpreter.

iii. Examination Information: Examination Information shall be available as provided in Rule 8.05(b).

(Added effective September 19, 1996; amended effective January 1, 2006; amended effective July 1, 2020.)

Drafting Committee Comment - 1996 Amendment

The primary purpose of character, fitness and competency screening is to ensure equal access to justice for people with limited English proficiency, or speech or hearing impairments. Such screening also ensures the efficient and effective operation of our judicial system. Our judicial system is adequately protected by a system that evaluates the character, fitness and competency of an interpreter as those elements relate to interpreting in the courtroom. The public interest requires that all participants in the courtroom be secure in their expectation that those who are certified interpreters are competent to render such services and are worthy of the trust that the courts, witnesses, jurors, attorneys and parties may reasonably place in the certified interpreter.

Rule 8.07 Denial of Certification

A decision by the State Court Administrator's Office to not list an applicant on the Statewide Roster as a certified spoken language interpreter based on a failed certification exam is not governed by Rule 8.08 and is not appealable or reviewable under these rules. A decision by the State Court Administrator's Office to not list an applicant on the Statewide Roster as a certified spoken language interpreter and to remove the applicant from the Statewide Roster based on the character and fitness standards in Rule 8.06 is governed by that rule and by Rule 8.08.

(Added effective January 1, 2006; amended effective January 1, 2020; amended effective July 1, 2020.)

Rule 8.08 Complaints and Investigation

(a) Procedure. Any complaint alleging a violation, or information that constitutes a violation, of Rule 8, the Court Interpreter Program policies, or the Code of Professional Responsibility for Court Interpreters by any certified or non-certified court interpreter on the Statewide Roster shall be governed by procedures published by the State Court Administrator's Office. These procedures shall include the following:

(1) a description of the types of actions which may be grounds for discipline;

(2) a description of the types of sanctions available;

(3) a procedure by which a person can file a complaint against an interpreter;

(4) a procedure for the investigation of complaints;

(5) a procedure for the review of complaints;

(6) a hearing procedure for cases involving more severe sanctions; and

(7) an appeal process when applicable.

(b) Revocation or Suspension of Certification or Roster Status. The certification or roster status of a court interpreter on the Statewide Roster is subject to suspension or revocation by the State Court Administrator's Office in accordance with the procedures established by the State Court Administrator's Office.

(Added effective January 1, 2006; amended effective July 1, 2020.)

Drafting Committee Comment - 1996 Amendment

The complaint procedure is not intended as a means for appealing claims of error by a court interpreter. The complaint procedure is available to address unprofessional or unethical conduct by certified and non-certified court interpreters. Consequently, in the absence of fraud, corrupt motive, bad faith, or pattern of established interpreter error, the Coordinator is not likely to initiate an investigation of a complaint of an error of a court interpreter.

It is contemplated that the power to revoke or suspend interpreter certification or roster status will be exercised sparingly and when exercised, consideration will be given to the appropriate procedure and the giving of notice and an opportunity to be heard if such process is due the interpreter.

Rule 8.09 Expenses and Fees

The expenses for administering the certification requirements, including the complaint procedures, may be paid from examination, training, and orientation fees. The fees shall be set by the State Court Administrator's Office and may be revised as necessary.

(Added effective September 19, 1996; amended effective January 2, 2006; amended effective July 1, 2020.)

Rule 8.10 Continuing Education Requirements

The State Court Administrator's Office may establish continuing education requirements for certified and non-certified interpreters on the Statewide Roster. Failure to complete the required education is grounds for suspension or revocation from the Statewide Roster under Rule 8.08.

(Added effective September 19, 1996; amended effective January 2, 2006; amended effective July 1, 2020.)

Rule 8.11 Confidentiality of Records

Subject to exceptions in Rules 8.01, 8.05(b)(3), 8.05(b)(5), and 8.06(d) of these rules, and the Enforcement Procedures for the Code of Professional Responsibility for Court Interpreters, all information in the files of the Coordinator, the Review Panel, and the State Court Administrator relating to court interpreters shall be confidential and shall not be released to anyone other than the Supreme Court except upon order of the Supreme Court.

(Added effective September 19, 1996; amended effective January 2, 2006; amended effective July 1, 2020.)

Drafting Committee Comment - 2000 Amendment

This rule is being added in 2000 to provide a consistent and necessary level of confidentiality for information maintained in the court interpreter orientation and certification process, including for example testing materials, orientation and registration information, and non-roster contact information. Both certified and non-certified interpreters included on the statewide roster under Rule 8.01 must attend orientation training and pass an ethics exam, but the confidentiality provisions in Rules 8.05 and 8.06 are limited to those seeking formal certification. Rule 8.11 ensures consistent confidentiality for all testing, orientation, registration and non-roster contact information, and is consistent with the level of accessibility accorded similar information in the attorney licensing process.

Rule 8.12 Interpreters to Assist Jurors

Qualified interpreters appointed by the court for any juror with a sensory disability may be present in the jury room to interpret while the jury is deliberating and voting.

(Added effective January 1, 2006; amended effective January 12, 2006.)

Advisory Committee Comment - 2006 Amendment

Rule 8.12 is intended to provide guidance on the role of interpreters appointed for the benefit of jurors with a sensory disability. The requirement that such interpreters be allowed to join the juror in the jury room is logical and necessary to permit the juror to communicate in deliberations. In this situation the interpreter should be given an oath to follow other constraints placed on jurors (e.g., not to discuss the case, not to read or listen to media accounts of the trial, etc.) and also that the interpreter will participate only in interpreting the statements of others, and will not become an additional juror. An interpreter in this situation should also not be allowed or required to testify

as to any aspect of the jury's deliberations in any context a juror would not be allowed or required to testify.

This amendment is drawn from the language of Minn. R. Crim. P. 26.03 subd 16.

The rule is limited by its terms to interpreters appointed for the benefit of jurors with a sensory disability only because that is the only condition generally resulting in the appointment for jurors. In other, unusual, situations where such an interpreter is appointed, these procedures would presumably apply as well.

Rule 8.13 Requirement for Notice of Anticipated Need for Interpreter

In order to permit the court to make arrangements for the availability of required interpreter services, parties shall, in the Civil Cover Sheet or Joint Statement of the Case, and as may otherwise be required by the court rule or order, advise the court of that need in advance of the hearing or trial where services are required.

When it becomes apparent that previously-requested interpreter services will not be required, the parties must advise the court.

(Added effective March 1, 2009; amended effective July 1, 2013; amended effective July 1, 2020.)

Advisory Committee Comment - 2008 Amendment

Making a qualified interpreter available when needed in court often requires difficult prearrangement. Rule 8.13 is a simple rule drawing the attention of litigants to the likelihood they will encounter specific court rules or orders requiring identification of interpreter needs in advance of the need. See amendments to Rules 111.02, 111.03, 112.02, Forms 111.02 & 112.01, and Minnesota Civil Trialbook sections 5 & 11.

The second paragraph of the rule contains an obvious corollary: when it becomes clear that interpreter services will no longer be required, notice must be given to permit the court to avoid the expense that would otherwise be incurred. This notice would be required if a trial or hearing were obviated by settlement, and the requirement of notice is similar to that required by Minn. Gen. R. Prac. 115.10 for the settlement of a motion, which would obviate a hearing and the court's preparation for the hearing.

Rule 9. Frivolous Litigation

Rule 9.01 Motion for Order Requiring Security or Imposing Sanctions

Relief under this rule is available in any action or proceeding pending in any court of this state, at any time until final judgment is entered. Upon the motion of any party or on its own initiative and after notice and hearing, the court may, subject to the conditions stated in Rules 9.01 to 9.07, enter an order: (a) requiring the furnishing of security by a frivolous litigant who has requested relief in the form of a claim, or (b) imposing preconditions on a frivolous litigant's service or filing of any new claims, motions or requests. All motions under this rule shall be made separately from other motions or requests, and shall be served as provided in the Rules of Civil Procedure, but shall not be filed with or presented to the court unless, within 21 days after service of the motion (or such other period as the court may prescribe), the challenged claim, motion, or request is not withdrawn or appropriately corrected.

(Added effective September 1, 1999.)

Rule 9.02 Hearing

(a) Evidence. At the hearing upon such motion the court shall consider such evidence, written or oral, by witnesses or affidavit, as may be material to the ground of the motion.

(b) Factors. In determining whether to require security or to impose sanctions, the court shall consider the following factors:

(1) the frequency and number of claims pursued by the frivolous litigant with an adverse result;

(2) whether there is a reasonable probability that the frivolous litigant will prevail on the claim, motion, or request;

(3) whether the claim, motion, or request was made for purposes of harassment, delay, or vexatiousness, or otherwise in bad faith;

(4) injury incurred by other litigants prevailing against the frivolous litigant and to the efficient administration of justice as a result of the claim, motion, or request in question;

(5) effectiveness of prior sanctions in deterring the frivolous litigant from pursuing frivolous claims;

(6) the likelihood that requiring security or imposing sanctions will ensure adequate safeguards and provide means to compensate the adverse party;

(7) whether less severe sanctions will sufficiently protect the rights of other litigants, the public, or the courts.

The court may consider any other factors relevant to the determination of whether to require security or impose sanctions.

(c) Findings. If the court determines that a party is a frivolous litigant and that security or sanctions are appropriate, it shall state on the record its reasons supporting that determination. An order requiring security shall only be entered with an express determination that there is no reasonable probability that the litigant will prevail on the claim. An order imposing preconditions on serving or filing new claims, motions, or requests shall only be entered with an express determination that no less severe sanction will sufficiently protect the rights of other litigants, the public, or the courts.

(d) Ruling Not Deemed Determination of Issues. No determination or ruling made by the court upon the motion shall be, or be deemed to be, a determination of any issue in the action or proceeding or of the merits thereof.

(Added effective September 1, 1999.)

Rule 9.03 Failure to Furnish Security

If security is required and not furnished as ordered, the claim(s) subject to the security requirement may be dismissed with or without prejudice as to the offending party.

(Added effective September 1, 1999.)

Rule 9.04 Stay of Proceedings

When a motion pursuant to Rule 9.01 is properly filed before trial, the action or proceeding is stayed and the moving party need not plead or respond to discovery or motions, until 14 days after the motion is denied, or if granted, until 14 days after the required security has been furnished and the moving party given written notice thereof. When a motion pursuant to Rule 9.01 is made at any

time after commencement of trial, the action or proceeding may be stayed for such period after the denial of the motion or the furnishing of the required security as the court shall determine.

(Added effective September 1, 1999; amended effective January 1, 2020.)

Rule 9.05 Appeal

An order requiring security or imposing sanctions under this rule shall be deemed a final, appealable order. Any appeal under this rule may be taken to the court of appeals as in other civil cases within 60 days after filing of the order to be reviewed.

(Added effective September 1, 1999.)

Rule 9.06 Definitions

As used in this rule, the following terms have the following meanings:

(a) "Claim" means any relief requested in the form of a claim, counterclaim, cross claim, third party claim, or lien filed, served, commenced, maintained, or pending in any federal or state court, including conciliation court.

(b) "Frivolous litigant" means:

(1) A person who, after a claim has been finally determined against the person, repeatedly relitigates or attempts to relitigate either

(i) the validity of the determination against the same party or parties as to whom the claim was finally determined, or

(ii) the cause of action, claim, controversy, or any of the issues of fact or law determined or concluded by the final determination against the same party or parties as to whom the claim was finally determined; or

(2) A person who in any action or proceeding repeatedly serves or files frivolous motions, pleadings, letters, or other documents, conducts unnecessary discovery, or engages in oral or written tactics that are frivolous or intended to cause delay; or

(3) A person who institutes and maintains a claim that is not well grounded in fact and not warranted by existing law or a good faith argument for the extension, modification or reversal of existing law or that is interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigating the claim.

(c) "Security" means either:

(1) an undertaking to assure payment, issued by a surety authorized to issue surety bonds in the State of Minnesota, to the party for whose benefit the undertaking is required to be furnished, of the party's reasonable expenses, including attorney's fees and not limited to taxable costs, incurred in or in connection with a claim instituted, caused to be instituted, or maintained or caused to be maintained by a frivolous litigant or;

(2) cash tendered to and accepted by the court administrator for that purpose.

(Added effective September 1, 1999; amended effective July 1, 2015.)

Advisory Committee Comment - 2015 Amendments

The amendment to Rule 9 is not substantive in nature or intended effect. The replacement of "paper" with "document" is made throughout these rules to advance precision in choice of language. Most documents will not be filed as "paper" documents, so paper is retired as a descriptor of them.

Rule 9.07 Effect on Other Provisions

Sanctions available under this rule are in addition to sanctions expressly authorized by any other statute or rule, or in the inherent power of the court.

(Added effective September 1, 1999.)

Advisory Committee Comment - 1999 Amendment

This rule is intended to curb frivolous litigation that is seriously burdensome on the courts, parties, and litigants. This rule is intended to apply only in the most egregious circumstances of abuse of the litigation process, and the remedies allowed by the rule can be viewed as drastic. Because of the very serious nature of the sanctions under this rule, courts should be certain that all reasonable efforts have been taken to ensure that affected parties are given notice and an opportunity to be heard. Rule 9.01 also requires that the court enter findings of fact to support any relief ordered under the rule, and this requirement should be given careful attention in the rare case where relief under this rule is necessary.

It is appropriate for the court to tailor the sanction imposed under this rule to the conduct and to limit the sanction to what is necessary to curb the inappropriate conduct of the frivolous litigant. See Cello-Whitney v. Hoover, 769 F. Supp. 1155 (W.D. Wash. 1991).

This rule includes a specific provision relating to the possible appeal of an order for sanctions. The rule provides that an appeal may be taken within 60 days, the same period allowed for appeals from orders and judgment, but specifies that the 60-day period begins to run from entry of the date of filing of the order. This timing mechanism is preferable because the requirement of service of notice of entry may not be workable where only one party may be interested in the appeal or where the order is entered on the court's own initiative. The date of filing can be readily determined, and typically appears on the face of the order or is a matter of record, obviating confusion over the time to appeal.

Rule 10. Tribal Court Orders and Judgments

Rule 10.01 Recognition Governed by Statute or Regulations.

The courts of this state shall follow applicable state and federal statutes, regulations, and rules that either mandate or provide procedures for recognition and enforcement of orders, judgments, and other judicial acts of the tribal courts of any federally recognized Indian tribe. Applicable statutes include but are not limited to:

(1) Violence Against Women Act, United States Code, title 18, section 2265;

(2) Indian Child Welfare Act, United States Code, title 25, section 1911;

(3) National Indian Forest Resources Management Act, United States Code, title 25, section 3106;

(4) American Indian Agricultural Resources Management Act, United States Code, title 25, section 3713;

(5) Full Faith and Credit for Child Support Orders Act, United States Code, title 28, section 1738B;

(6) Minnesota Indian Family Preservation Act, Minnesota Statutes, section 260.771;

(7) Uniform Interstate Family Support Act, Minnesota Statutes, sections 518C.101 to 518C.905;

(8) Uniform Custody Jurisdiction and Enforcement Act, Minnesota Statutes, section 518D.104;

(9) Minnesota Uniform Foreign-Country Money Judgments Recognition Act, Minnesota Statutes, sections 548.54 to 548.63.

(Amended effective September 1, 2018.)

Rule 10.02 Enforcement of Civil Commitment Orders.

The enforcement of orders for civil commitment issued by tribal courts is governed by Minnesota Statutes, section 253B.212. The district court may enter an order enforcing a tribal court order in accordance with this rule.

(a) Civil commitment orders entered by the tribal courts of the Red Lake Band of Chippewa Indians and the White Earth Band of Ojibwe Indians shall be enforced in accordance with Minnesota Statutes, section 253B.212, subdivision 1 or 1a.

(b) Civil commitment orders entered by the tribal courts that are subject to a contract for the care and treatment between a tribe (or the Indian Health Service of the United States Department of Health and Human Services for the benefit of members of a tribe) and the commissioner of human services shall be enforced in accordance with Minnesota Statutes, section 253B.212, subdivision 1b.

(c) For all other civil commitment orders entered by a tribal court, or in any case where directed by the court, the party seeking to enforce the order must proceed by petition to the Minnesota District Court under Rule 10.03, and in addition must serve a copy of that petition on each of the parties to the tribal court proceedings as well as the Minnesota Commissioner of Human Services and the director of the facility where the person is proposed to be committed. The court may determine when a response to that petition is due and whether a hearing is required or permitted if requested, but shall not hear the matter without notice to all other interested parties except as allowed under Rule 3 of these Rules.

(Amended effective September 1, 2018.)

Rule 10.03 Enforceability of Other Tribal Court Orders and Judgments.

(a) Applicability. Rule 10.03 applies to tribal court orders and judgments that are not subject to Rules 10.01 or 10.02(a) or (b).

(b) Procedure. A party seeking enforcement of an order or judgment of the tribal court of any federally recognized Indian tribe that is not governed by Rules 10.01 or 10.02 shall proceed by petition, or in a pending action by motion. That party must serve a copy of the petition or motion on each of the parties to the tribal court proceeding in which the judgment or order was entered. The court may determine how soon after service of the petition any response is due. The court may determine whether to hold a hearing on the petition. The court shall not determine the matter without notice to all other interested parties except as allowed under Rule 3 of these rules.

(c) Enforceability and Exceptions. Courts of this state shall recognize and enforce an order or judgment of a tribal court of record of a federally recognized Indian tribe, unless a party subject to the order or judgment demonstrates any of the following:

(1) the order or judgment is invalid on its face or no longer remains in effect;

(2) the tribal court lacked personal or subject-matter jurisdiction;

(3) the affected party was not afforded due process rights;

(4) the order or judgment was obtained by fraud, duress, or coercion; or

(5) the tribal court does not reciprocally recognize and enforce orders, judgments and decrees of the courts of this state.

(Added effective January 1, 2004; amended effective September 1, 2018.)

Advisory Committee Comment - 2007 Amendment

Introduction. *Rule 10 is a new rule intended to provide a starting point for enforcing tribal court orders and judgments where recognition is mandated by state or federal law (Rule 10.01), and to establish factors for determining the effect of these adjudications where federal or state statutory law does not do so (Rule 10.02).*

The rule applies to all tribal court orders and judgments and does not distinguish between tribal courts located in Minnesota and those sitting in other states. The only limitation on the universe of determinations is that they be from tribal courts of a federally-recognized Indian tribe. These courts are defined in 25 U.S.C. section 450b(e), and a list is published by the Department of the Interior, Bureau of Indian Affairs. See, e.g., 70 FED. REG. 71194 (Nov. 25, 2005).

Tribal court adjudications are not entitled to full faith and credit under the United States Constitution, which provides only for full faith and credit for "public acts, records, and judicial proceedings of every other state." U.S. CONST. Art IV, section 1. But state and federal statutes have conferred the equivalent of full faith and credit status on some tribal adjudications by mandating that they be enforced in state court. Where such full faith and credit is mandatory, a state does not exercise discretion in giving effect to the proper judgments of a sister state. Baker v. Gen. Motors Corp., 522 U.S. 222, 233 (1998) ("A final judgment in one State, if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, qualifies for recognition throughout the land.") Through full faith and credit, a sister state's judgment is given res judicata effect in all other states. See, e.g., id.; Hansberry v. Lee, 311 U.S. 32, 42 (1940).

The enforcement in state court of tribal court adjudications that are not entitled to the equivalent of full faith and credit under a specific state or federal statute, is governed by the doctrine of comity. Comity is fundamentally a discretionary doctrine. It is rooted in the court's inherent powers, as was early recognized in United States jurisprudence in Hilton v. Guyot, 159 U.S. 113, 163-164 (1895), where the court said: "No law has any effect, of its own force, beyond the limits of the sovereignty from which its authority is derived. The extent to which the law of one nation, as put in force within its territory, whether by executive order, by legislative act, or by judicial decree, shall be allowed to operate within the dominion of another nation, depends upon what our greatest jurists have been content to call 'the comity of nations.'"

This inherent power was recognized in Minnesota in Traders' Trust Co. v. Davidson, 146 Minn. 224, 227, 178 N.W. 735, 736 (1920) (citing Hilton, 159 U.S. at 227) where the court said: "Effect is given to foreign judgments as a matter of comity and reciprocity, and it has become the rule to give no other or greater effect to the judgment of a foreign court than the country or state whose court rendered it gives to a like judgment of our courts." In Nicol v. Tanner, 310 Minn. 68, 75-79, 256 N.W.2d 796, 800-02 (1976) (citing the Restatement (Second) of Conflicts of Laws section 98 (1971)), the court further developed the doctrine of comity when it held that the statement in Traders' Trust Co. that enforcement required a showing of reciprocity was dictum; that "reciprocity is not

a prerequisite to enforcement of a foreign judgment in Minnesota;" and that the default status of a foreign judgment "should not affect the force of the judgment."

Statutory Mandates. *Rule 10.01 reflects the normal presumption that courts will adhere to statutory mandates for enforcement of specific tribal court orders or judgments where such a statutory mandate applies. Federal statutes that do provide such mandates include:*

1. Violence Against Women Act of 2000, 18 U.S.C. section 2265 (2003) (full faith and credit for certain protection orders).

2. Indian Child Welfare Act, 25 U.S.C. section 1911(d) (2003) ("full faith and credit" for certain custody determinations).

3. Full Faith and Credit for Child Support Orders Act, 28 U.S.C. section 1738B(a) (2003) ("shall enforce" certain child support orders and "shall not seek or make modifications ... except in accordance with [certain limitations]").

In addition to federal law, the Minnesota Legislature has addressed custody, support, child placement, and orders for protection. The Minnesota Legislature adopted the Uniform Child Custody Jurisdiction and Enforcement Act, Minnesota Statutes 2002, sections 518D.101-518D.317, which: (1) requires recognition and enforcement of certain child custody determinations made by a tribe "under factual circumstances in substantial conformity with the jurisdictional standards of" the Act; and (2) establishes a voluntary registration process for custody determinations with a 20-day period for contesting validity. Minnesota Statutes 2002, sections 518D.103 and 518D.104 (not applicable to adoption or emergency medical care of child; not applicable to extent ICWA controls). In addition, the Minnesota Legislature has adopted the Uniform Interstate Family Support Act, Minnesota Statutes 2002, sections 518C.101 to 518C.902, which provides the procedures for enforcement of support orders from another state ["state" is defined to include an Indian tribe, Minnesota Statutes 2002, section 518C.101, paragraph (s), clause (1)] with or without registration, and enforcement and modification after registration. The Minnesota Legislature has also adopted the Minnesota Indian Family Preservation Act, Minnesota Statutes 2002, sections 260.751 to 260.835, which provides, among other things, that tribal court orders concerning child placement (adoptive and pre-adoptive placement, involuntary foster care placement, termination of parental rights, and status offense placements) shall have the same force and effect as orders of a court of this state. Minnesota Statutes 2002, section 260.771, subdivision 4. In 2006 the Minnesota Legislature adopted Minnesota Statutes 2002, section 518B.01, subdivision 19a, which requires enforcement of certain foreign or tribal court orders for protection.

The facial validity provision in Rule 10.01(b)(2) fills in a gap in state law. Minnesota Statutes 2002, section 518B.01, subdivision 14, paragraph (e), authorizes an arrest based on probable cause of violation of tribal court order for protection; although this law includes immunity from civil suit for a peace officer acting in good faith and exercising due care, it does not address facial validity of the order. Similar laws in other jurisdictions address this issue. See, e.g., 720 ILL. COMP. STAT. 5/12-30(a)(2) (Supp. 2003); OKLA. STAT. tit. 22 section 60.9B(1) (2003); WISC. STAT. section 813.128(1) (2001-02).

The Minnesota Legislature has also addressed enforcement of foreign money judgments. The Minnesota Uniform Foreign Country Money-Judgments Recognition Act, Minnesota Statutes 2002, section 548.35, creates a procedure for filing and enforcing judgments rendered by courts other than those of sister states. Tribal court money judgments fall within the literal scope of this statute and the statutory procedures therefore may guide Minnesota courts considering money judgments. Cf. Anderson v. Engelke, 954 P.2d 1106, 1110-11 (Mont. 1998) (dictum) (statute assumed to allow enforcement by state courts outside of tribal lands, but question not decided). In general, money

judgments of tribal courts are not entitled to full faith and credit under the Constitution, and the court is allowed a more expansive and discretionary role in deciding what effect they have. Rule 10.02(a) is intended to facilitate that process.

Discretionary Enforcement: Comity. *Where no statutory mandate expressly applies, tribal court orders and judgments are subject to the doctrine of comity. Rule 10.02(a) does not create any new or additional powers but only begins to describe in one convenient place the principles that apply to recognition of orders and judgments by comity.*

Comity is also an inherently flexible doctrine. A court asked to decide whether to recognize a foreign order can consider whatever aspects of the foreign court proceedings it deems relevant. Thus Rule 10.02(a) does not dictate a single standard for determining the effect of these adjudications in state court. Instead, it identifies some of the factors a Minnesota judge may consider in determining what effect such a determination will be given. Rule 10.02(a) does not attempt to define all of the factors that may be appropriate for consideration by a court charged with determining whether a tribal court determination should be enforced. It does enumerate many of the appropriate factors. It is possible in any given case that one or more of these factors will not apply. For example, reciprocity is not a pre-condition to enforceability generally, Nicol, 310 Minn. at 75-79, 256 N.W.2d at 800-02, but may be relevant in some circumstances. Notice of the proceedings and an opportunity to be heard (or the prospect of notice and right to hearing in the case of ex parte matters) are fundamental parts of procedural fairness in state and federal courts and are considered basic elements of due process; it is appropriate at least to consider whether the tribal court proceedings extended these rights to the litigants. The issue of whether the tribal court is "of record" may be important to the determination of what the proceedings were in that court. A useful definition of "of record" is contained in the Wisconsin statutes. WIS. STAT. section 806.245(1)(c) (2001-02); see also WIS. STAT. section 806.245(3) (2001-02) (setting forth requirements for determining whether a court is "of record"). The rule permits the court to inquire into whether the tribal court proceedings offered similar protections to the parties, recognizing that tribal courts may not be required to adhere to the requirements of due process under the federal and state constitutions. Some of the considerations of the rule are drawn from the requirements of the Minnesota Uniform Enforcement of Foreign Judgments Act, Minnesota Statutes 2002, sections 548.26 to 548.33. For example, contravention of the state's public policy is a specific factor for non-recognition of a foreign state's judgment under Minnesota Statutes 2002, section 548.35, subdivision 4, paragraph (b), clause (3); it is carried forward into Rule 10.02(a)(7). Inconsistency with state public policy is a factor for non-recognition of tribal court orders under other states' rules. See MICH. R. Civ. P. 2.615(C)(2)(c); N.D. R. CT. 7.2(b)(4).

Hearing. *Rule 10.02(b) does not require that a hearing be held on the issues relating to consideration of the effect to be given to a tribal court order or judgment. In some instances, a hearing would serve no useful purpose or would be unnecessary; in others, an evidentiary hearing might be required to resolve contested questions of fact where affidavit or documentary evidence is insufficient. The committee believes the discretion to decide when an evidentiary hearing is held should rest with the trial judge.*

Advisory Committee Comment - 2018 Amendments

Rule 10.01 moves the list of statutes out of the comments and into the rule itself to provide greater visibility. The list is non-exhaustive to allow for future enactments.

Former Rule 10.01(b) is deleted because the Violence Against Women Act is now expressly included in Rule 10.01 and the historic issues that prompted the former rule have been addressed by legislation. See Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, 127 Stat. 54 (March 7, 2013).

Rule 10.02 is a new rule intended to provide clear procedural guidance for enforcement by state courts of tribal court orders for civil commitment. The rule is structured to implement the requirements created by statute, Minnesota Statutes, section 253B.212. The primary purpose of the rule is to provide a requirement for notice and an opportunity to be heard for all parties to the tribal court proceeding as well as the Minnesota Commissioner of Human Services and the director of a facility where the person is proposed to be committed. This requirement applies in Rule 10.02(c) to commitment orders that are not otherwise covered by Rule 10.02(a) and 10.02(b).

Rule 10.03(b) recognizes two methods for asking a court for an order enforcing a tribal court adjudication. Most often, a petition seeking recognition will be necessary. The rule also allows a motion in a pending action. This would allow use of a tribal court adjudication, for example, in an existing action to establish res judicata or collateral estoppel based on the tribal court adjudication.

Rule 10.03(c) identifies specific factors under which a state court can decline to enforce a tribal court order of judgment. These factors restate those formerly set forth in Rule 10.02. Several of the former factors are combined under the broad category of Rule 10.03(c)(3), failure to afford "due process." This is an inherently flexible standard, guided by the interests of the parties. The rule establishes that process is due, but does not define the specific process due. Courts may fairly look to what process would be due in analogous state or federal court proceedings. Common requirements of due process include notice of the proceedings, the right to heard, the right to appear and both examine and compel the attendance of witnesses, and the right to a fair hearing before an independent judge. The rule does not include the "catch-all" provision of former rule 10.02(10). This deletion is not intended to limit the ability of courts to consider an opposing party's claim that enforcement is not in the interest of justice. See Minn. Gen. R. Prac. 1.02 ("A judge may modify the application of these rules to any case to prevent manifest injustice.")

Rule 10.03(c)(5) retains the provision of the current version of Rule 10 allowing the court to consider reciprocity as part of its comity-based standard for enforcement of tribal court orders and judgments. The Minnesota Supreme Court has declined to make reciprocity a part of the showing needed to enforce a foreign judgment for child support payments, but has not rejected it as a proper consideration in all cases, or in the context of tribal court adjudications. See Nicol v. Tanner, 310 Minn. 68, 75-79, 256 N.W.2d 796, 800-02 (1976).

Rule 11. Submission of Confidential Information

Rule 11.01 Definitions

The following definitions apply for the purposes of this rule:

(a) "Restricted identifiers" means any of the following numbers of any person or legal entity: a complete or partial social security number, employer identification number, or other taxpayer identification numbers; and any financial account numbers other than the last four numbers of a financial account number that is not also a social security, employer identification, or other taxpayer identification number.

(b) "Financial account number" means a string of numeric or alphanumeric characters assigned to a credit, deposit, trust, insurance, or other account that can be used by someone other than those authorized to access the account to obtain access to the account for unauthorized transactions, provided that a billing number issued by a government entity which number is publicly accessible from such government entity is not a financial account number under this rule. For the convenience of filers, the state court administrator may establish a non-exclusive list of examples of financial account numbers, and the list shall be posted on the judicial branch website (www.mncourts.gov).

(c) "Financial source documents" means income tax returns, W-2 forms and schedules, wage stubs, credit card statements, financial institution statements, check registers, and other financial information deemed financial source documents by court order.

(Amended effective July 1, 2007; amended effective July 1, 2014; amended effective January 1, 2021.)

Rule 11.02 Restricted Identifiers; Submission; Certification

(a) Records Generated by External Filers. Restricted identifiers are prohibited in all documents or other records filed with the court except when the restricted identifiers are germane and necessary for the court's consideration of the issues then before the court. If it is necessary to provide restricted identifiers to the court, they must be submitted in one of the following two ways:

(1) on a separate Confidential Information Form 11.1 as published by the state court administrator; or

(2) on a non-public document submitted in accordance with Rule 11.03.

The Confidential Information Form 11.1 shall not be accessible to the public.

Every person who files any other document or other record with the court is solely responsible for ensuring that it contains no restricted identifiers, except as permitted in section (a) of this rule. The court administrator will not review each record for compliance with this rule. Notwithstanding this provision, the court administrator may take any action consistent with Rule 11.05.

(b) Records Generated by the Court. Restricted identifiers maintained by the court in its register of actions (i.e., activity summary or similar information that lists the title, origination, activities, proceedings and filings in each case), calendars, indexes, and judgment docket shall not be accessible to the public. Courts shall not include restricted identifiers on judgments, orders, decisions, and notices except on a Confidential Information Form 11.1, which shall not be accessible to the public.

(c) Certification. Every filing shall constitute a certification by the filer that the documents filed contain no restricted identifiers, except as permitted in section (a) of this rule. For documents filed using the E-Filing System, this certification may additionally be provided by electronically acknowledging the certification statement in the manner designated by the E-Filing System.

(Added effective July 1, 2005; amended effective January 1, 2010; amended effective July 1, 2014; amended effective July 1, 2015; amended effective January 1, 2021.)

Rule 11.03 Filer's Duty to Identify Non-Public Document Using Cover Sheet Plus E-Filing Designation, or Using E-Filing Code Plus E-Filing Designation

(a) **Cover Sheet or E-Filing Code Required.** Every person filing non-public documents with the court in public case types is solely responsible for identifying and designating them as non-public. When e-filing, non-public documents shall also be designated as Confidential or Sealed in the E-Filing System as required by Rule 14.06 of these rules. In all case types, restricted identifiers shall only be filed as authorized in Rule 11.02 of these rules. In juvenile protection cases, other confidential information and confidential documents must be filed as provided in Rule 8.04 of the Rules of Juvenile Protection Procedure. All other individual non-public documents filed in public cases, including but not limited to financial source documents, shall be:

(i) filed with the court with a separate, publicly accessible Form 11.2 Cover Sheet for Non-Public Documents as published by the state court administrator; or

(ii) e-filed with a specific filing code in the E-Filing System or via Court Integration Services, which defaults the document to Confidential or Sealed, as published in the E-Filing Code Guides by the state court administrator for that specific type of non-public document and case type.

Financial source documents and other non-public documents submitted as required in part (i) or (ii) above are not accessible to the public except to the extent that they are admitted into evidence in a testimonial hearing or trial or as provided in Rule 11.06 of these rules. The filer must file the Form 11.2 Cover Sheet for Non-Public Documents as a separate document from the non-public documents. The Form 11.2 Cover Sheet for Non-Public Documents shall be accessible to the public.

(b) **Closed Account Statements.** Statements from a permanently closed (also known as "charged off") credit card or financial institution account that has been identified as a closed account in a related filed document need not be submitted with a Form 11.2 Cover Sheet for Non-Public Documents unless desired by the filing party or as directed by the court.

(c) **Absence of Cover Sheet or E-Filing Code.** Non-public documents that are not submitted as required in part (a)(i) or (a)(ii) above are accessible to the public, but the court may, upon motion or on its own initiative, order that any such document be non-public.

(d) **Not Applicable to Non-Public Case Types.** This Rule 11.03 is not applicable to non-public case types. The state court administrator shall maintain and publish on the judicial branch website a list of non-public case types.

(Added effective July 1, 2005; amended effective July 1, 2007; amended effective January 1, 2010; amended effective July 1, 2014; amended effective July 1, 2015; amended effective January 1, 2021.)

Rule 11.04 When Documents May Be Filed as Non-Public

Non-public documents may be filed as "confidential documents" or as "sealed documents." A person may submit a document for filing as a "confidential document" or "sealed document" only if one of these circumstances exists:

(a) The court has issued an order permitting the filing of the particular document or class of documents under seal or as confidential.

(b) This rule or any applicable court rule, court order, or statute expressly authorizes or requires filing under seal or as confidential.

(c) The filer files a motion for leave to file as confidential or under seal not later than at the time of submission of the document.

The court may require a filing party to specify the authority for asserting that a filing is a "confidential document" or "sealed document." For purposes of this rule, the terms "confidential document" and "sealed document" shall have the meanings set forth in Rule 14.01. Additional requirements for electronically submitting a document as confidential or sealed in the E-Filing System are set forth in Rule 14.06.

Upon review, the court may modify the designation of any document incorrectly designated as confidential or sealed and shall provide prompt notice of any such change to the person who filed the document.

(Added effective January 1, 2021.)

Rule 11.05 Failure to Comply

If a filer fails to comply with the requirements of this rule in regard to any restricted identifiers or other non-public information, the court may upon motion or its own initiative impose appropriate sanctions, including costs necessary to prepare an appropriate document for filing.

Any person may notify the court administrator at any time that a restricted identifier or other non-public information appears in a publicly accessible court record. Upon discovery that a document containing a restricted identifier or other non-public information has not been submitted in a confidential manner as required by this rule, the court administrator shall restrict public access to the document pending redaction or court order and direct the filer to, within 3 days, either:

(1) serve and file a properly redacted filing, including any necessary cover sheet, and pay any prescribed monetary fee to the court, and, if the party desires that the filing date of the resubmitted document(s) relates back to the filing date of the original document(s), serve and file a motion requesting the relation-back to the original filing date; or

(2) file a motion for relief from the court.

Any other party may oppose the motion seeking relation-back to the original filing date within the same time limits as are provided by law for the type of document(s) being filed. If a filer timely pays the monetary fee, and timely requests relation-back of the filing date, the court may, in the interests of justice, order that the filing date of the properly submitted document(s) relate back to the filing date of the original document(s). The court may additionally impose any sanctions it finds appropriate for the filer's non-compliance.

Except in criminal, civil commitment, and juvenile delinquency cases, or for medical records filed in any case type, if no action is taken within 3 days after direction from the court administrator, the court administrator shall strike the document so it is not accessible to the public, the parties, or the court. The parties and the court shall not consider the stricken document to be part of the court record unless the court, in the interests of justice under the circumstances of the individual case, orders the court administrator to restore the document to the official court record.

(Amended effective July 1, 2015; renumbered and amended effective January 1, 2021.)

Rule 11.06 Procedure for Requesting Access to Confidential Financial Source Documents

(a) Motion. Any person may file a motion, supported by affidavit showing good cause, for access to Confidential Financial Source Documents or portions of the documents. Written notice of the motion to all parties is required.

(b) Waiver of Notice. If the person seeking access cannot locate a party to provide the notice required under this rule, after making a good faith reasonable effort to provide such notice as required by applicable court rules, an affidavit may be filed with the court setting forth the efforts to locate the party and requesting waiver of the notice provisions of this rule. The court may waive the notice requirements of this rule if the court finds that further good faith efforts to locate the party are unlikely to be successful.

(c) Balancing Test. The court shall allow access to Confidential Financial Source Documents, or relevant portions of the documents, if the court finds that the public interest in granting access or the personal interest of the person seeking access outweighs the privacy interests of the parties

or dependent children. In granting access the court may impose conditions necessary to balance the interests consistent with this rule.

(Amended effective July 1, 2014; amended effective July 1, 2015; renumbered effective January 1, 2021.)

Rule 11.07 Procedure for Requesting Access to Other Non-Public Records

Any person may request access to records not governed by Rule 11.06 of these rules by following the procedures set forth in Rule 7 of the Rules of Public Access to Records of the Judicial Branch and any other applicable court rules.

(Added effective January 1, 2021.)

Rule 11.08 Exceptions

Rule 11 does not apply to search warrants or related documents filed administratively by law enforcement pursuant to Minnesota Statutes, section 626.17, and Rule 33.04(a)-(b) of the Rules of Criminal Procedure, except that if such a document contains a restricted identifier it shall be filed with a Form 11.2 Cover Sheet for Non-Public Documents in the manner described in Rule l 1.03(a)(l) of these rules. Rule 11 does apply to search warrants and related documents filed by parties in a case.

If any person filing a medical record in a civil commitment case fails to designate the medical record as non-public upon filing, the court administrator shall not reject the filing due to the failure to do so.

(Added effective January 1, 2021.)

Advisory Committee Comment - 2005 Amendment

Rule 11 is a new rule, but is derived in part from former Rule 313. It is also based on WASH. GR 22 (2003). Under this rule, applicable in all court proceedings, parties are now responsible for protecting the privacy of restricted identifiers (social security numbers or employer identification numbers and financial account numbers) and financial source documents by submitting them with the proper forms. Failure to comply would result in the public having access to the restricted identifiers and financial source documents from the case file unless the party files a motion to seal them or the court acts on its own initiative under Rule 11.03. The Confidential Information Form from Rule 313 is retained, modified, and renumbered, and a new Sealed Financial Source Documents cover sheet has been added. The court retains authority to impose sanctions against parties who violate the rule in regard to another individual's restricted identifiers or financial source documents.

New in 2005 is the procedure for obtaining access to restricted identifiers and sealed financial source documents. This process requires the court to balance the competing interest involved. See, e.g., Minneapolis Star & Tribune Co. v. Schumacher, 392 N.W.2d 197 (Minn. 1986) (when party seeks to restrict access to settlement documents and transcripts of settlement hearings made part of civil court file by statute, court must balance interests favoring access, along with presumption in favor of access, against those asserted for restricting access).

Advisory Committee Comment - 2007 Amendment

The 2007 amendment to Rule 11.01(a) expands the rule to protect the restricted identifiers of all persons, not just a party and a party's child. Records submitted to the court may include restricted identifiers of persons other than a party or the party's child, such as clients or other fiduciaries.

The 2007 amendment to Rule 11.03 recognizes that if a sealed financial source document is formally offered and admitted into evidence in a testimonial hearing or trial the document will be accessible to the public to the extent that it has been admitted. This is the result under WASH. GR 22 (2006) upon which this rule is based. In such situations, it is strongly recommended that restricted identifiers be redacted from the document before its admission into evidence.

Advisory Committee Comment - 2009 Amendment

Rule 11 is amended to remove Forms 11.1 and 11.2 from the rules and to correct the reference to the forms in the rule. This amendment will allow for the maintenance and publication of the form by the state court administrator. The form, together with other court forms, can be found at http://www.mncourts.gov/.

Forms 11.1 and 11.2 should be deleted from the rules and maintained in the future on the court's Web site.

Advisory Committee Comment - 2012 Amendment

Rule 11.06 is a new rule intended to define the procedural prerequisites for filing of documents under seal. This rule is not intended to expand or limit the confidentiality concerns that might justify special treatment of any document. The rule is intended to make it clear that filing parties do not have a unilateral right to designate any filing as confidential, and that permission from the court is required. This permission may flow from a statute or rule explicitly requiring that a particular document or portion of a document be filed confidentially or from a court order that documents be filed under seal. Rule 112 of the Minnesota Rules of Civil Appellate Procedure contains useful guidance on how confidential information can be handled. Where documents contain both confidential and non-confidential information, it may be appropriate to file redacted "public" versions of documents filed under seal.

Advisory Committee Comment - 2015 Amendments

The amendments to Rule 11 are intended to advance the important interests in preventing the filing of confidential and sensitive information in publicly accessible court files. The amendment to Rule 11.02(a) reminds filers that the best way to prevent public access to sensitive personal information is not to file it with the court unless needed. If a Social Security number, financial institution record, home address, and any other information defined to be a restricted identifier under the rule is not required for the adjudication of a matter before the court, simply omitting it from the filing prevents any further risk of disclosure. If the information is necessary, then using the other procedures of Rule 11.02 is necessary. The consequences of failing to comply with the rule include sanctions against the filer, and if failure to follow the rule causes injury to any person, an action for damages may lie.

There are very few statutes that require the filing of restricted identifiers. They may be required in certain family child support cases, see Minnesota Statutes, sections 256.87, subdivision 1a; 257.66, subdivision 3; 518.10; 518A.56; and United States Code, title 42, section 666(a)(13), which currently require the court to identify the parties by Social Security number. Minnesota Statutes, section 548.101, requires the disclosure of the last four digits of a debtor's Social Security number, if known, in cases involving assigned consumer debt. Social Security numbers were required for filings to commence informal probate or appointment proceedings until 2006. See Minnesota Laws 2006, chapter 221, section 20, amending Minnesota Statutes, section 524.3-301.

Rule 11.02(c) is new and provides that filing constitutes certification that the document does not contain unauthorized restricted identifiers. For documents filed electronically, this certification may additionally be made explicitly by checking the appropriate box on a screen that will be

incorporated into the e-filing process. See also Rule 14.06. As is true for other rules, failure to follow the rule, or the making of a false certification, may warrant the imposition of sanctions as may be authorized by other rules or under the court's inherent power.

Rule 11.06 is intended to provide important guidance on when documents may be filed as confidential or under seal. The rule permits these filings in only three circumstances. As part of the implementation of this rule, filers should expect that the E-Filing System of the court will ask the filer to specify which basis for filing as confidential or under seal is being relied upon for that filing. If an order in the case, statute, or court rule does not expressly permit or require filing of the document under seal or as confidential, a motion must be brought to request approval of filing that document under seal or as confidential not later than the time of filing.

Rule 11.06 specifies the procedure used by a filer for filing under seal or as confidential. Additionally, the court can at any time treat a document containing restricted identifiers as confidential until the parties or court can ensure the document properly conforms to the requirements of Rule 11.

Advisory Committee Comment - 2020 Amendments

Rule 11.01 is modified in 2020 to clarify the definition of financial account number, which has caused much confusion. Several important limitations are added. One is that only numbers that can be used by someone other than those authorized to access the account to obtain access to the account for unauthorized transactions are considered financial account numbers. The other limitation excludes any billing number issued by a government entity that is publicly accessible and these numbers are not a financial account number under this rule. For the convenience of filers, the state court administrator maintains a non-exclusive list of examples of financial account numbers on the judicial branch website (www.mncourts.gov). These changes will avoid an overbroad reading of the rule that some courts have adopted in regard to similar rules. See, e.g., In re Chubb, 426 B.R. 695, 699-700 (Bankr. E.D. Mich. 2010) (finding the twelve digit account number on statement of account that clearly and obviously relates to debtor's finances by identifying a debt is enough to bring it within the rule, without any showing that the information in question could be used to steal one's identity or be misused for some other purpose).

Rule 11.03 is amended in 2020 to expand the use of a required cover sheet that previously applied only to Financial Source Documents and now applies to all non-public documents being filed. The requirement applies to those filing electronically or on paper. The cover sheet itself serves as a guide to trigger filers' attention to certain non-public documents and information and sources of the same including the Rules of Public Access to Records of the Judicial Branch. By requiring a cover sheet for each individual document that is non-public, the cover sheet also serves to avoid the electronic filing of so-called "monster" documents. A monster document might contain, for example, a motion, notice of motion, affidavit, and any of a number of attachments all submitted as a single PDF document. The problem with monster documents is that if just one of the attachments is non-public, such as a medical record, then court staff must either keep the entire monster document non-public, which means the public is denied access to documents that it should be able to access, or court staff must separate out the attachments, which places an impossible burden on court staff. Filers are directed in the Registered User Guide, applicable to e-filers under Gen. R. Prac. 14.03(g), to separate documents, in particular the nonpublic documents, when e-filing them. The separate documents can be submitted in the same electronic envelope, just like a handful of separate paper documents can be placed in the same paper envelope, for filing.

Use of the new Cover Sheet for Non-Public Documents can be avoided only if the document is being e-filed and a filing code already exists in the E-Filing System that is specifically assigned by state court administration as the filing code for a particular type of non-public document. The filing

code appears in the E-Filing System with the words "Select Filing Code" followed by a drop down box when a filer selects the most appropriate code for each individual document being filed. The filing code for a nonpublic document, such as a pre-sentence investigation report in a criminal case, serves the same purpose as, and becomes the electronic equivalent of, the Non-Public Document Cover Sheet. Just like a cover sheet, the filing code transfers from the E-Filing System to the case management system (known as MNCIS). The state court administrator's office publishes commonly used filing codes on the main branch website (go to www.mncourts.gov and look for "Civil Case type Index (also includes Civil Case Filing Codes)," "Expedited Process Child Support Filing Codes Index," and "Criminal and Juvenile Delinquency Filing Codes Index").

In addition to filing the separate Form 11.2 Cover Sheet for Non-Public Documents or selecting a nonpublic document filing code, under Rule 14.06 a filer must also designate in the E-filing System whether the document is Confidential or Sealed. This designation is made in the E-Filing System in a field marked "Filing Comments" with a box beneath it asking "Is Document Public, Confidential, or Sealed?" Although this designation may seem redundant, filers need to remember that the cover sheet is intended to work in both the paper and electronic filing context. When an electronic filer selects a filing code for a non-public document as an alternative to the cover sheet, the filer will not see anything in the filing process marking the document as confidential or sealed. Accordingly, there must be a separate step to make this clear for each document being electronically filed. For a walk-through of the e-filing process illustrating the Select Filing Code location and the Filing Comments entry box, go to the main branch website at www.mncourts.gov/efile and search for the Quick Reference Guide (QRG) titled "eFiling and eService into an Existing Case."

Rule 11 is also amended in 2020 to carve out certain exceptions in scope and enforcement impacting child protection, criminal, and juvenile delinquency case records. Rule 11.03(a) provides that juvenile protection filings that contain confidential information and confidential documents must be filed as provided in Rule 8.04 of the Rules of Juvenile Protection Procedure. This language is intended to preserve the current practice for juvenile protection cases: restricted identifiers are subject to the same rules as in other cases, while other types of confidential information and documents are governed by Juvenile Protection Rule 8.04. Juvenile Protection Rule 8.04, subdivision 5(d), provides that if it is brought to the attention of court administration staff that confidential information or confidential documents have not been filed with the proper form, court administration staff shall designate the document as confidential, and direct the filer to file in compliance with Rule 8.04.

Rule 11.08 makes Rule 11 inapplicable to search warrants and related documents filed by law enforcement but requires the same records filed by parties to comply with Rule 11. Regarding enforcement, criminal, civil commitment, and juvenile delinquency matters are exempted from striking of documents under Rule 11.05, and exempted from rejection of documents in Rule 14.03(b), for violations of Rule 11.

Rule 12. Requirement for Comparable Means of Service

Except where e-filing and e-service is required by court order or rule, the parties may file and serve by any available method, but must select comparable means of service and filing so that the documents are delivered substantially contemporaneously. This rule does not apply to service of a summons or a subpoena. Pleadings and other documents need not be filed until required by Minn. R. Civ. P. 5.05 and motions for sanctions may not be filed before the time allowed by Minn. R. Civ. P. 11.03(a).

In emergency situations, where compliance with this rule is not possible, the facts of attempted compliance must be provided by affidavit.

(Added effective March 1, 2009; amended effective January 1, 2010; amended effective July 1, 2015.)

Advisory Committee Comment - 2008 Amendment

Rule 12 is a new rule, recommended to codify a longstanding practice of professional courtesy: that papers served both to the court and to the other party be served and filed by comparable means. The rule does not require that the same means be used; but if hand delivery to the court is chosen for filing, then either hand delivery, overnight courier sent the day before, or facsimile transmission to other party must be used. The measure of compliance is approximate simultaneity; the purpose of the rule is to discourage gameplaying over service. Fairness requires that service and filing occur at about the same time; delivering papers immediately to the court and then serving them leisurely upon counsel is not justified and in some cases is not fair.

Advisory Committee Comment - 2009 Amendment

Rule 12 is amended to add the last sentence of the first paragraph. The amendment is intended to clarify that the rule does not modify two facets of practice established before its adoption. It does not require that pleadings be filed before the time allowed under Rule 5.05, which generally makes it unnecessary to file pleadings until after a party files a pleading, thereby opening a court file. This rule is a part of Minnesota's "hip-pocket" service regime as established by Minn. R. Civ. P. 3 and 11 contains a 21-day "safe harbor" provision, requiring service of a motion for sanctions but prohibiting filing of the motion for 21 days. The amendment to Rule 12 of the general rules was not intended to modify that important provision.

Advisory Committee Comment - 2015 Amendments

The amendment to Rule 12 is intended to retain the existing rule requiring that parties serve and file documents by comparable means, but adapts it to specify that if e-filing or e-service are required, then those methods must be used. This rule is intended to eliminate strategic maneuvering with service, and attorneys and self-represented litigants should expect that this rule will be interpreted to penalize attempts to gain some perceived advantage over other parties by serving and filing by different means.

A self-represented litigant who elects not to use the E-Filing System may expect that an opposing attorney may e-file a document with the court and serve it by U.S. mail on the self-represented litigant on the same day. In this circumstance, the filing will precede the service, which is permitted under the rule as the attorney is required to use the E-Filing System to file the document.

Rule 13. Requirement to Provide Notice of Current Address

Rule 13.01 Duty to Provide Notice

In all actions, it is the responsibility of the parties, or their counsel of record, to provide notice to all other parties and to the court administrator of their current address for delivery of notices, orders, and other documents in the case. Where a party or a party's attorney has provided an e-mail address for the purpose of allowing service or filing, this rule also requires that the party advise the court and all parties of any change in that e-mail address. Failure to provide this notice constitutes waiver of the right to notice until a current address is provided.

(Added effective January 1, 2010; amended effective September 1, 2012.)

Rule 13.02 Elimination of Requirement to Provide Notice to Lapsed Address

In the event notices, pleadings or other documents are returned by the postal service or noted as undelivered or unopened by the e-mail system after the court administrator's mailing (or e-mailing where authorized by rule) to a party or attorney's address of record on two separate occasions, the administrator should make reasonable efforts to obtain a valid, current address. If those efforts are not successful, the administrator may omit making further United States Mail transmissions to that party or attorney in that action, and shall place appropriate notice in the court file or docket indicating that notices are not being mailed to all parties.

(Added effective January 1, 2010; amended effective September 1, 2012.)

Advisory Committee Comment - 2009 Amendment

Rule 13 is a new rule intended to make explicit what has heretofore been expected of parties and their counsel: to keep the court apprised of a current address for mailing notices, orders, and other papers routinely mailed by the administrator to all parties. Where the court does not have a valid address, evidenced by two returned mailings, and cannot readily determine the correct address, the rule makes it unnecessary for the administrator to continue the futile mailing of additional papers until the party or attorney provides a current address.

The purpose of this rule is to require meaningful notice. If a party is a participant in the Secretary of State's address confidentiality program, there is no reason not to permit the use of that address to satisfy the requirement of this rule. See Minnesota Statutes 2008, sections 5B.01 to 5B.09.

Advisory Committee Comment - 2012 Amendment

Rule 13.01 is amended to add the requirement that a party or attorney provide an updated e-mail address any time an attorney or party has submitted an e-mail address to the court. This change is intended to ensure that e-noticing under Minn. R. Civ. P. 77.04 and electronic filing and service under the rules will function and provide meaningful notice. Rule 13.02 is amended to make it clear that the giving of e-mail notice will not be ended upon two unsuccessful attempts to serve or notify by e-mail. The committee believes that there is no compelling reason to stop e-mailed notices given the minimal additional cost of continuing them.

Rule 14. E-Filing and E-Service

Rule 14.01 Mandatory and Voluntary E-File and E-Service

(a) **Definitions.** For purposes of the General Rules of Practice, unless otherwise indicated, the following terms have the following meanings:

(1) "Confidential document" (which may include "Confidential 1" and "Confidential 2," etc., as available and defined by the E-Filing System document security classifications) means a document that will not be accessible to the public, but will be accessible to court staff and, where applicable, to certain governmental entities as authorized by law, court rule, or court order.

(2) "Conventionally" means, with respect to the filing or serving of documents or other materials, the filing or serving of documents or other materials through any means other than through the E-Filing System in accordance with Rule 14.

(3) "Court Integration Services" means computer systems that allow direct computer-system-to-computer-system integrations to facilitate the electronic exchange of documents and data between the court's electronic case management system and a government agency's electronic information

system. Government agencies may register for Court Integration Services under the process established by the state court administrator.

(4) "Designated Provider" means the electronic filing service provider designated by the state court administrator.

(5) "Designated e-mail address" shall have the meaning set forth in rule 14.02(a).

(6) "E-Filing System" means the Designated Provider's Internet-accessible electronic filing and service system.

(7) "Electronic means" means transmission using computers or similar means of transmitting documents electronically, including facsimile transmission.

(8) "Registered User" means a person registered with the Designated Provider and authorized to file and serve documents electronically through the E-Filing System under these rules.

(9) "Sealed document" means a document that will not be accessible to the public but will be accessible to court staff with only the highest security level clearance.

(10) "Select Users" means the following appearing or submitting documents in a case:

(i) Attorney;

(ii) Government agency (including a sheriff); and

(iii) Guardian ad litem.

(11) "Self-represented litigant" means an individual, other than a licensed attorney, who represents himself or herself in any case or proceeding before the court.

(b) **Scope and Effective Date of Mandatory and Voluntary E-File and E-Service.**

(1) **Cases Subject to Mandatory E-Filing and E-Service.** Effective July 1, 2015, unless otherwise required or authorized by these rules, other rules of court, or an order of the court, Select Users in any case in the Second Judicial District, Fourth Judicial District, and in the districts or portions thereof designated by the state court administrator, shall file all documents electronically with the court through the E-Filing System and shall serve documents electronically through the E-Filing System as required under Rule 14.03(d) of these rules.

Effective July 1, 2016, unless otherwise required or authorized by these rules, other rules of court, or an order of the court, Select Users in any case throughout the State of Minnesota shall file all documents electronically with the court through the E-Filing System and shall serve documents electronically through the E-Filing System as required under Rule 14.03(d) of these rules.

(2) **Prohibited E-Filing.** The following documents may not be filed electronically:

(i) Wills deposited for safekeeping under Minnesota Statutes, section 524.2-515 or original wills filed in probate cases under Rule 403(e); and

(ii) All documents in parental notification bypass proceedings under Minnesota Statutes, section 144.343.

(3) **Request for Exception to Mandatory E-File and E-Service Requirement.** A Select User required to file and serve electronically under this rule may request to be excused from mandatory e-filing and e-service in a particular case by motion to the Chief Judge of the judicial

district or his or her designee. An opt-out request may be granted for good cause shown. If an opt-out request is granted, court personnel shall scan all documents filed conventionally into the court's computer system and charge the filing party a $25 scanning fee for each 50 pages, or part thereof, of the filing.

(4) **Voluntary E-File and E-Serve.** Effective July 1, 2015, and ending July 1, 2016, Select Users designated by the state court administrator may, upon registering with the Designated Provider, electronically file documents with the court in the locations and cases designated by the state court administrator. In any designated case in which the designated and registered Select User has electronically filed a document with the district court, any other Select User designated by the state court administrator may also electronically file documents in the case after registering with the Designated Provider. Registered Select Users shall also electronically serve documents on other registered Select Users in such cases as required under Rule 14.03(d) of these rules.

(5) **Self-Represented Litigants Voluntary and Mandatory E-File and E-Serve.**

(i) Election to Use E-Filing System. Unless otherwise required or authorized by these rules, other rules of court, or an order of the court, in any county where electronic filing and service is authorized, a self-represented litigant may elect to use the E-Filing System to electronically file and serve. But unless otherwise ordered by the presiding judge or judicial officer, a self-represented litigant is not required to do so. Once a self-represented litigant has elected or been ordered to use the E-Filing System for filing and service and has become a Registered User, that individual must thereafter electronically file and serve all documents in that case unless otherwise required or authorized by these rules or the court, and shall be subject to all applicable requirements and obligations imposed upon Registered Users as set forth in these rules.

(ii) Excuse and Prohibition. A self-represented litigant who has elected to use the E-Filing System may be excused from the requirement to electronically file and serve only upon motion to the court and for good cause shown. If the court becomes aware of any misuse of the E-Filing System by a self-represented litigant or deems it appropriate in the exercise of discretion, considering the need for the just, speedy, and inexpensive determination of every action, the court may, without prior notice, revoke the self-represented litigant's right to use the E-Filing Sytem in the case and require the individual to file and serve all documents conventionally. Self-represented litigants are excused from using the E-Filing System while under any court-imposed restriction of access to use of the internet.

(iii) Case-Initiating Documents. Statutes or court rules may require that certain case-initiating documents be served by conventional means. See, e.g., Rule 5.02(b) of the rules of civil procedure (original complaint in civil cases).

(iv) Other Electronic Filing and Service Options. When authorized by order of the Supreme Court, self-represented litigants may use an alternative electronic filing system designated in such order. See, e.g., Order Authorizing E-Filing/E-Service Pilot Project for Self-Represented Petitioners, No. ADM10-8011, (Minn. filed June 24, 2013) (applicable to orders for protection and harassment restraining order proceedings in counties designated by the state court administrator; commonly referred to as the MyCourtMN portal).

(6) **Non-Party Participants.**

(i) Election to Use E-Filing System. In any county where electronic filing and service is authorized, individuals who are not Select Users or self-represented litigants (e.g., special masters, bondspersons, examiners, potential intervenors, etc.) but who need to submit documents to the court for filing may elect to use the E-Filing System and become a Registered User but unless

otherwise ordered by the presiding judge or judicial officer shall not be required to do so. Any individual or entity authorized to use the E-Filing System pursuant to this paragraph, who becomes a Registered User and transmits documents for filing or service through the E-Filing System shall be subject to all applicable requirements and obligations imposed upon Registered Users as set forth in these rules, and that individual must thereafter electronically file and serve all documents in that case unless otherwise required or authorized by these rules or the court.

(ii) Misuse. If the court becomes aware of any misuse of the E-Filing System by a non-party participant or deems it appropriate in the exercise of discretion, considering the need for the just, speedy, and inexpensive determination of every action, the court may, without prior notice, revoke the non-party participant's right to use the E-Filing System in the case and require the individual to file and serve all documents conventionally.

(7) **Court Integration Services.** Government agencies, as authorized by the state court administrator, shall be allowed to electronically file documents, electronically transmit data to the court, and electronically receive documents and data from the court, via Court Integration Services.

(8) **Conservators.** Conservators appointed by the court must electronically file their annual accounts and inventories using a computer application designated by the state court administrator. Directions for reporting shall be posted on the judicial branch website (www.mncourts.gov).

(c) **Relief from Operation of this Rule.**

(1) **Technical Errors; Relief for Sending Party.** Upon motion and a showing that electronic filing or electronic service of a document was not completed because of: (1) an error in the transmission of the document to the E-Filing System; (2) a failure of the E-Filing System to process the document when received; or (3) other technical problems experienced by the sending party or E-Filing System, the court may enter an order permitting the document to be deemed filed or served on the date and time it was first attempted to be transmitted electronically. If appropriate, the court may adjust the schedule for responding to these documents or the court's hearing.

(2) **Technical Errors; Relief for Other Parties.** Upon motion and a showing that an electronically served document was unavailable to or not received by a party served, the court may enter an order extending the time for responding to that document.

(Added effective September 1, 2012; amended effective September 16, 2013; amended effective July 1, 2015; amended effective July 1, 2016; amended effective September 1, 2018.)

Rule 14.02 Registration Process and Duty to Designate E-Mail Address for Service

(a) **Becoming a Registered User.** Only a Registered User may electronically file or serve documents through the E-Filing System. To become a Registered User, a Select User, self-represented litigant, or non-party participant must complete the registration process, as established by the state court administrator, and designate an e-mail address ("designated e-mail address") for receipt of electronic service and court notices. By registering with the Designated Provider and either electronically transmitting a document for filing in a case or designating an email address for receiving electronic service in the E-Filing System for the case, a Registered User consents to receive electronic service and court notices from the court and other Registered Users in the case through the E-Filing System at a designated e-mail address. This designated e-mail address may also be used by the court (but not other parties) to deliver notices by means other than the E-Filing System.

(b) **Obligations and Responsibilities of Registered Users.**

(1) A Registered User is responsible for all documents filed or served under the Registered User's username and password.

(2) If a Registered User knows that his or her login information has been misappropriated, misused, or compromised in any way, he or she must promptly notify the court and change his or her login password.

(3) Any electronic transmission, downloading, or viewing of an electronic document under a Registered User's login username and password shall be deemed to have been made with the authorization of that Registered User unless and until proven otherwise by a preponderance of the evidence.

(4) A Registered User shall maintain a designated e-mail address for receiving electronic service and court notices for the duration of any case in which he or she has electronically transmitted a document for filing as a party or participant and until all applicable appeal periods have expired. A Registered User shall ensure that his or her designated e-mail address and account is current, monitored regularly, has not exceeded its size limitation, and that all notices and document links transmitted to the designated e-mail account are timely opened and reviewed.

(5) A Registered User may not designate e-mail addresses for any other person or party who is not the Registered User's client, law firm staff, or co-counsel. The court may impose a sanction against any Registered User who violates this rule. It shall not be a violation for a Registered User when filing or serving documents using the E-Filing System to select service recipients who have been added to the service list for a case by another Registered User.

(Added effective September 1, 2012; amended effective July 1, 2015; amended effective September 1, 2018.)

Rule 14.03 Filing and Service of Documents and Court Notices

(a) **Availability of E-Filing System.** Registered Users may electronically transmit documents for filing or service through the E-Filing System 24 hours a day, 7 days a week, except when the system is unavailable due to breakdown or scheduled maintenance.

(b) **Filed Upon Transmittal.** A document that is electronically filed is deemed to have been filed by the court administrator on the date and time of its transmittal to the court through the E-Filing System, and except for proposed orders, the filing shall be stamped with this date and time if it is subsequently accepted by the court administrator. Acceptance of electronic filings is governed by Rule 5.04(c) of the Rules of Civil Procedure, except that Rule 5.04(c)(4) shall not apply to criminal, civil commitment, juvenile protection, or juvenile delinquency cases, or to medical records in any type of case. If the filing is not subsequently accepted by the court administrator, no date stamp shall be applied, and the E-Filing System shall notify the filer that the filing was not accepted. Upon receipt of a document electronically transmitted for filing by a Registered User, the E-Filing System shall confirm to the Registered User, through an automatically generated notification to the Registered User's designated e-mail address, that the transmission of the document was completed and the date and time of the document's receipt. Absent confirmation of receipt, there is no presumption that the document was successfully transmitted to the court. The Registered User is solely responsible for verifying that the court received all electronically transmitted documents.

(c) **Effective Time of Filing.** Any document electronically transmitted to the court through the E-Filing System for filing by 11:59 p.m. local Minnesota time shall be deemed filed on that date, so long as the document is not subsequently rejected for filing by the court administrator for a reason authorized by Rule 5.04 of the Rules of Civil Procedure. Filing by facsimile transmission, where authorized, is effective at the time the transmission is received by the court.

(d) **Service by Registered Users.** Unless personal service is otherwise required by statute, these rules, other rules of court, or an order of the court, a Registered User shall serve all documents required or permitted to be served upon another party or person in the following manner:

(1) **Service on Registered Users.** Except as otherwise permitted in subpart (3) below, where the party or person to be served is a Registered User, who has either electronically filed a document in the case or designated an email address for receiving electronic service in the E-Filing system for the case and the Court has accepted the initial filing in the case, service shall be accomplished through the E-Filing System by utilizing the electronic service function of the E-Filing System.

(2) **Service on Other Parties or Participants.** Where the party or participant to be served is not a Registered User or has not either designated an email address for receiving electronic service in the E-Filing system for the case or electronically filed a document in the case but has agreed to service by electronic means outside the E-Filing System (such as by e-mail), service may be made in the agreed upon manner. The presiding judge or judicial officer may also order that service on the non-Registered User be made by electronic means outside of the E-Filing System. Where service by electronic means is not required or permitted, another method of service authorized under applicable rules or law must be used.

(3) **Service of Discovery Material.** Unless required by court order, electronic service of discovery material through the E-Filing System shall be voluntary, and discovery material may be served in any manner authorized by the court rules, as agreed by the parties, or as ordered by the court. For purposes of this rule, discovery material includes but is not limited to:

(i) disclosures under Minn. R. Civ. P. 26, expert disclosures and reports, depositions and interrogatories, requests for documents, requests for admission, answers and responses thereto, and any other material as designated by the presiding judge or judicial officer; and

(ii) discovery requests and responses as defined in any applicable court rules; and

(iii) any other material as designated by the presiding judge or judicial officer.

(e) **Effective Date of Service.** Service is complete upon completion of the electronic transmission of the document to the E-Filing System notwithstanding whether the document is subsequently rejected for filing by the court administrator. Service by facsimile transmission, where authorized, is complete upon the completion of the facsimile transmission.

(f) **Court Notices.** The court may transmit any document or notice to a Registered User through the E-Filing System. Notice is effective upon transmission of the document or notice to the E-Filing System by the court. The court may also transmit notices outside the E-Filing System as provided in Rule 14.02(a) or other applicable rules.

(g) **Document Requirements and Format.** Unless otherwise authorized by these rules or court order, all documents filed electronically shall conform to the document technical and size requirements as established by the state court administrator in the *Minnesota District Court Registered User Guide for Electronic Filing*. The *Guide* shall be posted on the judicial branch website (www.mncourts.gov).

(h) **Non-Conforming Documents.** Where it is not feasible for a Registered User to convert a document to an authorized electronic form by scanning, imaging, or other means, or where a document cannot reasonably be transmitted through the E-Filing System in conformance with the document's technical and size requirements as established by the state court administrator, the court may allow the Registered User to file the document conventionally. A motion to file a non-conforming document must be filed electronically. If the court grants the Registered User's motion

to file a non-conforming document, the Registered User shall file and serve the non-conforming document conventionally.

(Added effective September 1, 2012; amended effective September 16, 2013; amended effective July 1, 2015; amended effective September 1, 2018; amended effective January 1, 2021.)

Advisory Committee Comment - 2018 Amendments

Rule 14.03(d) is amended in 2018 to address issues relating to service using the e-filing system of the courts.

Rule 14.04 Signatures

(a) **Judge and Administrator Signatures.** All electronically filed and served documents that require a judge's, judicial officer's, or court administrator's signature shall either capture the signature electronically under a process approved by the state court administrator pursuant to judicial branch policy or begin with a handwritten signature on paper that is then converted to electronic form by scanning, imaging, or other means such that the final electronic document has the judge's, judicial officer's, or court administrator's signature depicted thereon. The final electronic document shall constitute an original.

(b) **Registered User and Non-Registered User Signatures.**

(1) **Registered Users.** Every document electronically filed or served through the E-Filing System that requires the signature of the Registered User filing or serving the document shall be deemed to have been signed by the Registered User and shall bear the facsimile or typographical signature of such person, along with the typed name, address, telephone number, designated e-mail address, and, if applicable, attorney registration number of a signing attorney. The typographical or facsimile signatures of a Registered User shall be considered the functional equivalent of an original, handwritten signature produced on paper. A typographical signature shall be in the form: */s/ Pat L. Smith*.

(2) **Non-Registered Users.** Any document electronically filed or served through the E-Filing System that requires the signature of a person who is not the Registered User filing or serving the document shall bear the typed name, along with the facsimile or typographical signature, of such person. The person's typographical or facsimile signature shall be considered the functional equivalent of an original, handwritten signature produced on paper. A typographical signature shall be in the form: */s/ Pat L. Smith*.

(c) **Notary Signature, Stamp.** Unless specifically required by court rule, documents, including affidavits, electronically filed or served through the E-Filing System are not required to be notarized. Where a signature under penalty of perjury is otherwise required, the provisions of part (d) of this rule apply. A document electronically filed or served through the E-Filing System that by court rule, specifically requires a signature of a notary public shall be deemed signed by the notary public if, before filing or service, the notary public has signed a printed or electronic form of the document and the electronically filed or served document bears a facsimile or typographical notary signature and stamp.

(d) **Perjury Penalty Acknowledgment.** A document electronically filed or served through the E-Filing System that requires a signature under penalty of perjury may, with the same force and effect and in lieu of an oath, be supported by an unsworn declaration, provided that the typographical or facsimile signature of the declarant is affixed immediately below a declaration using substantially the following language: "I declare under penalty of perjury that everything I have stated in this

document is true and correct." In addition to the signature, the date of signing and the county and state where the document was signed shall be noted on the document.

(e) **Certification; Retention.** By electronically filing or serving a document through the E-Filing System, the Registered User is certifying compliance with the signature requirements of these rules for all signatures on the document, and the signatures on the document shall be considered the functional equivalent of original, handwritten signatures produced on paper.

(Added effective September 1, 2012; amended effective July 1, 2015.)

Rule 14.05 Proof of Service

When a document is both eFiled and eServed together using the E-Filing system, the records of the E-Filing system indicating transmittal to the Registered User recipient shall be sufficient proof of service on the recipient for all purposes.

(Added effective September 1, 2012; amended effective July 1, 2015; amended effective January 1, 2021.)

Rule 14.06 Submission of Non-Public Information–E-Filing System

(a) **Filer's Duty to Designate as Confidential or Sealed.** In addition to filing a separate non-public cover sheet as required in Rule 11.03(a) or selecting a non-public document filing code from a drop-down box in the E-Filing system as required in Rule 11.03(a)(ii), a Registered User electronically filing a document that is not accessible to the public in whole or in part under the Rules of Public Access to Records of the Judicial Branch or other applicable law, court rules or court order, is responsible for designating that document as confidential or sealed in the E-Filing System before transmitting it to the court. This designation is made in the E-Filing system in a field marked "Filing Comments" containing the text, "Is Document Public, Confidential or Sealed?" The Registered User must file any Form 11.2 Cover Sheet for Non-Public Documents required by Rule 11.03(a)(i) as separate documents, and must designate them as public. The Registered User must separate all non-public documents from public documents when filing.

(b) **Correction of Designation by the Court.** Upon review, the court may modify the designation of any document incorrectly designated as confidential or sealed and shall provide prompt notice of any such change to the Registered User who filed the document. A Registered User must seek advance approval from the court to transmit a document for filing designated as confidential or sealed if that document is not already inaccessible to the public under the Rules of Public Access to Records of the Judicial Branch or other applicable law, court rules, or court order.

(c) **Filing Confidential or Sealed Document in Paper Form When Not Seeking In Camera Review.** A document to be filed as confidential or under seal may be filed in paper form if required or permitted by the court. A motion to file a document in paper form as confidential or under seal must be filed and served electronically.

(Added effective September 1, 2012; amended effective July 1, 2015; amended effective July 1, 2019; amended effective January 1, 2021.)

Advisory Committee Comment - 2019 Amendment

Rule 14.06 is amended in 2019 to improve readability and clarify the process for submitting motions under the rule. An "in camera" review is defined as "[i]n the judge's private chambers" or "[i]n the courtroom with all spectators excluded." Black's Law Dictionary 763 (7th ed. 1999).

Rule 14.07 Procedures for In Camera Review

(a) **Request To Submit Document for In Camera Review.** Any interested person must seek and obtain advance approval from the court by motion, with notice thereof to all parties, to submit a document to the court for in camera review. The motion must be filed and served electronically.

(b) **Process When Submission for In Camera Review Granted.** A document submitted for in camera review as permitted by the court under part (a) of this rule shall be submitted to the court outside the E-Filing System by either:

(1) causing the document to be conventionally mailed or hand-delivered to the presiding judge or judicial officer; or

(2) upon approval of the presiding judge or judicial officer, transmitting the document to the presiding judge or judicial officer, via e-mail, as an attachment to an e-mail address as directed by the presiding judge or judicial officer. Any document submitted for in camera review must be clearly labeled "For In Camera Review" and, unless otherwise ordered by the court, shall be sealed and preserved as a court exhibit.

(Added effective January 1, 2021.)

Rule 14.08 Records: Official; Appeal; Certified Copies

Documents electronically filed and paper documents conventionally filed but converted into electronic form by the court are official court records for all purposes. Certified copies may be issued in the conventional manner or in any manner authorized by law, provided that no certified copies shall be made of any proposed orders. Unless otherwise provided in these rules or by court order, a conventionally filed paper document need not be maintained or retained by the court after the court digitizes, records, scans, or otherwise reproduces the document into an electronic record, document, or image.

(Added effective September 1, 2012; amended effective July 1, 2015; renumbered effective January 1, 2021.)

Advisory Committee Comment - 2012 Amendment

Rule 14 is a new rule, drafted to provide a uniform structure for implementation of e-filing and e-service in the district courts. The rule is derived in substantial part, with modification, from the Judicial District E-Filing Pilot Project Provisions, adopted by the Minnesota Supreme Court on October 21, 2010, and amended on March 10, 2011.

Rule 14.01 defines the cases that are subject to mandatory e-filing and e-service. This rule is intended to evolve by amendment by order of the supreme court as additional case categories or additional judicial districts are added to the pilot project. The other requirements for e-filing and e-service are not intended to see frequent amendment, and the committee believes the rules for e-filing and e-service, when authorized, should be maintained as uniform rules statewide.

Rule 14.01(d) provides for requests to be excused from required use of e-filing and e-service, and creates a "good cause" standard for granting that relief. There are few circumstances where the court should grant exemption from the requirements.

Because cases in Minnesota may be commenced by service rather than by filing with the court, the use of e-service under the court's system is possible only after the action has been commenced and is filed, and service may then be effected electronically only on an attorney or party who registers with the system and provides an e-mail address at which service from other parties and notices from the court can be delivered. Rule 14.02 sets forth this procedure. Rule 13.01 imposes

an affirmative duty on parties and their attorneys to advise the court of any changes in their address, including their e-mail address.

The format requirements for documents are superficially the same as for other documents - they should be based on an 8-1/2 by 11 inch format, with a caption at the top and signature block at the end. But they are in fact filed as electronic records on a computer service and served on other parties by e-mail. Rule 14.03 defines the available electronic format for these documents and other requirements applicable to e-filed and e-served documents.

Rule 14.04 establishes the means by which electronic documents are "signed." The rule explicitly states the standard that e-filed and e-served documents as they reside on the computer system used by the court constitute originals, and are not mere copies of documents. The rule does not require the signing or retention of a paper copy of any filed document. It may be prudent for a litigant to maintain copies of these documents as duplicate originals in some limited circumstances, such as where an affidavit is signed by a non-party who may not be available if a dispute were to arise over authenticity.

Rule 14.06 establishes a specific procedure for filing electronic documents that either contain confidential information or are filed under seal. This rule establishes the requirements for electronic documents that are consistent with the requirements in Rule 11.06. Neither rule is intended to expand or limit the confidentiality concerns that might justify special treatment of any document. Under Rule 11.06, filing parties do not have a unilateral right to designate any filing as confidential, and prior permission in some form is required. This permission may flow from a statute or rule explicitly requiring that a particular document or portion of a document be filed confidentially or from a court order that documents be filed under seal. Rule 112 of the Minnesota Rules of Civil Appellate Procedure contains useful guidance on how confidential information can be handled. Where documents contain both confidential and non-confidential information, it may be appropriate to file redacted "public" versions of confidential or sealed documents.

Rule 14.06 also permits a party to seek either permission or a requirement that certain sealed or confidential documents be filed in paper format. This provision recognizes that certain information may be so sensitive or valuable that placing it in a sealed envelope with a clear warning that it is not to be opened except by court order may be the appropriate means to assure confidentiality.

The security designations "confidential" and "sealed" reflect the security classifications available in the courts case management system. In addition to court staff access, some confidential documents (e.g., in Domestic Violence, Juvenile Delinquency, and Parent/Child relationship cases) may be accessible to certain government entities who have demonstrated a need for access and have signed appropriate nondisclosure agreements. See, e.g., Rule 8, subd. 4(b), of the Rules of Public Access to Records of the Judicial Branch (authorizing access by county attorneys and public defenders, among others).

Pursuant to Minn. R. Civ. P. 5.06, a document that is electronically filed is deemed to have been filed by the court administrator on the date and time of its transmittal to the District Court through the E-Filing System, and the filing shall be stamped with this date and time subject to acceptance by the court administrator. If the filing is not subsequently accepted by the court administrator for reasons authorized by Minn. R. Civ. P. 5.04, the date stamp shall be removed and the document electronically returned to the person who filed it.

Advisory Committee Comment - 2015 Amendments

The amendments to Rule 14 address several important aspects of the use of the court's e-filing and e-service system. This rule is the workhorse rule for implementation of e-filing and e-service, and governs in all courts and types of cases where e-filing is either required or permitted.

It is worthwhile to understand the reason for "required or permitted" language in the rules. As a means to accomplish orderly and efficient transition to judicial branch-wide requirement for e-filing and e-service, the courts have generally begun with permissive use of e-filing and e-service for a subset of the court's business. The courts have then gradually moved to mandatory use in these matters, by all attorney filers.

Several of the changes are not substantive in nature or intended effect. The replacement of "paper" with "document" is made throughout these rules, and simply advances precision in choice of language. Most documents will not be filed as "paper" documents, so paper is retired as a descriptor of them. "Self-represented litigant" is being used uniformly throughout the judicial branch, and is preferable to "non-represented party" and "pro se party," both to avoid a Latin phrase not used outside legal jargon and to facilitate the drafting of clearer rules.

Rule 14.01(a) is amended to update the definitions, and includes terms previously defined in Rule 14.06. The term "Self-Represented Litigant" is defined and is used in preference to "pro se party" to use a term more readily understood. The rule also makes it clear that only non-lawyers are treated as "Self-Represented Litigants." A lawyer who is licensed to practice, is a party to a case, and is not otherwise represented is treated as a represented party.

Rule 14.01(b) is updated to establish the current status of electronic filing and electronic service, and to provide for the expanding requirements for use of the electronic means for these functions. The rule implements a clear mandate that represented parties and government agencies must serve and file using the court's system unless otherwise provided by rule or order. Government agencies here would include governmental parties to litigation and other agencies, such as a county sheriff's office, that are regularly involved in the litigation process.

Rule 14.03(d)(2) recognizes that any means of service may suffice under the rules if the party to be served has consented to its use. Thus, service by e-mail outside the court's system is acceptable and effective if the parties have consented to it. In the event a stipulation is made on this subject, however, the parties should specify when that service is effective, as the rules may not establish that date or time. Although there is virtually no limit on how service could be effected with consent of the party being served, in the absence of consent only the methods explicitly authorized by the rules are effective. Rule 14.03(d)(2) deals particularly with special categories of cases where there typically are non-party participants, such as non-party guardians ad litem, probation officers or other court services personnel, victim advocates, or similar interested persons.

The effective date for service is important for most documents. Rule 14.03(e) provides the default rule for most service events. In the event the E-Filing System is not available, Rule 14.01(c) may provide some relief to a party who might otherwise miss a deadline. Rule 14.03(f) recognizes that courts may wish to provide notices to the parties by e-mail without using the court's E-Filing System. This desire is driven by a lack of integration between the court's MNCIS case management system and the e-serve function in the court's E-Filing System. Where the notice is substantively important, such as in child support magistrate cases where the date and time of notice begins the appeal period, the courts should avoid giving formal notices outside the e-service system. Efforts should be made by the courts to remove any barriers to use of the E-Filing System by court personnel since that process will be understood by the parties and generates a record that may be of interest to the parties.

Rule 14.06 is amended to delete the definitions of how various confidential and sealed records will be accessible within the judiciary. These definitions are now set forth in Rule 14.01(a), along with other definitions.

Rule 14.07 is amended to make it clear that even when documents are filed in paper form, the court may scan and digitize their content, and retain only the electronic record of the filing. Ultimately, the duration of retention of that electronic record will be governed by the court's record retention schedule. See District Court Record Retention Schedule 2014, published on the main Minnesota Courts website, www.mncourts.gov, under "Justice Partner Resources."

Advisory Committee Comment - 2020 Amendments

Rule 14 is modified in 2020 to separate its related in camera review portions and move them to a new rule, 14.07, and renumber current 14.07 as 14.08. Changes are also made to clarify the process for designating non-public documents being e-filed as Confidential or Sealed and distinguish that process from selection of a filing code under Rule l l.03(a)(ii). See the comments under Rule 11 for a full description. Changes are also made to Rule l4.03(b) to recognize an exemption to rejection of filings in criminal, commitment, juvenile protection, and juvenile delinquency matters for violations of Rule 11; Rule 11 also exempts most of these cases from striking of filings in Rule 11.05. See Rule 11 and its comments for a full description.

Rule 15. Affidavits

Unless otherwise specified in any court rule, the term "affidavit" means:

(a) a document that has been signed, sworn, and notarized; and

(b) a document that has been signed under penalty of perjury pursuant to Minnesota Statutes, section 358.116, provided that the signature is affixed immediately below a declaration using substantially the following language: "I declare under penalty of perjury that everything I have stated in this document is true and correct." In addition to the signature, the date of signing and the county and state where the document was signed shall be noted on the document.

(Added effective July 1, 2015.)

Advisory Committee Comment - 2015 Amendments

Rule 15 is a new rule, included to address issues relating to the adoption of Minnesota Statutes, section 358.116 (2014) (codifying Minnesota Laws 2014, chapter 204, section 3). The statute allows the courts to require specifically, by rule, that notarization is necessary for particular situations. This rule is intended to improve public access to the courts by removing what may be an unnecessarily difficult obstacle - obtaining a notarization of a signature.

Subdivision (a) of the rule applies to any document that is "signed, sworn, and notarized." This category includes documents signed and sworn to before ex officio notaries, such as deputy court administrators. See Minnesota Statutes, section 358.15. It would also apply to affidavits signed outside Minnesota to the extent authorized by statute. See Minnesota Statutes, sections 358.46 to 358.48.

Rule 16. Pagination of Court Filings and Exhibits

Each document filed with the court must, to the extent feasible, be consecutively paginated from beginning to end, including any attachments. Trial or other exhibits must be similarly numbered.

(Added effective July 1, 2015.)

Advisory Committee Comment - 2015 Amendments

Rule 16 is a new rule intended to create a uniform practice in the submission of documents to the court in all types of cases. The goal is that any part of the record will be able to be identified

by either its title or a unique docket number and a single, serial, page number. Documents should begin on the first page as it is filed or served as page 1 and should continue in sequence to the last page of the document's attachments, if any. (Attachments should be numbered in sequence, and without beginning a new sequence for any attachments.)

The rule does not dictate the location for page numbers, but they should normally be placed at the bottom of the page in a consistent place, either centered or in the lower right hand corner. The best location may vary to obviate obscuring any important information on the document. Placing numbers unduly close to the edge of the document may result in removal or truncation of the number in imaging or duplication, so a reasonable margin should be used. The rule does not require any format or process for applying the required page numbers.

This rule is intended to allow counsel, trial courts, and the appellate courts to locate portions of the record easily and with accuracy. The rule applies to all documents, but will be particularly valuable for affidavits with numerous attachments or trial exhibits that are not already paginated. Compliance with the rule will make it possible to avoid lengthy dialogue to get the court and counsel all on the correct page of a lengthy exhibit.

APPENDIX OF FORMS

Forms Transfer to Web Site. The following forms are deleted from the Court Rules and shall be maintained by State Court Administration on the Court's Web site. The forms, together with other court forms, can be found at http://www.mncourts.gov.

1. Form 5, Pro Hac Vice

2. Form 11.1, Confidential Information Form

3. Form 11.2, Sealed Financial Source Documents Cover Sheet

TITLE II - RULES GOVERNING CIVIL ACTIONS

PART A. PLEADINGS, PARTIES, AND LAWYERS

Rule 101. Scope of Rules

Rules 101 through 145 shall apply in all civil actions, except those governed by the Rules of Juvenile Procedure.

Rule 102. [Renumbered Rule 6.]

Rule 103. [Renumbered Rule 7.]

Rule 104. Civil Cover Sheet and Certificate of Representation and Parties

Except as otherwise provided in these rules for specific types of cases and in cases where the action is commenced by filing by operation of statute, a party filing a civil case shall, at the time of filing, notify the court administrator in writing of:

(a) If the case is a family case or a civil case listed in Rule 111.01 of this rule, the name, postal address, e-mail address, and telephone number of all counsel and self-represented litigants, if known, in a Certificate of Representation and Parties (see Form CIV102 promulgated by the state court administrator and published on the website www.mncourts.gov) or

(b) If the case is a non-family civil case other than those listed in Rule 111.01, basic information about the case in a Civil Cover Sheet (see Form CIV117 promulgated by the state court administrator

and published on the website www.mncourts.gov) which shall also include the information required in part (a) of this rule. Any other party to the action may, within 7 days of service of the filing party's civil cover sheet, file a supplemental civil cover sheet to provide additional information about the case.

If that information is not then known to the filing party, it shall be provided to the court administrator in writing by the filing party within 7 days of learning it. Any party impleading additional parties shall provide the same information to the court administrator. The court administrator shall, upon receipt of the completed certificate, notify all parties or their lawyers, if represented by counsel, of the date of filing the action and the file number assigned.

(Amended effective January 1, 1993; amended effective January 1, 1996; amended effective July 1, 2013; amended effective July 1, 2015; amended effective January 1, 2020.)

Cross Reference: Minn. R. Civ. P. 5.04.

Advisory Committee Comment - 1995 Amendment

This rule is derived from 7th Dist. R. 7 (eff. Jan. 1, 1990).

The final sentence is derived from 2d Dist. R. 2(b).

This rule formalizes the requirement to provide information about all parties when an action is filed. Its need derives from the commencement of actions by service and the fact that many pleadings are routinely not filed. The certificate of representation and parties serves a purpose of allowing the court to give notice of assignment of a judge to the case (in those districts making that assignment prior to trial), thereby triggering for all parties the 10-day period to remove an assigned judge under Minn. R. Civ. P. 63.

This requirement now exists in the Fourth and Seventh districts, and seems to be the type of requirement the Task Force seeks to make uniform statewide. The required information may be submitted in typed form or on forms available from the court administrator. A sample form is included in the Appendix of Forms as Form 104.

The first clause of the rule is intended to make it clear that where other rules provide specific requirements relating to initiation of an action for scheduling purposes, those rules govern. For example, Minn. Gen. R. Prac. 144.01, as amended in 1992, states that the Certificate of Representation required under this rule is not required in wrongful death actions following the mere filing of a petition for appointment of the trustee, but is required after the action itself is commenced by service of the summons and papers are filed with the court. Rule 141.02, as amended in 1992, similarly provides that filing of a notice of appeal from a commissioner's award triggers the assignment process requirements in condemnation proceedings. In addition to cases exempted by rule, this rule was amended in 1995 to exempt its application to actions that are commenced by filing. In those cases, it is unfair and inappropriate to place additional burdens on the filing process that are not required by statute, and which might result in the rejection of a document for filing. The consequences of rejecting such a document can be dire. Minnesota Statutes, section 514.11. Cf. AAA Electric & Neon Service, Inc. v. R. Design Co., 364 N.W.2d 869 (Minn. App. 1985) (bar by not meeting filing requirement of action in a timely manner). The Advisory Committee believes it is not appropriate to reject such documents for filing in any event, but this rule now makes it clear that a certificate of representation and parties is not required in actions commenced by filing. For the convenience of the parties, frequently encountered examples of actions that are commenced by filing include mechanic's lien actions, quiet title actions, and actions to register title to real property (Torrens actions). This amendment is intended to remove the requirement that a certificate of representation and parties accompany the complaint for filing. It is not intended to prevent courts

from obtaining this information, if still needed, after process has been served and the parties' representation known.

Rule 105. Withdrawal of Counsel

After a lawyer has appeared for a party in any action, withdrawal will be effective only if written notice of withdrawal is served on all parties who have appeared, or their lawyers if represented by counsel, and is filed with the court administrator if any other document in the action has been filed. The notice of withdrawal shall include the address, email address, if known, and phone number where the party can be served or notified of matters relating to the action.

Withdrawal of counsel does not create any right to continuance of any scheduled trial or hearing.

(Amended effective January 1, 1998; amended effective July 1, 2015; amended effective July 1, 2019.)

Advisory Committee Comment - 1997 Amendment

The Task Force believes that uniformity in withdrawal practice and procedure would be desirable. Existing practice varies, in part due to differing rules and in part due to differing practices in the absence of a rule of statewide application. The primary concern upon withdrawal is the continuity of the litigation. Withdrawal should not impose additional burdens on opposing parties. The Task Force considered various rules that would make it more onerous for lawyers to withdraw, but determined those rules are not necessary nor desirable. Consistent with the right of parties to proceed pro se, they may continue to represent themselves where their lawyers have withdrawn. This rule establishes the procedure for withdrawal of counsel; it does not itself authorize withdrawal nor does it change the rules governing a lawyer's right or obligation to withdraw in any way. See Minn. R. Prof. Cond. 1.16. The rule does not affect or lessen a lawyer's obligations to the client upon withdrawal. Those matters are governed by the Minnesota Rules of Professional Conduct. See Minn. R. Prof. Cond. 1.16. Enforcement of those rules is best left to the Lawyers Professional Responsibility Board.

The 1997 amendment removes any suggestion that the notice of withdrawal must be filed with the court if no other documents have been filed by any party. When other documents are filed by any party, however, it should be filed as required by Minn. R. Civ. P. 5.04.

The rule makes it clear that the withdrawal of counsel does not, in itself, justify continuance of any trial or hearing. Of course, withdrawal or substitution of counsel may be part of a set of circumstances justifying the exercise of the court's discretion to grant a continuance.

Advisory Committee Comment - 2019 Amendment

Rule 105 is amended in 2019 to clarify that a withdrawing attorney is to provide the party's email address, if known, so that the court can efficiently notify the party.

Rule 106. Hearing on Motion to Remove Judge for Actual Prejudice or Bias

All motions for removal of a judge, referee, or judicial officer, on the basis of actual prejudice or bias shall be heard in the first instance by the judge sought to be removed. If that judge denies the motion, it may subsequently be heard and reconsidered by the Chief Judge of the district or another judge designated by the Chief Judge upon a motion filed and served within 7 days of the judge's order.

(Amended effective July 1, 2019.)

Task Force Comment - 1991 Adoption

Minn.R.Civ.P. 63.02 does not currently specify the procedure to be followed when a motion is made to remove a judge from hearing a case on the grounds of actual bias or prejudice. This rule requires the motion to be heard initially by the judge sought to be removed, and allows the chief judge of the district to reconsider the motion if it is denied by the affected trial judge. The rule does not require the party seeking removal to bring the motion for reconsideration before the chief judge; it merely permits that reconsideration. Bringing the motion for reconsideration should not be construed as any condition precedent to appellate review, whether by appeal or extraordinary writ.

The rule intentionally allows a motion for reconsideration only if the trial court denies the motion for removal. If the motion is granted, it should only be addressed further on appeal.

The procedure for review by the chief judge of the district is not entirely satisfactory. Consideration should be given to facilitating appeal of these issues to the appellate courts, but the Task Force did not directly address this question because of the current limited jurisdiction of the appellate courts to hear appeals of decisions by judges declining to recuse themselves.

Advisory Committee Comment - 2019 Amendment

Rule 106 is amended in 2019 to establish a deadline for seeking review by the Chief Judge (or designee) of a judge's decision denying a motion for removal of a judge for cause. The absence of a deadline hinders efficient case processing and the importance of the recusal or disqualification issue merits prompt resolution.

Rule 107. Procedure for Challenge for Having a Referee Hear a Matter

Any party objecting to having any referee hear a contested trial, hearing, motion or petition shall serve and file the objection within 14 days of notice of the assignment of a referee to hear any aspect of the case, but not later than the commencement of any hearing before a referee.

(Amended effective January 1, 2020.)

Cross Reference: Minn. R. Civ. P. 63.

Task Force Comment - 1991 Adoption

This rule serves to comply with the requirements of Minnesota Statutes 1990, section 484.70, subdivision 6, which provides:

> *No referee may hear a contested trial, hearing, motion or petition if a party or lawyer for a party objects in writing to the assignment of the referee to hear the matter. The court shall, by rule, specify the time within which an objection must be filed.*

This rule is intended to specify the procedure for filing this notice. The procedure and time limits are derived from the requirements of Minn. R. Civ. P. 63.03 for removing a judge by notice to remove. The Task Force believes it is desirable to use the same procedures, time limits, and time calculation rules for these different types of removal.

This rule should apply to all referee assignments with the exception of referees assigned in Housing Court in Ramsey and Hennepin Counties. These courts are governed by Rule 602 of these rules.

Rule 108. Guardian Ad Litem

Rule 108.01 Role of Guardian Ad Litem

Whenever the court appoints a guardian ad litem, the guardian ad litem shall be furnished copies of all pleadings, documents and reports by the party or agency which served or submitted them. A party or agency submitting, providing, or serving reports and documents to or on a party or the court, shall provide copies promptly thereafter to the guardian ad litem.

Upon motion, the court may extend the guardian ad litem's powers as it deems necessary. Except upon a showing of exigent circumstance, the guardian ad litem shall submit any recommendations, in writing, to the parties and to the court at least 7 days before any hearing at which such recommendations shall be made. For purposes of all oral communications between a guardian ad litem and the court, the guardian ad litem shall be treated as a party.

(Amended effective January 1, 2005; amended effective January 1, 2020.)

Rule 108.02 Guardian Ad Litem Not Lawyer for Any Party

The guardian ad litem shall not be a lawyer for any party to the action.

Cross Reference: Minn. R. Civ. P. 17.

(Renumbered and amended effective January 1, 2005; renumbered from Rule 108.03 effective January 1, 2007.)

Rule 108.03 [Renumbered Rule 108.02 effective January 1, 2007.]

Task Force Comment - 1991 Adoption

This rule requires all discussions with a guardian ad litem regarding a case to be made as if the guardian ad litem were a party. It does not prohibit general discussions or briefing of guardians ad litem or potential guardians ad litem from taking place ex parte.

In personal injury actions, neither the lawyer nor any member of the lawyer's firm should be guardian. For the same reason, such a lawyer should not accept a referral fee with respect to the guardianship.

Rule 109. Application for Leave to Answer or Reply

Rule 109.01 Requirement of Affidavit of Merits

Any application for leave to answer or reply after the time limited by statute or rule, or to open a judgment and for leave to answer and defend, shall be accompanied by a copy of the answer or reply, and an affidavit of merits and be served on the opposite party.

Rule 109.02 Contents of Required Affidavits

In an affidavit of merits made by the party, the affiant shall state with particularity the facts relied upon as a defense or claim for relief, that the affiant has fully and fairly stated the facts in the case to counsel, and that the affiant has a good and substantial defense or claim for relief on the merits, as the affiant is advised by counsel after such statement and believes true, and the affiant shall also give the name and address of such counsel.

An affidavit shall also be made by a lawyer who shall state that from the showing of the facts made by the party to the lawyer believes that such party has a good and substantial defense or claim for relief on the merits.

Cross Reference: Minn. R. Civ. P. 4.043, 6.02, 59.03, 59.05, 60.02.

Task Force Comment - 1991 Adoption

This rule is derived from Rule 22 of the Code of Rules for the District Courts.

Rule 110. Self-Help Programs

Rule 110.01 Authority for Self-Help Programs

A District Court for any county may establish a Self-Help Program to facilitate access to the courts. The purpose of a Self-Help Program is to assist Self-Represented Litigants, within the bounds of this rule, to achieve fair and efficient resolution of their cases, and to minimize the delays and inefficient use of court resources that result from misuse of the court system by litigants who are not represented by lawyers. There is a compelling state interest in resolving cases efficiently and fairly, regardless of the financial resources of the parties.

(Added effective January 1, 2004.)

Rule 110.02 Staffing

The Self-Help Program may be staffed by lawyer and non-lawyer personnel, and volunteers under the supervision of regular personnel. Self-Help Personnel act at the direction of the district court judges to further the business of the court.

(Added effective January 1, 2004.)

Rule 110.03 Definitions

(a) "Self-Represented Litigant" means any individual who seeks information to file, pursue, or respond to a case without the assistance of a lawyer authorized to practice before the court.

(b) "Self-Help Personnel" means lawyer and non-lawyer personnel and volunteers under the direction of paid staff in a Self-Help Program who are performing the limited role under this rule. "Self-Help Personnel" does not include lawyers who are providing legal services to only one party as part of a legal services program that may operate along side or in conjunction with a Self-Help Program.

(c) "Self-Help Program" means a program of any name established and operating under the authority of this rule.

(Added effective January 1, 2004.)

Rule 110.04 Role of Self-Help Personnel

(a) Required Acts. Self-Help Personnel shall

(1) Educate Self-Represented Litigants about available pro bono legal services, low cost legal services, legal aid programs, lawyer referral services and legal resources provided by state and local law libraries;

(2) Encourage Self-Represented Litigants to obtain legal advice;

(3) Provide information about mediation services;

(4) Provide services on the assumption that the information provided by the litigant is true; and

(5) Provide the same services and information to all parties to an action, if requested.

(b) Permitted, but Not Required, Acts. Self-Help Personnel may, but are not required to:

(1) provide forms and instructions;

(2) assist in the completion of forms;

(3) provide information about court process, practice and procedure;

(4) offer educational sessions and materials on all case types, such as sessions and materials on marriage dissolution;

(5) answer general questions about family law and other issues and how to proceed with such matters;

(6) explain options within and outside of the court system;

(7) assist in calculating guidelines child support based on information provided by the Self-Represented Litigant;

(8) assist with preparation of court orders under the direction of the court; and

(9) provide other services consistent with the intent of this rule and the direction of the court, including programs in partnership with other agencies and organizations.

(c) Prohibited Acts. Self-Help Personnel may not:

(1) represent litigants in court;

(2) perform legal research for litigants;

(3) deny a litigant's access to the court;

(4) lead litigants to believe that they are representing them as lawyers in any capacity or induce the public to rely on them for personal legal advice;

(5) recommend one option over another option;

(6) offer legal strategy or personalized legal advice;

(7) tell a litigant anything she or he would not repeat in the presence of the opposing party;

(8) investigate facts pertaining to a litigants case, except to help the litigant obtain public records; or

(9) disclose information in violation of statute, rule, or case law.

(Added effective January 1, 2004.)

Rule 110.05 Disclosure

Self-Help Programs shall provide conspicuous notice that:

(a) no attorney-client relationship exists between Self-Help Personnel and Self-Represented Litigants;

(b) communications with Self-Help Personnel are neither privileged nor confidential;

(c) Self-Help Personnel must remain neutral and may provide services to the other party; and

(d) Self-Help Personnel are not responsible for the outcome of the case.

Program materials should advise litigants to consult with their own attorney if they desire personalized advice or strategy, confidential conversations with an attorney, or if they wish to be represented by an attorney in court.

(Added effective January 1, 2004.)

Rule 110.06 Unauthorized Practice of Law

The performance of services by Self-Help Personnel in accordance with this rule shall not constitute the unauthorized practice of law.

(Added effective January 1, 2004.)

Rule 110.07 No Attorney-Client Privilege or Confidentiality

Except as provided in Rule 110.09, information given by a Self-Represented Litigant to court administration staff or Self-Help Personnel is neither confidential nor privileged. No attorney-client relationship exists between Self-Help Personnel and a Self-Represented Litigant. Notwithstanding the foregoing, Self-Help Personnel who are also lawyers and are permitted to practice law outside the role of Self-Help Personnel under this rule must abide by all applicable Rules of Professional Conduct regarding confidentiality and conflicts of interest.

(Added effective January 1, 2004.)

Rule 110.08 Conflict

Notwithstanding ethics rules that govern attorneys, certified legal interns, and other persons working under the supervision of an attorney, there shall be no conflict of interest when Self-Help Personnel provide services to both parties, provided, however, that Self-Help Personnel who are also lawyers and are permitted to practice law outside the role of Self-Help Personnel under this rule, must abide by all applicable Rules of Professional Conduct regarding conflicts of interest.

(Added effective January 1, 2004.)

Rule 110.09 Access to Records

All records made or received in connection with the official business of a Self-Help Program relating to the address, e-mail address, telephone number or residence of a Self-Represented Litigant are not accessible to the public or the other party. This rule applies only to records of the Self-Help Program. It does not excuse Self-Represented Litigants from other rules that may require them to disclose their contact information in a manner that makes such contact information available to others.

(Added effective January 1, 2004; amended effective July 1, 2015.)

Advisory Committee Comment - 2003 Adoption

Rule 110 is a new rule adopted in 2003 on the recommendation of a pro se implementation committee to facilitate access to and use of the courts by pro se litigants. It is modeled after similar family law provisions in other jurisdictions. See e.g., CA. FAM. CODE sections 10000-100015 (West 2003); FLA. FAM. L. R. P. 12.750 (West 2003); OR. REV. STAT. section 3.428 (2003); WASH. REV. CODE section 26.12.240 (2003); WASH. R. GEN. GR 27 (West 2003).

The rule defines and communicates to interested parties the role of Self-Help Personnel. Definition of roles is important because of the potential for confusion. Rule 110.03(b) intentionally limits the definition of Self-Help Personnel to exclude lawyers who provide services to one party, as is commonly done by legal service program attorneys. Because of this definition, Rule 110.07

does not limit the creation of an attorney-client relationship in such attorney-client relationships. Rules 110.07 and 110.08 recognize that Self-Help Personnel who are otherwise engaged in or authorized to engage in the practice of law may have obligations to clients outside the Self-Help Program that can affect their relationships to Self-Represented Litigants within the Self-Help Program.

Advisory Committee Comment - 2015 Amendments

The amendments to Rule 110.09 add a protection of e-mail addresses received by the Self-Help Program. This rule does not require that information to be provided, but makes it clear that if it is provided, it is not available to either opposing party or to the public. The rule makes it clear that this provision relates only to the Self-Help Program, and does not create a broader confidentiality right for this information. This information may be required to be provided by other court rules, and may be held to be public under those rules.

PART B. SCHEDULING

Rule 111. Scheduling of Cases

Rule 111.01 Scope

The purpose of this rule is to provide a uniform system for scheduling matters for disposition and trial in civil cases, excluding only the following:

(a) Conciliation court actions and conciliation court appeals where no jury trial is demanded;

(b) Family court matters governed by Minn. Gen. R. Prac. 301 through 379;

(c) Public assistance appeals under Minnesota Statutes, section 256.045, subdivision 7;

(d) Unlawful detainer actions pursuant to Minnesota Statutes, sections 504B.281, et seq.;

(e) Implied consent proceedings pursuant to Minnesota Statutes, section 169.123;

(f) Juvenile court proceedings;

(g) Civil commitment proceedings subject to the Special Rules of Procedure Governing Proceedings Under the Minnesota Commitment Act of 1982;

(h) Probate court proceedings;

(i) Periodic trust accountings pursuant to Minn. Gen. R. Prac. 417;

(j) Proceedings under Minnesota Statutes, section 609.748, relating to harassment restraining orders;

(k) Proceedings for registration of land titles pursuant to Minnesota Statutes, chapter 508;

(l) Election contests pursuant to Minnesota Statutes, chapter 209;

(m) Applications to compel or stay arbitration under Minnesota Statutes, chapter 572;

(n) consumer credit contract actions (see Case Type 3A, Minn. R. Civ. P. Form 23); and

(o) mechanics' lien actions.

The court may invoke the procedures of this rule in any action where not otherwise required.

(Amended effective January 1, 1993; amended effective January 1, 1994; amended effective January 1, 2000; amended effective September 5, 2001; amended effective January 1, 2010.)

Advisory Committee Comment - 1999 Amendment

Rule 111.01(d) is amended in 1999 to reflect the fact that Minnesota Statutes, sections 566.01, et seq. were replaced by section 504B.281. This change is not intended to have any substantive effect other than to correct the statutory reference.

Advisory Committee Comment - 2009 Amendment

Rule 111.01 is amended to exempt consumer credit contract actions and mechanics' lien actions from the case scheduling regime generally followed in civil proceedings. These changes are made because these cases are required to be filed but are often either not ready for case scheduling or are unlikely ever to require it. "Consumer credit contract actions" refer to those cases properly carrying the case type identifier "3A. Consumer Credit Contracts," which as specified in Minn. R. Civ. P. Form 23 requires three things: (1) that the plaintiff is a corporation or other business organization, not an individual; (2) that the defendant is an individual; and (3) that the contract amount does not exceed $20,000.

Rule 111.02 The Party's Scheduling Input

The parties may submit scheduling information to the court as part of the civil cover sheet as provided in Rule 104 of these rules.

(Amended effective July 1, 1994, and shall supersede Second Judicial District Local Rules 5 and 25 and Fourth Judicial District Local Rule 5 to the extent inconsistent therewith; amended effective July 1, 2013.)

Rule 111.03 Scheduling Order

(a) When issued. No sooner than the due date of the last civil cover sheet under Rule 104, and no longer than 90 days after an action has been filed, the court shall enter its scheduling order. The court may issue the order after either a telephone or in-court conference, or without a conference or hearing if none is needed.

(b) Contents. The scheduling order shall provide for alternative dispute resolution as required by Rule 114.04(c) and shall establish a date for the completion of discovery. The order may also establish any of the following:

(1) Deadlines for joining additional parties, whether by amendment or third-party practice;

(2) Deadlines for bringing nondispositive or dispositive motions;

(3) Deadlines or specific dates for submitting particular issues to the court for consideration;

(4) A deadline for completing any independent physical, mental or blood examination pursuant to Minn. R. Civ. P. 35;

(5) A date for a formal discovery conference pursuant to Minn. R. Civ. P. 26.06, a pretrial conference or conferences pursuant to Minn. R. Civ. P. 16, or a further scheduling conference.

(6) Deadlines for filing any pretrial submissions, including proposed instructions, verdicts, or findings of fact, witness lists, exhibits lists, statements of the case or any similar documents;

(7) Whether the case is a jury trial, or court trial if a jury has been waived by all parties;

(8) Identification of interpreter services (specifying language and, if known, particular dialect) any party anticipates will be required for any witness or party;

(9) A date for submission of a Joint Statement of the Case pursuant to Minn. Gen. R. Prac. 112; or

(10) A trial date.

(Amended effective July 1, 1994, and shall supersede Second Judicial District Local Rules 5 and 25 and Fourth Judicial District Local Rule 5 to the extent inconsistent therewith; amended effective March 1, 2009; amended effective July 1, 2013.)

Advisory Committee Comment - 2008 Amendment

Rules 111.02(l) and 111.03(b)(8) are new provisions, adopted as part of amendments designed to foster earlier gathering of information about the potential need for interpreter services in a case, either for witnesses or for a party. See Minn. Gen. R. Prac. 8.13.

Rule 111.04 Amendment

A scheduling order pursuant to this rule may be amended at a pretrial conference or upon motion for good cause shown. Except in unusual circumstances, a motion to extend deadlines under a scheduling order shall be made before the expiration of the deadline. The court may issue more than one scheduling order.

Cross Reference: Minn. R. Civ. P. 16, 26.06, 35, 36, 38; Minn. Civ. Trialbook, section 5.

Rule 111.05 Collaborative Law

(a) Collaborative Law Defined. Collaborative law is a process in which parties and their respective trained collaborative lawyers and other professionals contract in writing to resolve disputes without seeking court action other than approval of a stipulated settlement. The process may include the use of neutrals as defined in Rule 114.02(b), depending on the circumstances of the particular case. If the collaborative process ends without a stipulated agreement, the collaborative lawyers must withdraw from further representation.

(b) Deferral from Scheduling. Where the parties to an action request deferral in a form substantially similar to Form 111.03 and the court has agreed to attempt to resolve the action using a collaborative law process, the court shall defer setting any deadlines for the period specified in the order approving deferral.

(c) Additional ADR following Collaborative Law. When a case has been deferred pursuant to subdivision (b) of this rule and is reinstated on the calendar with new counsel or a collaborative law process has resulted in withdrawal of counsel prior to the filing of the case, the court should not ordinarily order the parties to engage in further ADR proceedings without the agreement of the parties.

(Added effective January 1, 2008.)

Advisory Committee Comment - 1994 Amendment

This rule is new. This rule is intended to establish a uniform, mandatory practice of dealing with scheduling in every case by some court action. The rule does not establish, however, a single means of complying with the scheduling requirement nor does it set any rigid or uniform schedules. In certain instances, other rules establish the event giving rise to the requirement that the scheduling procedures be followed. See, e.g., Rule 141 (condemnation scheduling triggered by appeal of commissioner's award); 144.01 (wrongful death scheduling triggered by filing paper in wrongful

death action, not proceedings for appointment of trustee). Because applications to compel or stay arbitrations are, by statute, authorized to be handled by the District Court in a summary matter and without the commencement of a separate action, it is appropriate that they be exempted from the formal case scheduling requirements of Rule 111.

Although the rule allows parties to submit scheduling information separately, this information may also be submitted jointly and required to be submitted jointly. In many cases, the efficient handling of the case may be fostered by the parties meeting to discuss scheduling issues and submitting a joint statement.

The rule contemplates establishment of a separate deadline for completion of an independent medical examination because the Task Force believes that it is frequently desirable to allow such an examination to take place after the conclusion of other discovery. The rule does not create any specific schedule for independent medical examinations, but allows, and encourages, the court to consider this question separately. The timing of these examinations is best not handled by rigid schedule, but rather, by the exercise of judgment on the part of the trial judge based upon the views of the lawyers, any medical information bearing on timing and the status of other discovery, as well as the specific factors set forth in Minn. R. Civ. P. 35. The Task Force considered a new rule expressly to exempt the use of requests for admissions pursuant to Minn. R. Civ. P. 36 from discovery completion deadlines in the ordinary case. The Task Force determined that a separate rule exempting requests for admissions from discovery deadlines in all cases was not necessary, but encourages use of extended deadlines for requests for admissions in most cases. The primary function served by these requests is not discovery, but the narrowing of issues, and their use is often most valuable at the close of discovery. See R. Haydock & D. Herr, Discovery Practice section 7.2 (2d ed. 1988). Because requests for admissions serve an important purpose of narrowing the issues for trial and resolving evidentiary issues relating to trial, it is often desirable to allow use of these requests after the close of other discovery.

Advisory Committee Comment - 2007 Amendment

Rule 111.05 is a new rule to provide for the use of collaborative law processes in matters that would otherwise be in the court system. Collaborative law is a process that attempts to resolve disputes outside the court system. Where court approval or entry of a court document is necessary, such as for minor settlements or entry of a decree of marriage dissolution, the court's role may be limited to that essential task. Collaborative law is defined in Rule 111.05(a). The primary distinguishing characteristic of this process is the retention of lawyers for the parties, with the lawyers' and the parties' written agreement that if the collaborative law process is not successful and litigation ensues, each lawyer will withdraw from representing the client in the litigation.

Despite not being court-based, the committee believes the good faith use of collaborative law processes by the parties should be accommodated by the court in two ways. First, as provided in new Rule 111.05(b), the parties should be able to request deferral from scheduling for a duration to be determined appropriate by the parties. This can be accomplished through the use of new Form 111.03 or similar submission providing substantially the same information. Second, if the parties have obtained deferral from scheduling for a collaborative law process that proves unsuccessful, the action should not normally or automatically be ordered into another ADR process. The rule intentionally does not bar a second ADR process, as there may be cases where the court fairly views that such an effort may be worthwhile. These provisions for deferral and presumed exemption from a second ADR process are also made expressly applicable to family law matters by a new Rule 304.05.

Rule 112. Joint Statement of the Case

Rule 112.01 When Required

As a case progresses, the court may find it advisable to implement the scheduling order and procedures of Minn. Gen. R. Prac. 111 by requiring the parties to report on the status of the case. This report shall be made in the form entitled Joint Statement of the Case (see Form 112.01 appended to these rules). The court may also choose to direct the filing of separate statements of the case. If the parties are directed to file a joint statement of the case, the plaintiff shall initiate and schedule the meeting and shall be responsible for filing the Joint Statement of the Case within these time limits. If the plaintiff is unable to obtain the cooperation, after genuine efforts, of the other parties in preparing a Joint Statement of the Case, the plaintiff may file a separate statement together with an affidavit setting forth the efforts made and reasons why a joint statement could not be filed.

(Amended effective January 1, 1994.)

Rule 112.02 Contents

The Joint Statement of the Case shall contain the following information to the extent applicable:

(a) A statement that all parties have been served, that the case is at issue, and that all parties have joined in the filing of the Statement of the Case;

(b) An estimated trial time;

(c) Whether a jury trial has been requested, and if so, by which party;

(d) Counsels' opinion whether the case should be handled as an expedited, standard, or complex case (determination to be made by the court);

(e) A concise statement of the case indicating the facts that Plaintiff(s) intend to prove and the legal basis for all claims;

(f) A concise statement of the case indicating the facts that Defendant(s) intend to prove and the legal basis for all defenses and counterclaims; and

(g) Names and addresses of all witnesses known to the lawyer or client who may be called at the trial by each party, including expert witnesses and the particular area of expertise each expert will be addressing. If any witness or party is likely to require interpreter services, that fact and the nature of the required services (specifying language and, if known, particular dialect) shall be provided.

(Amended effective March 1, 2009.)

Advisory Committee Comment - 2008 Amendment

Rule 112.02 is amended to include a provision designed to foster earlier gathering of information about the potential need for interpreter services in a case, either for witnesses or for a party. See Minn. Gen. R. Prac. 8.13.

Rule 112.03 Contents-Personal Injury Actions

In cases involving personal injury, the Joint Statement of the Case shall also include a statement by each claimant, whether by complaint or counterclaim, setting forth the following:

(a) A detailed description of claimed injuries, including claims of permanent injury. If permanent injuries are claimed, the name of the doctor or doctors who will so testify;

(b) An itemized list of special damages to date including, but not limited to, auto vehicle damage and method of proof thereof; hospital bills, x-ray charges, and other doctor and medical bills to date; loss of earnings to date fully itemized; and

(c) Whether parties will exchange medical reports (See Minn. R. Civ. P. 35.04).

Rule 112.04 Contents-Vehicle Accidents

In cases involving vehicle accidents, the Joint Statement shall also include the following:

(a) A description of vehicles and other instrumentalities involved with information as to ownership or other relevant facts; and

(b) Name of insurance carriers involved, if any.

Rule 112.05 Hearing

If no Joint Statement has been timely filed, the court may set the matter for hearing.

Cross Reference: Minn. R. Civ. P. 16, 35.04; Minn. Civ. Trialbook, section 5.

Advisory Committee Comment - 1994 Amendment

This rule is new. The procedures implemented by this rule supplement the procedures of Rule 111.

The rule does not require that a Joint Statement of the Case be used. The court can direct the parties to file separate statements, although the same format should be followed for such separate statements of the case.

The requirement that the parties confer to prepare a statement does not require a face-to-face meeting; the conference can be by telephone if that is suited to the needs of the particular case.

The final sentence of Rule 112.01 is added to provide a mechanism for the plaintiff ordered to file a Joint Statement of the Case but unable to obtain cooperation of the opposing parties. Although the rule as originally drafted did not place an undue burden on the plaintiff, the trial courts have occasionally done so when the plaintiff's opposing parties have thwarted the preparation of the Statement of the Case and prevented its filing. The amendment allows the plaintiff to proceed individually in that circumstance.

Rule 113. Assignment of Case(s) to a Single Judge

Rule 113.01 Request for Assignment of a Single Case to a Single Judge

(a) In any case that the court or parties believe is likely to be complex, or where other reasons of efficiency or the interests of justice dictate, the chief judge of the district or the chief judge's designee may order that all pretrial and trial proceedings shall be heard before a single judge. The court may enter such an order at any time on its own initiative, in response to a suggestion in a party's civil cover sheet filed under Rule 104, or on the motion of any party, and shall enter such an order when the requirements of Rule 113.01(b) have been met. The motion shall comply with these rules and shall be supported by affidavit(s). In any case assigned to a single judge pursuant to this Rule that judge shall actively use enhanced judicial management techniques, including, but not limited to, the setting of a firm trial date, establishment of a discovery cut off date, and periodic case conferences.

(b) Grounds. Unless the court finds that court management of the claims and/or issues involved has become routine or that the interests of justice require otherwise, the court shall order that all

pretrial and trial proceedings shall be heard before a single judge upon a showing that the action is likely to involve one or more of the following:

(1) numerous pretrial motions raising difficult or novel legal issues that will be time consuming to resolve;

(2) management of a large number of witnesses or substantial amount of documentary evidence;

(3) management of a large number of separately represented parties;

(4) the opportunity to coordinate with related actions pending in another court;

(5) substantial post-judgment judicial supervision.

(Added effective July 1, 1994; amended effective March 1, 2001; amended effective July 1, 2013.)

Rule 113.02 Consolidation of Cases Within a Judicial District

A motion for assignment of two or more cases pending within a single judicial district to a single judge shall be made to the chief judge of the district in which the cases are pending, or the chief judge's designee.

(Added effective July 1, 1994; amended effective March 1, 2001.)

Rule 113.03 Assignment of Cases in More Than One District to a Single Judge

(a) Assignment by Chief Justice. When two or more cases pending in more than one judicial district involve one or more common questions of fact or are otherwise related cases in which there is a special need for or desirability of central or coordinated judicial management, a motion by a party or a court's request for assignment of the cases to a single judge may be made to the chief justice of the Supreme Court.

(b) Procedure. The motion shall identify by court, case title, case number, and judge assigned, if any, each case for which assignment to a single judge is requested. The motion shall also indicate the extent to which the movant anticipates that additional related cases may be filed. The motion shall be filed with the clerk of appellate courts and shall be served on other counsel and any self-represented litigants in all cases for which assignment is requested and shall be served on the chief judge of each district in which such an action is pending. Any party may file and serve a response within 7 days after service of the motion. Any reply shall be filed and served within 7 days of service of the response. Except as otherwise provided in this rule, the motion and any response shall comply with the requirements of Minn. R. Civ. App. P. 127 and 132.02.

(c) Mechanics and Effect of Transfer. When such a motion is made, the chief justice may, after consultation with the chief judges of the affected districts and the state court administrator, assign the cases to a judge in one of the districts in which any of the cases is pending or in any other district. If the motion is to be granted, in selecting a judge the chief justice may consider, among other things, the scope of the cases and their possible impact on judicial resources, the availability of adequate judicial resources in the affected districts, and the ability, interests, training and experience of the available judges. As necessary, the chief justice may assign an alternate or back-up judge or judges to assist in the management and disposition of the cases. The assigned judge may refer any case to the chief judge of the district in which the case was pending for trial before a judge of that district selected by the chief judge.

(Added effective July 1, 1994; amended effective March 1, 2001; amended effective January 1, 2006; amended effective July 1, 2015; amended effective January 1, 2020.)

Advisory Committee Comment - 2000 Amendment

Rule 113.01 applies to assignment of a single case within a judicial district or county that does not already use a so-called block assignment system whereby cases are routinely assigned to the same judge for all pretrial and trial proceedings. Although parties can request a single-judge assignment in the informational statement under Rule 111, this rule contemplates a formal motion with facts presented supporting the request in the form of sworn testimony. The grounds for the motion in Rule 113.01(b) were derived from rules 1800-1811 of the California Special Rules for Trial Courts, Div. V, Complex Cases. If the court finds that management of the claims or issues has become routine, the matter would not rise to the level of requiring assignment to a single judge. A motion to certify a class, for example, might be routine in terms of court management. Once a class has been certified and the matter becomes a class action, however, the complexity may rise to the level that requires a single judge assignment. Under Rule 113.01(a), the motion is to be made to the chief judge (or his or her designee) of the district in which the case is pending.

Rule 113.02 recognizes that motions for consolidation of cases within a single judicial district may be heard by the chief judge of the district or his or her designee.

Rule 113.03 is new, and is intended merely to establish a formal procedure for requesting the chief justice to exercise the power to assign multiple cases in different districts to a single judge when the interests of justice dictate. The power to assign cases has been recognized by the Supreme Court in a few decisions over the past decade or so. See, e.g., In re Minnesota Vitamin Antitrust Litigation, 606 N.W.2d 446 (Minn. 2000); In re Minnesota Silicone Implant Litigation, 503 N.W.2d 472 (Minn. 1993); In re Minnesota L-tryptophan Litigation, No. C0-91-706 (Minn. Sup. Ct., Apr. 24, 1991); In re Minnesota Asbestos Litigation, No. C4-87-2406 (Minn. Sup. Ct., Dec. 15, 1987). The power is derived from the inherent power of the court and specific statutory recognition of that power in Minnesota Statutes 1998, sections 2.724 and 480.16. The rule is intended to establish a procedure for seeking consideration of transfer by the chief justice. The procedure contemplates notice to interested parties and consultation with the affected judges so that the sound administration of the cases is not compromised. Transfer of cases for coordinated pretrial proceedings is an established practice in the federal court system under 28 U.S.C. section 1407. Although this rule is not as complex as its federal counterpart, its purpose is largely the same - to facilitate the efficient and fair handling of multiple cases. Practice under the federal statute has worked well, and is one of the most important tools of complex case management in the federal courts. See generally DAVID F. HERR, MULTIDISTRICT LITIGATION: HANDLING CASES BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION (1986 & Supp. 1996). A companion change is made to Minn. R. Civ. P. 63.03, making it clear that when a judge is assigned by order of the chief justice pursuant to this rule that the judge so appointed may not be removed peremptorily under Rule 63 or the statutory restatement of the removal power contained in Minnesota Statutes 1998, section 542.16.

Advisory Committee Comment - 2006 Amendment

The amendments to Rule 113.03 are intended to provide more detailed guidance about the procedures to be followed in seeking transfer of cases under the rule. The rule clarifies the existing practice and specifically incorporates the normal procedures for handling motions in the appellate courts. Because the motion is made to the chief justice rather than the entire court, fewer copies are necessary, but other procedures of Minn. R. Civ. App. P. 127 and 132.02 apply to these motions.

Advisory Committee Comment - 2015 Amendments

The amendments to Rule 113.03(b) are not substantive in nature or intended effect. The term "self-represented litigant" is being used uniformly throughout the judicial branch and is preferable to "non-represented party" and "pro se party," both to avoid a Latin phrase not used outside legal

jargon and to facilitate the drafting of clearer rules. There is no need for multiple copies of this motion because it will be handled electronically even if filed in paper form, and because in cases where filings are required to be filed using the court's E-Filing System, only a single copy of a motion can be filed.

Rule 114. Alternative Dispute Resolution

Rule 114.01 Applicability

All civil cases are subject to Alternative Dispute Resolution (ADR) processes, except for those actions enumerated in Minnesota Statutes, section 484.76 and Rules 111.01 and 310.01 of these rules.

(Added effective July 1, 1994; amended effective July 1, 1997.)

Advisory Committee Comment - 1996 Amendment

This change incorporates the limitations on use of ADR in family law matters contained in Minn. Gen. R. Prac. 310.01 as amended by these amendments. The committee believes it is desirable to have the limitations on use of ADR included within the series of rules dealing with family law, and it is necessary that it be included here as well.

Rule 114.02 Definitions

The following terms shall have the meanings set forth in this rule in construing these rules and applying them to court-affiliated ADR programs.

(a) ADR Processes.

Adjudicative Processes

(1) *Arbitration.* A forum in which a neutral third party renders a specific award after presiding over an adversarial hearing at which each party and its counsel present its position. If the parties stipulate in writing that the arbitration will be binding, then the proceeding will be conducted pursuant to the Uniform Arbitration Act (Minnesota Statutes, sections 572.08 to 572.30). If the parties do not stipulate that the arbitration will be binding, then the award is non-binding and will be conducted pursuant to Rule 114.09.

(2) *Consensual Special Magistrate.* A forum in which the parties present their positions to a neutral in the same manner as a civil lawsuit is presented to a judge. This process is binding and includes the right of appeal to the Minnesota Court of Appeals.

(3) *Summary Jury Trial.* A forum in which each party and their counsel present a summary of their position before a panel of jurors. The number of jurors on the panel is six unless the parties agree otherwise. The panel may issue a non-binding advisory opinion regarding liability, damages, or both.

Evaluative Processes

(4) *Early Neutral Evaluation (ENE).* A forum in which attorneys present the core of the dispute to a neutral evaluator in the presence of the parties. This occurs after the case is filed but before discovery is conducted. The neutral then gives an assessment of the strengths and weaknesses of the case. If settlement does not result, the neutral helps narrow the dispute and suggests guidelines for managing discovery.

(5) *Non-Binding Advisory Opinion.* A forum in which the parties and their counsel present their position before one or more neutral(s). The neutral(s) then issue(s) a non-binding advisory opinion regarding liability, damages or both.

Investigation and Report Process

(6) *Neutral Fact Finding.* A forum in which a neutral investigates and analyzes a factual dispute and issues findings. The findings are non-binding unless the parties agree to be bound by them.

Facilitative Processes

(7) *Mediation.* A forum in which a neutral third party facilitates communication between parties to promote settlement. A mediator may not impose his or her own judgment on the issues for that of the parties.

Hybrid Processes

(8) *Mini-Trial.* A forum in which each party and their counsel present its position before a selected representative for each party, a neutral third party, or both, to develop a basis for settlement negotiations. A neutral may issue an advisory opinion regarding the merits of the case. The advisory opinion is not binding unless the parties agree that it is binding and enter into a written settlement agreement.

(9) *Mediation-Arbitration (Med-Arb).* A hybrid of mediation and arbitration in which the parties initially mediate their disputes; but if they reach impasse, they arbitrate any deadlocked issues.

(10) *Other.* Parties may by agreement create an ADR process. They shall explain their process in the civil cover sheet.

(b) Neutral. A "neutral" is an individual or organization who provides an ADR process. A "qualified neutral" is an individual or organization included on the State Court Administrator's roster as provided in Rule 114.12. An individual neutral must have completed the training and continuing education requirements provided in Rule 114.13. An organization on the roster must certify that an individual neutral provided by the organization has met the training and continuing education requirements of Rule 114.13. Neutral fact-finders selected by the parties for their expertise need not undergo training nor be on the State Court Administrator's roster.

(Added effective July 1, 1994; amended effective July 1, 1997; amended effective August 31, 1998; amended effective January 1, 2005; amended effective July 1, 2013.)

Implementation Committee Comment - 1993

The definitions of ADR processes that were set forth in the 1990 report of the joint Task Force have been used. No special educational background or professional standing (e.g., licensed attorney) is required of neutrals.

Advisory Committee Comment - 1996 Amendment

The amendments to this rule are limited, but important. In subdivision (a)(10) is new, and makes it explicit that parties may create an ADR process other than those enumerated in the rule. This can be either a "standard" process not defined in the rule, or a truly novel process not otherwise defined or used. This rule specifically is necessary where the parties may agree to a binding process that the courts could not otherwise impose on the parties. For example, the parties can agree to "baseball arbitration" where each party makes a best offer which is submitted to an arbitrator who

has authority to select one of the offers as fairest, but can make no other decision. Another example is the Divorce with Dignity Program established in the Fourth Judicial District, in which the parties and the judge agree to attempt to resolve disputed issues through negotiation and use of impartial experts, and the judge determines unresolved preliminary matters by telephone conference call and unresolved dispositive matters by written submissions.

The individual ADR processes are grouped in the new definitions as "adjudicative," "evaluative," "facilitative," and "hybrid." These collective terms are important in the rule, as they are used in other parts of the rule. The group definitions are useful because many of the references elsewhere in the rules are intended to cover broad groups of ADR processes rather than a single process, and because the broader grouping avoids issues of precise definition. The distinction is particularly significant because of the different training requirements under Rule 114.13.

Rule 114.03 Notice of ADR Processes

(a) Notice. The court administrator shall provide, on request, information about ADR processes available to the county and the availability of a list of neutrals who provide ADR services in that county.

(b) Duty to Advise Clients of ADR Processes. Attorneys shall provide clients with the ADR information.

(Added effective July 1, 1994; amended effective July 1, 1997; amended effective January 1, 2005.)

Implementation Committee Comment - 1993

This rule is designed to provide attorneys and parties to a dispute with information on the efficacy and availability of ADR processes. Court personnel are in the best position to provide this information. A brochure has been developed which can be used by court administrators to give information about ADR processes to attorneys and parties. The State Court Administrator's Office will maintain a master list of all qualified neutrals and will update the list and distribute it annually to court administrators.

Advisory Committee Comment - 1996 Amendment

This change is made only to remove an ambiguity in the phrasing of the rule and to add titles to the subdivisions. Neither change is intended to affect the meaning or interpretation of the rule.

Rule 114.04 Selection of ADR Process

(a) Conference. After the service of a complaint or petition, the parties shall promptly confer regarding case management issues, including the selection and timing of the ADR process. Following this conference ADR information shall be included in the civil cover sheet required by Rule 104 and in the initial case management statement required by Rule 304.02.

In family law matters, the parties need not meet and confer where one of the parties claims to be the victim of domestic abuse by the other party or where the court determines there is probable cause that one of the parties or a child of the parties has been physically abused or threatened with physical abuse by the other party. In such cases, both parties shall complete and submit form 9A or 9B, specifying the form(s) of ADR the parties individually prefer, not what is agreed upon.

(b) Court Involvement. If the parties cannot agree on the appropriate ADR process, the timing of the process, or the selection of neutral, or if the court does not approve the parties' agreement, the court shall, in cases subject to Rule 111, schedule a telephone or in-court conference of the attorneys and any self-represented litigants within thirty days after the due date for filing initial

case management statements pursuant to Rule 304.02 or the filing of a civil cover sheet pursuant to Rule 104 to discuss ADR and other scheduling and case management issues.

Except as otherwise provided in Minnesota Statutes, section 604.11 or Rule 310.01, the court at its discretion may order the parties to utilize one of the non-binding processes; provided that no ADR process shall be approved if the court finds that ADR is not appropriate or if it amounts to a sanction on a non-moving party. Where the parties have proceeded in good faith to attempt to resolve the matter using collaborative law, the court should not ordinarily order the parties to use further ADR processes.

(c) Scheduling Order. The court's Scheduling Order pursuant to Rule 111.03 or 304.03 shall designate the ADR process selected, the deadline for completing the procedure, and the name of the neutral selected or the deadline for the selection of the neutral. If ADR is determined to be inappropriate, the Scheduling Order pursuant to Rule 111.03 or 304.03 shall so indicate.

(d) Post-Decree Family Law Matters. Post-decree matters in family law are subject to ADR under this rule. ADR may be ordered following the conference required by Rule 303.03(c).

(Added effective July 1, 1994; amended effective January 1, 1996; amended effective July 1, 1997; amended effective January 1, 2005; amended effective January 1, 2008; amended effective July 1, 2013; amended effective July 1, 2015.)

Implementation Committee Comment - 1993

Early case evaluation and referral to an appropriate ADR process has proven to facilitate speedy resolution of disputes, and should be encouraged whenever possible. Mandatory referral to a non-binding ADR process may result if the judge makes an informed decision despite the preference of one or more parties to avoid ADR. The judge shall not order the parties to use more than one non-binding ADR process. Seriatim use of ADR processes, unless desired by the parties, is inappropriate. The judge's authority to order mandatory ADR processes should be exercised only after careful consideration of the likelihood that mandatory ADR in specific cases will result in voluntary settlement.

Advisory Committee Comment - 1995 Amendment

Rule 114.04 is amended to make explicit what was implicit before. The rule mandates a telephone or in-court conference if the parties cannot agree on an ADR process. The primary purpose of that conference is to resolve the disagreement on ADR, and the rule now expressly says that. The court can, and usually will, discuss other scheduling and case management issues at the same time. The court's action following the conference required by this rule may be embodied in a scheduling order entered pursuant to Rule 111.03 of these rules.

Advisory Committee Comment - 1996 Amendment

The changes to this rule are made to incorporate Rule 114's expanded applicability to family law matters. The rule adopts the procedures heretofore followed for ADR in other civil cases. The beginning point of the process is the informational statement, used under either Rule 111.02 or 304.02. The rule encourages the parties to approach ADR in all matters by conferring and agreeing on an ADR method that best suits the need of the case. This procedure recognizes that ADR works best when the parties agree to its use and as many details about its use as possible.

Subdivision (a) requires a conference regarding ADR in civil actions and after commencement of family law proceedings. In family cases seeking post-decree relief, ADR must be considered in the meeting required by Rule 303.03(c). Cases involving domestic abuse are expressly exempted from the ADR meet-and-confer requirement and courts should accommodate implementing ADR

in these cases without requiring a meeting nor compromising a party's right to choose an ADR process and neutral.

The rule is not intended to discourage settlement efforts in any action. In cases where any party has been, or claims to have been, a victim of domestic violence, however, courts need to be especially cautious. Facilitative processes, particularly mediation, are especially prone to abuse since they place the parties in direct contact and may encourage them to compromise their rights in situations where their independent decision-making capacity is limited. The rule accordingly prohibits their use where those concerns are present.

Advisory Committee Comment - 2007 Amendment

Rule 114.04(b) is amended to provide a presumptive exemption from court-ordered ADR under Rule 114 where the parties have previously obtained a deferral on the court calendar of an action to permit use of a collaborative law process as defined in Rule 111.05(a).

Rule 114.05 Selection of Neutral

(a) Court Appointment. If the parties are unable to agree on either a neutral or the date upon which the neutral will be selected, the court shall, in those cases subject to Rule 111, appoint a qualified neutral at the time of the issuance of the scheduling order required by Rule 111.03 or 304.03. In cases not subject to Rule 111, the court may appoint a qualified neutral at its discretion, after obtaining the views of the parties. In all cases the order may establish a deadline for the completion of the ADR process.

(b) Exception from Qualification. Except when mediation or med-arb is chosen as a dispute resolution process, the court, in its discretion, or upon recommendation of the parties, may appoint a neutral who does not qualify under Rule 114.12 of these rules, if the appointment is based on legal or other professional training or experience. A neutral so selected shall be deemed to consent to the jurisdiction of the ADR Review Board and compliance with the Code of Ethics set forth in the Appendix to Rule 114.

(c) Removal. Any party or the party's attorney may file with the court administrator within 7 days of notice of the appointment of the neutral and serve on the opposing party a notice to remove. Upon receipt of the notice to remove the court administrator shall immediately assign another neutral. After a party has once disqualified a neutral as a matter of right, a substitute neutral may be disqualified by the party only by making an affirmative showing of prejudice to the chief judge or his or her designee.

(d) Availability of Child Custody Investigator. A neutral serving in a family law matter may conduct a custody investigation, or evaluation only (1) where the parties agree in writing executed after the termination of mediation, that the neutral shall conduct the investigation or evaluation; or (2) where there is no other person reasonably available to conduct the investigation or evaluation. Where the neutral is also the sole investigator for a county agency charged with making recommendations to the court regarding child custody and visitation, the neutral may make such recommendations, but only after the court administrator has made all reasonable attempts to obtain reciprocal services from an adjacent county. Where such reciprocal services are obtainable, the custody evaluation must be conducted by a person from the adjacent county agency, and not by the neutral who served in the family law matter.

(Added effective July 1, 1994; amended effective July 1, 1997; amended effective January 1, 2005; amended effective January 1, 2020.)

Implementation Committee Comment - 1993

Parties should consult the statewide roster for information on the educational background and relevant training and experience of the proposed neutrals. It is important that the neutrals' qualifications can be provided to the parties so that the parties may make an informed choice. Unique aspects of a dispute and the preference of the parties may require special qualifications by the neutral.

Parties should have the ability, within reason, to choose a neutral with special expertise or experience in the subject matter of the dispute, even if they do not qualify under Rule 114.12, though it is anticipated that this will occur infrequently. Parties to mediation and med-arb processes must appoint an individual who qualifies under Rule 114.12.

Advisory Committee Comment - 1996 Amendment

This rule is amended only to provide for the expanded applicability of Rule 114 to family law matters. The rule also now explicitly permits the court to establish a deadline for completion of a court-annexed ADR process. This change is intended only to make explicit a power courts have had and have frequently exercised without an explicit rule.

Rule 114.05(d) is derived from existing Rule 310.08. Although it is clearly not generally desirable to have a neutral subsequently serve as child custody investigator, in some instances it is necessary. The circumstances where this occurs are, and should be, limited, and are defined in the rule. Where other alternatives exist in a county and for an individual case, a neutral should not serve as child custody investigator.

Rule 114.06 Time and Place of Proceedings

(a) Notice. The court shall send to the neutral a copy of the Order of Appointment.

(b) Scheduling. Upon receipt of the court's order, the neutral shall promptly schedule the ADR process in accordance with the scheduling order and inform the parties of the date. ADR processes shall be held at a time and place set by the neutral, unless otherwise ordered by the court.

(c) Final Disposition. If the case is settled through an ADR process, the attorneys shall complete the appropriate court documents to bring the case to a final disposition.

(Added effective July 1, 1994; amended effective July 1, 1997; amended effective January 1, 2005.)

Implementation Committee Comment - 1993

The neutral will schedule the ADR process date unless, the parties agree on a date within the time frame contained in the scheduling order. If the neutral is selected at the time of scheduling order, such order can serve as the court order appointing the neutral. In scheduling the ADR process the neutral will attempt to accommodate the parties' schedules.

Advisory Committee Comment - 1996 Amendment

The only changes to this rule are the inclusion of titles to the subparagraphs. This amendment is not intended to affect the meaning or interpretation of the rule, but is included to make the rule easier to use.

Rule 114.07 Attendance at ADR Proceedings

(a) Privacy. Non-binding ADR processes are not open to the public except with the consent of all parties.

(b) Attendance. The court may require that the attorneys who will try the case attend ADR proceedings.

(c) Attendance at Adjudicative Sessions. Individuals with the authority to settle the case need not attend adjudicative processes aimed at reaching a decision in the case, such as arbitration, as long as such individuals are reasonably accessible, unless otherwise directed by the court.

(d) Attendance at Non-Adjudicative Sessions. Individuals with the authority to settle the case shall attend non-adjudicative processes aimed at settlement of the case, such as mediation, mini-trial, or med-arb, unless otherwise directed by the court.

(e) Sanctions. The court may impose sanctions for failure to attend a scheduled ADR process only if this rule is violated.

(Added effective July 1, 1994; amended effective July 1, 1997; amended effective January 1, 2005.)

Implementation Committee Comment - 1993

Effective and efficient use of an ADR process depends upon the participation of appropriate individuals in the process. Attendance by attorneys facilitates discussions with clients about their case. Attendance of individuals with authority to settle the case is essential where a settlement may be reached during the process. In processes where a decision is made by the neutral, individuals with authority to settle need only be readily accessible for review of the decision.

Advisory Committee Comment - 1996 Amendment

This rule is amended only to incorporate the collective definitions now incorporated in Rule 114.02. This change is not intended to create any significant difference in the requirements for attendance at ADR sessions.

Rule 114.08 Confidentiality

(a) Evidence. Without the consent of all parties and an order of the court, or except as provided in Rule 114.09(e)(4), no evidence that there has been an ADR proceeding or any fact concerning the proceeding may be admitted in a trial de novo or in any subsequent proceeding involving any of the issues or parties to the proceeding.

(b) Inadmissability. Subject to Minnesota Statutes, section 595.02, and except as provided in paragraphs (a) and (d), no statements made nor documents produced in non-binding ADR processes which are not otherwise discoverable shall be subject to discovery or other disclosure. Such evidence is inadmissible for any purpose at the trial, including impeachment.

(c) Adjudicative Evidence. Evidence in consensual special master proceedings, binding arbitration, or in non-binding arbitration after the period for a demand for trial expires, may be used in subsequent proceedings for any purpose for which it is admissible under the rules of evidence.

(d) Sworn Testimony. Sworn testimony in a summary jury trial may be used in subsequent proceedings for any purpose for which it is admissible under the rules of evidence.

(e) Records of Neutral. Notes, records, and recollections of the neutral are confidential, which means that they shall not be disclosed to the parties, the public, or anyone other than the neutral, unless (1) all parties and the neutral agree to such disclosure or (2) required by law or other applicable professional codes. No record shall be made without the agreement of both parties, except for a memorandum of issues that are resolved.

(Added effective July 1, 1994; amended effective July 1, 1997; amended effective January 1, 2005.)

Implementation Committee Comment - 1993

If a candid discussion of the issues is to take place, parties need to be able to trust that discussions held and notes taken during an ADR proceeding will be held in confidence.

This proposed rule is important to establish the subsequent evidentiary use of statements made and documents produced during ADR proceedings. As a general rule, statements in ADR processes that are intended to result in the compromise and settlement of litigation would not be admissible under Minn. R. Evid. 408. This rule underscores and clarifies that the fact that ADR proceedings have occurred or what transpired in them. Evidence and sworn testimony offered in summary jury trials and other similar related proceedings is not excluded from admissibility by this rule, but is explicitly treated as other evidence or as in the other sworn testimony or evidence under the rules of evidence. Former testimony is excepted from the hearsay rule if the witness is unavailable by Minn R. Evid. 804(b)(1). Prior testimony may also be admissible under Minn R. Evid. 613 as a prior statement.

Advisory Committee Comment - 2004 Amendment

The amendment of this rule in 1996 is intended to underscore the general need for confidentiality of ADR proceedings. It is important to the functioning of the ADR process that the participants know that the ADR proceedings will not be part of subsequent (or underlying) litigation. Rule 114.08(a) carries forward the basic rule that evidence in ADR proceedings is not to be used in other actions or proceedings. Mediators and lawyers for the parties, to the extent of their participation in the mediation process, cannot be called as witnesses in other proceedings. Minnesota Statutes, section 595.02, subdivision 1a. This confidentiality should be extended to any subsequent proceedings.

The last sentence of 114.08(e) is derived from existing Rule 310.05.

Rule 114.09 Arbitration Proceedings

(a) General. Parties are free to opt for binding or non-binding arbitration. Whether they elect binding or non-binding arbitration, the parties may construct or select a set of rules to govern the process. The agreement to arbitrate must state what rules govern. If the parties elect binding arbitration, and their agreement to arbitrate is otherwise silent, the arbitration will be deemed to be conducted pursuant to Minnesota Statutes, section 572.08 *et seq.* ("Uniform Arbitration Act"). If they elect non-binding arbitration, and their agreement is otherwise silent, they shall conduct the arbitration pursuant to Rule 114.09, subsections (b)-(f). Parties are free, however, to contract to use provisions from both processes or to modify the arbitration procedure as they deem appropriate to their case.

(b) Evidence.

(1) Except where a party has waived the right to be present or is absent after due notice of the hearing, the arbitrator and all parties shall be present at the taking of all evidence.

(2) The arbitrator shall receive evidence that the arbitrator deems necessary to understand and determine the dispute. Relevancy shall be liberally construed in favor of admission. The following principles apply:

(i) *Documents.* If copies have been delivered to all other parties at least 14 days before the hearing, the arbitrator may consider written medical and hospital reports, records, and bills; documentary evidence of loss of income, property damage, repair bills or estimates; and police reports concerning an accident which gave rise to the case. Any other party may subpoena as a witness the author of a report, bill, or estimate, and examine that person as if under cross-

examination. Any repair estimate offered as an exhibit, as well as copies delivered to other parties, shall be accompanied by a statement indicating whether or not the property was repaired. If the property was repaired, the statement must indicate whether the estimated repairs were made in full or in part and must be accompanied by a copy of the receipted bill showing the items repaired and the amount paid. The arbitrator shall not consider any police report opinion as to ultimate fault. In family law matters, the arbitrator may consider property valuations, business valuations, custody reports, and similar documents.

(ii) *Other Reports.* The written statement of any other witness, including written reports of expert witnesses not enumerated above and statements of opinion which the witness would be qualified to express if testifying in person, shall be received in evidence if: (1) copies have been delivered to all other parties at least 14 days before the hearing; and (2) no other party has delivered to the proponent of the evidence a written demand at least 7 days before the hearing that the witness be produced in person to testify at the hearing. The arbitrator shall disregard any portion of a statement received pursuant to the rule that would be inadmissible if the witness were testifying in person, but the inclusion of inadmissible matter does not render the entire statement inadmissible.

(iii) *Depositions.* Subject to objections, the deposition of any witness shall be received in evidence, even if the deponent is not unavailable as a witness and if no exceptional circumstances exist, if: (1) the deposition was taken in the manner provided for by law or by stipulation of the parties; and (2) not fewer than 14 days before the hearing, the proponent of the deposition serves on all other parties notice of the intention to offer the deposition in evidence.

(iv) *Affidavits.* The arbitrator may receive and consider witness affidavits, but shall give them only such weight to which they are entitled after consideration of any objections. A party offering opinion testimony in the form of an affidavit, statement, or deposition, shall have the right to withdraw such testimony, and attendance of the witness at the hearing shall not then be required.

(3) Attorneys must obtain subpoenas for attendance at hearings through the court administrator, pursuant to Minn. R. Civ. P. 45. The party requesting the subpoena shall modify the form of the subpoena to show that the appearance is before the arbitrator and to give the time and place set for the arbitration hearing. At the discretion of the arbitrator, nonappearance of a properly subpoenaed witness may be grounds for an adjournment or continuance of the hearing. If any witness properly served with a subpoena fails to appear or refuses to be sworn or answer, the court may conduct proceedings to compel compliance.

(c) Powers of Arbitrator. The arbitrator has the following powers:

(1) to administer oaths or affirmations to witnesses;

(2) to take adjournments upon the request of a party or upon the arbitrator's initiative;

(3) to permit testimony to be offered by deposition;

(4) to permit evidence to be introduced as provided in these rules;

(5) to rule upon admissibility and relevance of evidence offered;

(6) to invite the parties, upon reasonable notice, to submit pre-hearing or post-hearing briefs or pre-hearing statements of evidence;

(7) to decide the law and facts of the case and make an award accordingly;

(8) to award costs, within statutory limits;

(9) to view any site or object relevant to the case; and

(10) any other powers agreed upon by the parties.

(d) Record.

(1) No record of the proceedings shall be made unless permitted by the arbitrator and agreed to by the parties.

(2) The arbitrator's personal notes are not subject to discovery.

(e) The Award.

(1) No later than 14 days after the date of the arbitration hearing or the arbitrator's receipt of the final post-hearing memorandum, whichever is later, the arbitrator shall file with the court the decision, together with proof of service on all parties by first class mail or other method of service authorized by the rules or ordered by the court.

(2) If no party has filed a request for a trial within 21 days after the award is filed, the court administrator shall enter the decision as a judgment and shall promptly transmit notice of entry of judgment to the parties. The judgment shall have the same force and effect as, and is subject to all provisions of law relating to, a judgment in a civil action or proceeding, except that it is not subject to appeal, and may not be attacked or set aside. The judgment may be enforced as if it had been rendered by the court in which it is entered.

(3) No findings of fact, conclusions of law, or opinions supporting an arbitrator's decision are required.

(4) Within 90 days after its entry, a party against whom a judgment is entered pursuant to an arbitration award may move to vacate the judgment on only those grounds set forth in Minnesota Statutes, chapter 572.

(f) Trial after Arbitration.

(1) Within 21 days after the arbitrator files the decision with the court, any party may request a trial by filing a request for trial with the court, along with proof of service upon all other parties. This 21-day period shall not be extended.

(2) The court may set the matter for trial on the first available date, or shall restore the case to the civil calendar in the same position as it would have had if there had been no arbitration.

(3) Upon request for a trial, the decision of the arbitrator shall be sealed and placed in the court file.

(4) A trial de novo shall be conducted as if there had been no arbitration.

(Added effective July 1, 1994; amended effective July 1, 1997; amended effective January 1, 2005; amended effective July 1, 2015; amended effective January 1, 2020.)

Implementation Committee Comment - 1993

The Committee made a conscious decision not to formulate rules to govern other forms of ADR, such as mediation, early neutral evaluations, and summary jury trials. There is no consensus among those who conduct or participate in those forms of ADR as to whether any procedures or rules are necessary at all, let alone what those rules or procedures should be. The Committee urges parties, judges and neutrals to be open and flexible in their conduct of ADR proceedings (other than arbitration), and to experiment as necessary, at some time in the future, to revisit the issues of rules, procedures or other limitations applicable to the various forms of court-annexed ADR.

Hennepin County and Ramsey County both have had substantial experience with arbitrations, and have developed rules of procedure that have worked well. The Committee has considered those rules, and others, in developing its proposed rules.

Subd. (a) of this rule is modeled after rules presently in use by the Second and Fourth Judicial Districts and rules currently in use by the American Arbitration Association.

Subd. (b) of this Rule is modeled after rules presently in use in the Second and Fourth Judicial Districts. In non-binding arbitration, the arbitrator is limited to providing advisory awards, unless the parties do not request a trial.

Subd. (c) of this Rule is modeled after rules presently in use in the Second and Fourth Judicial Districts. Records of the proceeding include records made by a stenographer, court reporter, or recording device.

Subd. (d) of this Rule is modeled after Rule 25 VIII of the Special Rules of Practice for the Second Judicial District.

Advisory Committee Comment - 1996 Amendment

The changes to this rule in 1996 incorporate the collective labels for ADR processes now recognized in Rule 114.02. These changes should clarify the operation of the rule, but should not otherwise affect its interpretation.

Rule 114.10 Communication with Neutral

(a) Adjudicative Processes. Neither the parties nor their representatives shall communicate ex parte with the neutral unless approved in advance by all parties and the neutral.

(b) Non-Adjudicative Processes. Parties and their counsel may communicate ex parte with the neutral in non-adjudicative ADR processes with the consent of the neutral, so long as the communication encourages or facilitates settlement.

(c) Communications to Court during ADR Process. During an ADR process the court may be informed only of the following:

(1) The failure of a party or an attorney to comply with the order to attend the process;

(2) Any request by the parties for additional time to complete the ADR process;

(3) With the written consent of the parties, any procedural action by the court that would facilitate the ADR process; and

(4) The neutral's assessment that the case is inappropriate for that ADR process.

(d) Communications to Court after ADR Process. When the ADR process has concluded, the court may only be informed of the following:

(1) If the parties do not reach an agreement on any matter, the neutral shall report the lack of an agreement to the court without comment or recommendations;

(2) If agreement is reached, any requirement that its terms be reported to the court should be consistent with the jurisdiction's policies governing settlements in general; and

(3) With the written consent of the parties, the neutral's report also may identify any pending motions or outstanding legal issues, discovery process, or other action by any party which, if resolved or completed, would facilitate the possibility of a settlement.

(Added effective July 1, 1994; amended effective July 1, 1997; amended effective January 1, 2005.)

Implementation Committee Comment - 1993

This Rule is modeled after Rule 25 VI of the Special Rules of Practice for the Second Judicial District.

Advisory Committee Comment - 1996 Amendment

The changes to this rule in 1996 incorporate the collective labels for ADR processes now recognized in Rule 114.02. These changes should clarify the operation of the rule, but should not otherwise affect its interpretation.

Rule 114.11 Funding

(a) Setting of Fee. The neutral and the parties will determine the fee. All fees of neutral(s) for ADR services shall be fair and reasonable.

(b) Responsibility for Payment. The parties shall pay for the neutral. It is presumed that the parties shall split the costs of the ADR process on an equal basis. The parties may, however, agree on a different allocation. Where the parties cannot agree, the court retains the authority to determine a final and equitable allocation of the costs of the ADR process.

(c) Sanctions for Non-Payment. If a party fails to pay for the neutral, the court may, upon motion, issue an order for the payment of such costs and impose appropriate sanctions.

(d) Inability to Pay. If a party qualifies for waiver of filing fees under Minnesota Statutes, section 563.01, or if the court determines on other grounds that the party is unable to pay for ADR services, and free or low-cost ADR services are not available, the court shall not order that party to participate in ADR and shall proceed with the judicial handling of the case.

(Added effective July 1, 1994; amended effective July 1, 1997; amended effective January 1, 2005.)

Implementation Committee Comment - 1993

The marketplace in the parties' geographic area will determine the rates to be offered by neutrals for their services. The parties can then best determine the appropriate fee, after considering a number of factors, including availability, experience and expertise of the neutral and the financial abilities of the parties.

ADR providers shall be encouraged to provide pro bono and volunteer services to parties unable to pay for ADR processes. Parties with limited financial resources should not be denied access to an ADR process because of an inability to pay for a neutral. Judges and ADR providers should consider the financial abilities of all parties and accommodate those who are not able to share equally in costs of the ADR process. The State Court Administrator shall monitor access to ADR processes by individuals with limited financial resources.

Advisory Committee Comment - 1996 Amendment

The payment of fees for neutrals is particularly troublesome in family law matters, where the expense may be particularly onerous. Subdivision (d) of this rule is intended to obviate some difficulties relating to inability to pay ADR fees. The advisory committee rejected any suggestion that these rules should create a separate duty on the part of neutrals to provide free neutral services.

The committee hopes such services are available, and would encourage qualified neutrals who are attorneys to provide free services as a neutral as part of their obligation to provide pro bono services. See Minn. R. Prof. Cond. 6.1. If free or affordable ADR services are not available, however, the party should not be forced to participate in an ADR process and should suffer no ill-consequence of not being able to do so.

Rule 114.12 Rosters of Neutrals

(a) Roster. The State Court Administrator shall establish one roster of neutrals for civil matters and one roster of neutrals for family law. Each roster shall be updated and published on a regular basis. The State Court Administrator shall not place on, and shall delete from, the rosters the name of any applicant or neutral whose professional license has been revoked. A qualified neutral may not provide services during a period of suspension of a professional license. The State Court Administrator shall review applications from those who wish to be listed on the roster of qualified neutrals, which shall include those who meet the training requirements established in Rule 114.13, or who have received a waiver under Rule 114.14.

(b) Fees. The State Court Administrator shall establish reasonable fees for qualified individuals and organizations to be placed on either roster.

(Added effective July 1, 1997; amended effective January 1, 2005.)

Advisory Committee Comment - 1996 Amendment

This rule is primarily new, though it incorporates the procedure now in place administratively under Rule 114.12(b) for placement of neutrals on the roster and the establishment of fees.

This rule expands the State Court Administrator's neutral roster to create a new, separate roster for family law neutrals. It is intended that the new roster will function the same way the current roster for civil ADR under existing Rule 114 does. Subparagraph (b) is new, and provides greater detail of the specific sub-rosters for civil neutrals. It describes the roster as it is now created, and this new rule is not intended to change the existing practice for civil neutrals in any way. Subparagraph (c) creates a parallel definition for the new family law neutral roster, and it is intended that the new roster appear in form essentially the same as the existing roster for civil action neutrals.

Rule 114.13 Training, Standards and Qualifications for Neutral Rosters

(a) Civil Facilitative/Hybrid Neutrals. All qualified neutrals providing facilitative or hybrid services in civil, non-family matters, must have received a minimum of 30 hours of classroom training, with an emphasis on experiential learning. The training must include the following topics:

(1) Conflict resolution and mediation theory, including causes of conflict and interest-based versus positional bargaining and models of conflict resolution;

(2) Mediation skills and techniques, including information gathering skills, communication skills, problem solving skills, interaction skills, conflict management skills, negotiation techniques, caucusing, cultural and gender issues and power balancing;

(3) Components in the mediation process, including an introduction to the mediation process, fact gathering, interest identification, option building, problem solving, agreement building, decision making, closure, drafting agreements, and evaluation of the mediation process;

(4) Mediator conduct, including conflicts of interest, confidentiality, neutrality, ethics, standards of practice and mediator introduction pursuant to the Civil Mediation Act, Minnesota Statutes, section 572.31;

(5) Rules, statutes and practices governing mediation in the trial court system, including these rules, Special Rules of Court, and applicable statutes, including the Civil Mediation Act.

The training outlined in this subdivision shall include a maximum of 15 hours of lectures and a minimum of 15 hours of role-playing.

(b) Civil Adjudicative/Evaluative Neutrals. All qualified neutrals serving in arbitration, summary jury trial, early neutral evaluation and adjudicative or evaluative processes or serving as a consensual special magistrate must have received a minimum of 6 hours of classroom training on the following topics:

(1) Pre-hearing communications between parties and between parties and neutral; and

(2) Components of the hearing process including evidence; presentation of the case; witness, exhibits, and objectives; awards; and dismissals; and

(3) Settlement techniques; and

(4) Rules, statutes, and practices covering arbitration in the trial court system, including Supreme Court ADR rules, special rules of court and applicable state and federal statutes; and

(5) Management of presentations made during early neutral evaluation procedures and moderated settlement conferences.

(c) Family Law Facilitative Neutrals. All qualified neutrals serving in family law facilitative processes must have:

(1) Completed or taught a minimum of 40 hours of family mediation training which is certified by the Minnesota Supreme Court. The certified training shall include at least:

(a) 4 hours of conflict resolution theory;

(b) 4 hours of psychological issues related to separation and divorce, and family dynamics;

(c) 4 hours of the issues and needs of children in divorce;

(d) 6 hours of family law including custody and visitation, support, asset distribution and evaluation, and taxation as it relates to divorce;

(e) 5 hours of family economics; and,

(f) 2 hours of ethics, including: (i) the role of mediators and parties' attorneys in the facilitative process; (ii) the prohibition against mediators dispensing legal advice; and, (iii) a party's right of termination.

Certified training for mediation of custody issues only need not include 5 hours of family economics. The certified training shall consist of at least 40 percent role-playing and simulations.

(2) Completed or taught a minimum of 6 hours of certified training in domestic abuse issues, which may be a part of the 40-hour training above, to include at least:

(a) 2 hours about domestic abuse in general, including definition of battery and types of power imbalance;

(b) 3 hours of domestic abuse screening, including simulations or role-playing; and,

(c) 1 hour of legal issues relative to domestic abuse cases.

(d) Family Law Adjudicative Neutrals. All qualified neutrals serving in a family law adjudicative capacity must have had at least 5 years of professional experience in the area of family law and be recognized as qualified practitioners in their field. Recognition may be demonstrated by submitting proof of professional licensure; professional certification; faculty membership of approved continuing education courses for family law; service as court-appointed adjudicative neutral, including consensual special magistrates; service as referees or guardians ad litem; or acceptance by peers as experts in their field. All qualified family law adjudicative neutrals shall have also completed or taught a minimum of 6 hours of certified training on the following topics:

(1) Pre-hearing communications among parties and between the parties and neutral(s);

(2) Components of the family court hearing process including evidence, presentation of the case, witnesses, exhibits, awards, dismissals, and vacation of awards;

(3) Settlement techniques; and,

(4) Rules, statutes, and practices pertaining to arbitration in the trial court system, including Minnesota Supreme Court ADR rules, special rules of court, and applicable state and federal statutes.

In addition to the 6-hour training required above, all qualified family law adjudicative neutrals must have completed or taught a minimum of 6 hours of certified training in domestic abuse issues, to include at least:

(1) 2 hours about domestic abuse in general, including definition of battery and types of power imbalance;

(2) 3 hours of domestic abuse screening, including simulations or role-playing; and,

(3) 1 hour of legal issues relative to domestic abuse cases.

(e) Family Law Evaluative Neutrals. All qualified neutrals offering early neutral evaluations or non-binding advisory opinions (1) shall have at least 5 years of experience as family law attorneys, as accountants dealing with divorce-related matters, as custody and visitation psychologists, or as other professionals working in the area of family law who are recognized as qualified practitioners in their field; and (2) shall have completed or taught a minimum of 2 hours of certified training on management of presentations made during evaluative processes. Evaluative neutrals shall have knowledge on all issues on which they render opinions.

In addition to the 2-hour training required above, all qualified family law evaluative neutrals must have completed or taught a minimum of 6 hours of certified training in domestic abuse issues, to include at least:

(1) 2 hours about domestic abuse in general, including definition of battery and types of power imbalance;

(2) 3 hours of domestic abuse screening, including simulations or role-playing; and,

(3) 1 hour of legal issues relative to domestic abuse cases.

(f) Exceptions to Roster Requirements. Neutral fact-finders selected by the parties for their expertise need not undergo training nor be included on the State Court Administrator's roster.

(g) Continuing Training. All qualified neutrals providing facilitative or hybrid services must attend 18 hours of continuing education about alternative dispute resolution subjects within the 3-year period in which the qualified neutral is required to complete the continuing education requirements. All other qualified neutrals must attend 9 hours of continuing education about

alternative dispute resolution subjects during the 3-year period in which the qualified neutral is required to complete the continuing education requirements. These hours may be attained through course work and attendance at state and national ADR conferences. The qualified neutral is responsible for maintaining attendance records and shall disclose the information to program administrators and the parties to any dispute. The qualified neutral shall submit continuing education credit information to the State Court Administrator's office within 60 days after the close of the period during which his or her education requirements must be completed.

(h) Certification of Training Programs. The State Court Administrator shall certify training programs which meet the training criteria of this rule.

(Added effective July 1, 1994; amended and renumbered effective July 1, 1997; amended effective March 1, 2001; amended effective January 1, 2005.)

Implementation Committee Comment - 1993

The training requirements are designed to emphasize the value of learning through experience. Training requirements can protect the parties and the integrity of the ADR processes from neutrals with little or no dispute resolution skills who offer services to the public and training to neutrals. These rules shall serve as minimum standards; individual jurisdictions may make requirements more stringent.

Advisory Committee Comment - 1996 Amendment

The provisions for training and certification of training are expanded in these amendments to provide for the specialized training necessary for ADR neutrals. The committee recommends that six hours of domestic abuse training be required for all family law neutrals, other than those selected solely for technical expertise. The committee believes this is a reasonable requirement and one that should significantly facilitate the fair and appropriate consideration of the concerns of all parties in family law proceedings.

Advisory Committee Comment - 2000 Amendment

Rule 114.13(g) is amended in 2000 to replace the current annual training requirement with a three-year reporting cycle. The existing requirements are simply tripled in size, but need only be accumulated over a three-year period. The rule is designed to require reporting of training for ADR on the same schedule required for CLE for neutrals who are lawyers. See generally Rule 3 of Rules of the Supreme Court for Continuing Legal Education of Members of the Bar and Rule 106 of Rules of the Board of Continuing Legal Education. Non-lawyer neutrals should be placed by the ADR Board on a similar three-year reporting schedule.

Rule 114.14 Waiver of Training Requirement

A neutral seeking to be included on the roster of qualified neutrals without having to complete training requirements under Rule 114.13 shall apply for a waiver to the Minnesota Supreme Court ADR Review Board. Waivers may be granted when an individual's training and experience clearly demonstrate exceptional competence to serve as a neutral.

(Added effective July 1, 1994; amended effective July 1, 1997; amended effective January 1, 2005.)

Implementation Committee Comment - 1993

Some neutrals may be permitted to continue providing ADR services without completing the training requirements. A Board, made up of dispute resolution professionals, court officials, judges and attorneys, shall determine who qualifies.

Advisory Committee Comment - 1996 Amendment

This rule is amended to allow "grandparenting" of family law neutrals. The rule is derived in form from the grandparenting provision included in initial adoption of this rule for civil neutrals.

Advisory Committee Comment - 2015 Amendments

The amendment to Rule 114.04 is not substantive in nature or intended effect. The term "self-represented litigant" is being used uniformly throughout the judicial branch and is preferable to "non-represented party" and "pro se party," both to avoid a Latin phrase not used outside legal jargon and to facilitate the drafting of clearer rules.

Rule 114.09 is amended to delete the requirement that the arbitrator must serve a copy of the award by first-class mail. Service is required, but service by mail is permitted, as is any other method authorized by the rules or ordered by the court with respect to the arbitration.

RULE 114 APPENDIX

CODE OF ETHICS

INTRODUCTION

Minn. Gen. R. Prac. 114 provides that alternative dispute resolution (ADR) must be considered for nearly all civil cases filed in district court. The ADR Review Board, appointed by the Supreme Court, approves individuals and organizations who are qualified under Rule 114 to act as neutrals in court-referred cases.

Individuals and organizations approved by the ADR Review Board consent to the jurisdiction of the Board and to compliance with this Code of Ethics. The purpose of this code is to provide standards of ethical conduct to guide neutrals who provide ADR services, to inform and protect consumers of ADR services, and to ensure the integrity of the various ADR processes.

In order for ADR to be effective, there must be broad public confidence in the integrity and fairness of the process. Neutrals have a responsibility not only to the parties and to the court, but also to the continuing improvement of ADR processes. Neutrals must observe high standards of ethical conduct. The provisions of this Code should be construed to advance these objectives.

Neutrals should orient the parties to the process before beginning a proceeding. Neutrals should not practice, condone, facilitate, or promote any form of discrimination on the basis of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or age. Neutrals should be aware that cultural differences may affect a party's values and negotiating style.

This introduction provides general orientation to the Code of Ethics. Comments accompanying any rule explain and illustrate the meaning and purpose of the rule. The Comments are intended as guides to interpretation but the text of each rule is authoritative. Failure to comply with any provision in this Code of Ethics may be the basis for removal from the roster of neutrals maintained by the Office of the State Court Administrator and/or for such other action as may be taken by the Minnesota Supreme Court.

Violation of a provision of this Code shall not create a cause of action nor shall it create any presumption that a legal duty has been breached. Nothing in this Code should be deemed to establish or augment any substantive legal duty on the part of neutrals.

Rule I. Impartiality

A neutral shall conduct the dispute resolution process in an impartial manner and shall serve only in those matters in which she or he can remain impartial and evenhanded. If at any time the neutral is unable to conduct the process in an impartial manner, the neutral shall withdraw.

(Added effective August 27, 1997.)

Advisory Task Force Comment - 1997

1. The concept of impartiality of the neutral is central to all alternative dispute resolution processes. Impartiality means freedom from favoritism or bias either by word or action, and a commitment to serve all parties as opposed to a single party.

Rule II. Conflicts of Interest

A neutral shall disclose all actual and potential conflicts of interest reasonably known to the neutral. After disclosure, the neutral shall decline to participate unless all parties choose to retain the neutral. The need to protect against conflicts of interest shall govern conduct that occurs during and after the dispute resolution process. Without the consent of all parties, and for a reasonable time under the particular circumstances, a neutral who also practices in another profession shall not establish a professional relationship in that other profession with one of the parties, or any person or entity, in a substantially factually related matter.

(Added effective August 27, 1997.)

Advisory Task Force Comment - 1997

1. A conflict of interest is any direct or indirect financial or personal interest in the outcome of the proceeding or any existing or past financial, business, professional, family or social relationship which is likely to affect impartiality or which might reasonably create an appearance of partiality or bias. If all parties agree to proceed after being informed of conflicts, the neutral may proceed with the case. If, however, the neutral believes that the conflict of interest would inhibit the neutral's impartiality, the neutral should decline to proceed.

2. Guidance on these conflict of interests issues may be found in the cases under statutes regarding challenges to arbitration awards or mediated settlement agreements on the grounds of fraud for nondisclosure of a conflict of interest or material relationship or for partiality of an arbitrator or mediator. (Minnesota Civil Mediation Act, Uniform Arbitration Act, Federal Arbitration Act.)

3. In deciding whether to establish a relationship with one of the parties in an unrelated matter, the neutral should exercise caution in circumstances which would raise legitimate questions about the integrity of the ADR process.

4. A neutral should avoid conflicts of interest in recommending the services of other professionals.

5. The neutral's commitment must be to the parties and the process. Pressures from outside of the process should never influence the neutral's conduct.

6. There is no intent that the prohibition established in this rule which applies to an individual neutral shall be imputed to an organization, panel or firm of which the neutral is a part. However, the individual neutral should be mindful of the confidentiality requirements in Rule IV of this Code and the organization, panel, or firm should exercise caution.

Rule III. Competence

A neutral shall serve as a neutral only when she/he has the necessary qualifications to satisfy the reasonable expectations of the parties.

(Added effective August 27, 1997.)

Advisory Task Force Comment - 1997

1. Any person on the Minnesota Statewide ADR-Rule 114 Neutral Roster may be selected as a neutral, provided that the parties are satisfied with the neutral's qualifications. A person who offers neutral services gives parties and the public the expectations that she or he is competent to serve effectively as a neutral. A neutral should decline appointment, request technical assistance, or withdraw from a dispute which is beyond the neutral's competence.

2. Neutrals must provide information regarding their relevant training, education and experience to the parties (Minnesota Civil Mediation Act.)

Rule IV. Confidentiality

The neutral shall maintain confidentiality to the extent provided by Rules 114.08 and 114.10 and any additional agreements made with or between the parties.

(Added effective August 27, 1997.)

Advisory Task Force Comment - 1997

1. A neutral should discuss issues of confidentiality with the parties before beginning an ADR process including limitations on the scope of confidentiality and the extent of confidentiality provided in any private sessions that a neutral holds with a party.

2. Rule 114.08 reads: Confidentiality

(a) Evidence. Without the consent of all parties and an order of the court, or except as provided in Rule 114.09(e)(4), no evidence that there has been an ADR proceeding or any fact concerning the proceeding may be admitted in a trial de novo or in any subsequent proceeding involving any of the issues or parties to the proceeding.

(b) Inadmissibility. Statements made and documents produced in non-binding ADR processes which are not otherwise discoverable are not subject to discovery or other disclosure and are not admissible into evidence for any purpose at the trial, including impeachment, except as provided in paragraph (d).

(c) Adjudicative Evidence. Evidence in consensual special master proceedings, binding arbitration, or in non-binding arbitration after the period for a demand for trial expires, may be used in subsequent proceedings for any purpose for which it is admissible under the rules of evidence.

(d) Sworn Testimony. Sworn testimony in a summary jury trial may be used in subsequent proceedings for any purpose for which it is admissible under the rules of evidence.

(e) Records of Neutral. Notes, records, and recollections of the neutral are confidential, which means that they shall not be disclosed to the parties, the public, or anyone other than the neutral, unless (1) all parties and the neutral agree to such disclosure or (2) required by law or other applicable professional codes. No record shall be made without the agreement of both parties, except for a memorandum of issues that are resolved.

3. Rule 114.10 reads: Communication with Neutral

(a) Adjudicative Processes. The parties and their counsel shall not communicate ex parte with an arbitrator or a consensual special master or other adjudicative neutral.

(b) Non-Adjudicative Processes. Parties and their counsel may communicate ex parte with the neutral in non-adjudicative ADR processes with the consent of the neutral, so long as the communication encourages or facilitates settlement.

(c) Communications to Court During ADR Process. During an ADR process the court may be informed only of the following:

(1) The failure of a party or an attorney to comply with the order to attend the process;

(2) Any request by the parties for additional time to complete the ADR process;

(3) With the written consent of the parties, any procedural action by the court that would facilitate the ADR process; and

(4) The neutral's assessment that the case is inappropriate for that ADR process.

(d) Communications to Court After ADR Process. When the ADR process has been concluded, the court may only be informed of the following:

(1) If the parties do not reach an agreement on any matter, the neutral should report the lack of an agreement to the court without comment or recommendations;

(2) If agreement is reached, any requirement that its terms be reported to the court should be consistent with the jurisdiction's policies governing settlements in general; and

(3) With the written consent of the parties, the neutral's report also may identify any pending motions or outstanding legal issues, discovery process, or other action by any party which, if resolved or completed, would facilitate the possibility of a settlement.

Rule V. Quality of the Process

A neutral shall work to ensure a quality process. A quality process requires a commitment by the neutral to diligence and procedural fairness. A neutral shall not knowingly make false statements of fact or law. The neutral shall exert every reasonable effort to expedite the process including prompt issuance of written reports, awards, or agreements.

(Added effective August 27, 1997.)

Advisory Task Force Comment - 1997

1. A neutral should be prepared to commit the attention essential to the ADR process.

2. A neutral should satisfy the reasonable expectations of the parties concerning the timing of the process.

3. A neutral should not provide therapy to either party, nor should a neutral who is a lawyer represent either party in any matter during an ADR process.

4. A neutral should withdraw from an ADR process when incapable of serving or when unable to remain neutral.

5. A neutral should withdraw from an ADR process or postpone a session if the process is being used to further illegal conduct, or if a party is unable to participate due to drug or alcohol abuse, or other physical or mental incapacity.

Rule VI. Advertising and Solicitation

A neutral shall be truthful in advertising and solicitation for alternative dispute resolution. A neutral shall make only accurate and truthful statements about any alternative dispute resolution process, its costs and benefits, the neutral's role and her or his skills or qualifications. A neutral shall refrain from promising specific results.

In an advertisement or other communication to the public, a neutral who is on the Roster may use the phrase "qualified neutral under Rule 114 of the Minnesota General Rules of Practice." It is not appropriate to identify oneself as a "certified" neutral.

(Added effective August 27, 1997.)

Rule VII. Fees

A neutral shall fully disclose and explain the basis of compensation, fees and charges to the parties. The parties shall be provided sufficient information about fees at the outset to determine if they wish to retain the services of a neutral. A neutral shall not enter into a fee agreement which is contingent upon the outcome of the alternative dispute resolution process. A neutral shall not give or receive any commission, rebate, or similar remuneration for referring a person for alternative dispute resolution services.

(Added effective August 27, 1997.)

Advisory Task Force Comment - 1997

1. The better practice in reaching an understanding about fees is to set down the arrangements in a written agreement.

2. A neutral who withdraws from a case should return any unearned fee to the parties.

MEDIATION

Rule I. Self-Determination

A mediator shall recognize that mediation is based on the principle of self-determination by the parties. It requires that the mediation process rely upon the ability of the parties to reach a voluntary, uncoerced agreement. The primary responsibility for the resolution of a dispute and the shaping of a settlement agreement rests with the parties. A mediator shall not require a party to stay in the mediation against the party's will.

(Added effective August 27, 1997.)

Advisory Task Force Comment - 1997

1. The mediator may provide information about the process, raise issues, offer opinions about the strengths and weaknesses of a case, draft proposals, and help parties explore options. The primary role of the mediator is to facilitate a voluntary resolution of a dispute. Parties should be given the opportunity to consider all proposed options. It is acceptable for the mediator to suggest options in response to parties' requests, but not to coerce the parties to accept any particular option.

2. A mediator cannot personally ensure that each party has made a fully informed choice to reach a particular agreement, but it is a good practice for the mediator to make the parties aware

of the importance of consulting other professionals, where appropriate, to help them make informed decisions.

RULE 114 APPENDIX

CODE OF ETHICS ENFORCEMENT PROCEDURE

Effective August 31, 2000

With amendments received through January 1, 2020

INTRODUCTION

Inclusion on the list of qualified neutrals pursuant to Minn. Gen. R. Prac. 114.12 is a conditional privilege, revocable for cause.

I. Scope

This procedure applies to complaints against any individual or organization (neutral) placed on the roster of qualified neutrals pursuant to Rule 114.12 or serving as a court appointed neutral pursuant to Minn. Gen. R. Prac. 114.05(b). Collaborative attorneys or other professionals as defined in Rule 111.05(a) are not subject to the Rule 114 Code of Ethics and Enforcement Procedure while acting in a collaborative process under that rule.

(Amended effective January 1, 2008.)

Advisory Comment

A qualified neutral is subject to this complaint procedure when providing any ADR services. The complaint procedure applies whether the services are court ordered or not, and whether the services are or are not pursuant to Minnesota General Rules of Practice. The Board will consider the full context of the alleged misconduct, including whether the neutral was subject to other applicable codes of ethics, or representing a "qualified organization" at the time of the alleged misconduct.

Minn. Gen. R. Prac. 114.02(b): ***"Neutral.*** *A 'neutral' is an individual or organization that provides an ADR process. A 'qualified neutral' is an individual or organization included on the State Court Administrator's roster as provided in Rule 114.12. An individual neutral must have completed the training and continuing education requirements provided in Rule 114.13. An individual neutral provided by an organization also must meet the training and continuing education requirements of Rule 114.13. Neutral fact-finders selected by the parties for their expertise need not undergo training nor be on the State Court Administrator's roster."*

Attorneys functioning as collaborative attorneys are subject to the Minnesota Rules on Lawyers Professional Responsibility. Complaints against collaborative attorneys should be directed to the Lawyers Professional Responsibility Board.

(Amended 2005.)

Advisory Committee Comment - 2007 Amendment

The committee believes it is worth reminding participants in collaborative law processes that the process is essentially adversary in nature, and collaborative attorneys owe the duty of loyalty to their clients. The Code of Ethics procedures apply to create standards of care for ADR neutrals, as defined in the rules; because collaborative lawyers, while acting in that capacity, are not neutrals, these enforcement procedures do not apply.

II. Procedure

A. A complaint must be in writing, signed by the complainant, and mailed or delivered to the ADR Review Board at 25 Rev. Dr. Martin Luther King Jr. Blvd., Suite 120, Saint Paul, MN 55155-1500. The complaint shall identify the neutral and make a short and plain statement of the conduct forming the basis of the complaint.

B. The State Court Administrator's Office, in conjunction with one ADR Review Board member shall review the complaint and recommend whether the allegation(s), if true, constitute a violation of the Code of Ethics, and whether to refer the complaint to mediation. The State Court Administrator's Office and ADR Review Board member may also request additional information from the complainant if it is necessary prior to making a recommendation.

C. If the allegation(s) of the complaint do not constitute a violation of the Code of Ethics, the complaint shall be dismissed and the complainant and the neutral shall be notified in writing.

D. If the allegation(s) of the complaint, if true, constitute a violation of the Code of Ethics, the Board will undertake such review, investigation, and action it deems appropriate. In all such cases, the Board shall send to the neutral, by certified mail, a copy of the complaint, a list identifying the ethical rules which may have been violated, and a request for a written response to the allegations and to any specific questions posed by the Board. It shall not be considered a violation of Rule 114.08(e) of the Minnesota General Rules of Practice or of Rule IV of the Code of Ethics, Rule 114 Appendix, for the neutral to disclose notes, records, or recollections of the ADR process complained of as part of the complaint procedure. Except for good cause shown, if the neutral fails to respond to the complaint in writing within 28 days, the allegation(s) shall be deemed admitted.

E. The complainant and neutral may agree to mediation or the State Court Administrator's Office or Board may refer them to mediation conducted by a qualified neutral to resolve the issues raised by the complainant. Mediation shall proceed only if both the complainant and neutral consent. If the complaint is resolved through mediation, the complaint shall be dismissed, unless the resolution includes sanctions to be imposed by the Board. If no agreement is reached in mediation, the Board shall determine whether to proceed further.

F. After review and investigation, the Board shall advise the complainant and neutral of the Board's action in writing by certified mail sent to their respective last known addresses. If the neutral does not file a request for an appeal hearing as prescribed in section G, the Board's decision becomes final.

G. The neutral shall be entitled to appeal the proposed sanctions and findings of the Board to the ADR Ethics Panel by written request within 14 days from receipt of the Board's action on the complaint. The Panel shall be appointed by the Judicial Council and shall be composed of two sitting or retired district court judges and one qualified neutral in good standing on the Rule 114 roster. Members of the Panel shall serve for a period to be determined by the Judicial Council. One member of the Panel shall be designated as the presiding member.

(1) **Discovery.** Within 28 days after receipt of a request for an appeal hearing, counsel for the Board and the neutral shall exchange the names and addresses of all persons known to have knowledge of the relevant facts. The presiding member of the Panel shall set a date for the exchange of the names and addresses of all witnesses the parties intend to call at the hearing. The Panel may issue subpoenas for the attendance of witnesses and production of documents or other evidentiary material. Counsel for the Board and the neutral shall exchange non-privileged evidence relevant to the alleged ethical violation(s), documents to be presented at the hearing, and witness statements and summaries of interviews with witnesses who will be called at the hearing. Both the Board and

the neutral have a continuing duty to supplement information required to be exchanged under this rule. All discovery must be completed at least 14 days before the scheduled appeal hearing.

(2) **Procedure.** The neutral has the right to be represented by an attorney at all parts of the proceedings. In the hearing, all testimony shall be under oath. The Panel shall receive such evidence as the Panel deems necessary to understand and determine the issues. The Minnesota Rules of Evidence shall apply, however, relevancy shall be liberally construed in favor of admission. Counsel for the Board shall present the matter to the Panel. The Board has the burden of proving the facts justifying action by clear and convincing evidence. The neutral shall be permitted to adduce evidence and produce and cross-examine witnesses, subject to the Minnesota Rules of Evidence. Every formal hearing conducted under this rule shall be recorded electronically by staff for the Panel. The Panel shall deliberate upon the close of evidence and shall present written Findings and Memorandum with regard to any ethical violations and sanction resulting there from. The Panel shall serve and file the written decision on the Board, neutral and complainant within 45 days of the hearing. The decision of the Panel is final.

(Amended effective January 1, 2005; amended effective January 1, 2007; amended effective January 1, 2008; amended effective January 1, 2020.)

Advisory Comment

A complaint form is available from the ADR Review Board by calling 651-297-7590 or emailing adr@courts.state.mn.us.

The Board, at its discretion, may establish a complaint review panel comprised of members of the Board. Staff under the Board's direction and control may also conduct investigations.

Advisory Committee Comment - 2008 Amendment

Rule II.B. is amended in 2008 to implement a streamlined process so that one ADR Review Board member together with state court administration staff can make initial determinations. This will allow the process to proceed instead of waiting for monthly board meetings. Rule II.E. is amended to clarify that the parties may voluntarily elect mediation in addition to mediation being offered by the Board.

III. Sanctions

A. The Board may impose sanctions, including but not limited to:

(1) Issue a private reprimand.

(2) Designate the corrective action necessary for the neutral to remain on the roster.

(3) Notify the appointing court and any professional licensing authority with which the neutral is affiliated of the complaint and its disposition.

(4) Publish the neutral's name, a summary of the violation, and any sanctions imposed.

(5) Remove the neutral from the roster of qualified neutrals, and set conditions for reinstatement if appropriate.

B. Sanctions shall only be imposed if supported by clear and convincing evidence. Conduct considered in previous or concurrent ethical complaints against the neutral is inadmissible, except to show a pattern of related conduct the cumulative effect of which constitutes an ethical violation.

C. Sanctions against an organization may be imposed for its ethical violation and its member's violation if the member is acting within the rules and directives of the organization.

(Amended effective January 1, 2005; amended effective January 1, 2007.)

IV. Confidentiality

A. Unless and until final sanctions are imposed, all files, records, and proceedings of the Board that relate to or arise out of any complaint shall be confidential, except:

(1) As between Board members and staff;

(2) Upon request of the neutral, the file maintained by the Board, excluding its work product, shall be provided to the neutral;

(3) As otherwise required or permitted by rule or statute; and

(4) To the extent that the neutral waives confidentiality.

B. If final sanctions are imposed against any neutral pursuant to Section III A (2) - (5), the sanction and the grounds for the sanction shall be of public record, and the Board file shall remain confidential.

C. Nothing in this rule shall be construed to require the disclosure of the mental processes or communications of the Board or staff.

D. Accessibility to records maintained by district court administrators relating to complaints or sanctions about neutrals shall be consistent with this rule.

(Amended effective January 1, 2007; amended effective July 1, 2007; amended effective January 1, 2008.)

Advisory Committee Comment - 2008 Amendment

Rule IV.D. is amended in 2008 to clarify that accessibility to district court information about sanctions is consistent with Rule 114 for all neutrals. In addition to maintaining local rosters of parenting time expediters, district courts receive notice of sanctions imposed by the ADR Review Board.

V. Privilege; immunity

A. **Privilege.** A statement made in these proceedings is absolutely privileged and may not serve as a basis for liability in any civil lawsuit brought against the person who made the statement.

B. **Immunity.** Board members and staff shall be immune from suit for any conduct in the course of their official duties.

PART C. MOTIONS

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 telephone 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 phone 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 phone conference, hear arguments of counsel and self-represented litigants at the conference, and issue its decision at the conclusion of the phone 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. Telephone conferences 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.)

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 Telephone Hearings

When a motion is authorized by the court to be heard by telephone conference call, the moving party shall be responsible either to initiate the conference call or to comply with the court's instructions on initiation of the conference call. If necessary, adequate provision shall be made by the court for a record of the telephone hearing. No recording shall be made of any telephone hearing except the recording made as the official court record.

(Amended effective January 1, 1996.)

Rule 115.10 Settlement Efforts

No motion will be heard unless the parties have conferred either in person, or by telephone, or in writing 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.

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 "[f]iling 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.

PART D. MISCELLANEOUS MOTION PRACTICE

Rule 116. Orders to Show Cause

An order to show cause will be issued only in a case where a statute or rule of civil procedure provides that such an order may be issued or where the court deems it necessary to require the party to appear in person at the hearing.

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

Task Force Comment - 1991 Adoption

This rule is derived from existing Rule 21 of the Code of Rules for the District Courts.

Rule 117. Default Hearings

Rule 117.01 Scheduling Hearings

Default hearings are scheduled as motions, and a date and time for default hearings shall be obtained from the court administrator or a designated motion assignment deputy. None of the provisions of Rule 115 apply to default hearings.

(Amended effective January 1, 1993.)

Rule 117.02 Proof of Claim

A party entitled to judgment by default shall move the court for judgment in that party's favor, setting forth by affidavit the facts which entitle that party to relief. Either the party or the party's lawyer may make the affidavit, which may include reliable hearsay. This affidavit is not required in cases governed by Minn. R. Civ. P. 55.01(a).

(Amended effective January 1, 1993.)

Cross Reference: Minn. R. Civ. P. 54.03, 55.01.

Advisory Committee Comment - 1992 Amendment

The procedure for scheduling a hearing on a default is the same as that under Rule 115.02 for scheduling motion hearings. This practice related only to the setting of a date for resolution. The other requirements of Rule 115.02 do not apply to default hearings and no additional service requirements are imposed beyond what is required by the Minnesota Rules of Civil Procedure. This rule has been amended explicitly to exempt defaults from all other requirements for motions contained in Rule 115.

Minn. R. Civ. P. 55.01(a) permits entry of judgment by the administrator in limited situations. In those cases, however, Rule 55.01 requires only an affidavit of the amount due, and not the more extensive affidavit required by Minn. Gen. R. Prac. 117.02.

Rule 118. Injunctive Relief Against Municipalities

No applications for temporary restraining orders against any city, county, state or governmental agency will be granted without prior oral or written notice to the adverse party. The applications shall be accompanied by a written statement describing the manner of notice.

Cross Reference: Minn. R. Civ. P. 65.

Task Force Comment - 1991 Adoption

This rule is derived from Second District Rule 8(j)(1).

Rule 119. Applications for Attorney Fees

Rule 119.01 Requirement for Motion

In any action or proceeding in which an attorney seeks the award, or approval, of attorneys' fees in the amount of $1,000.00 for the action, or more, application for award or approval of fees shall be made by motion. As to probate and trust matters, application of the rule is limited to contested formal court proceedings. Unless otherwise ordered by the court in a particular proceeding, it does not apply to:

(a) informal probates,

(b) formal probates closed on consents,

(c) uncontested trust proceedings; and

(d) routine guardianship or conservatorship proceedings, except where the Court determines necessary to protect the interests of the ward.

(Amended effective January 1, 1998.)

Rule 119.02 Required Documents

The motion shall be accompanied by an affidavit of any attorney of record which establishes the following:

1. A description of each item of work performed, the date upon which it was performed, the amount of time spent on each item of work, the identity of the lawyer or legal assistant performing the work, and the hourly rate sought for the work performed;

2. The normal hourly rate for each person for whom compensation is sought, with an explanation of the basis for any difference between the amount sought and the normal hourly billing rate, if any;

3. A detailed itemization of all amounts sought for disbursements or expenses, including the rate for which any disbursements are charged and the verification that the amounts sought represent the actual cost to the lawyer or firm for the disbursements sought; and

4. That the affiant has reviewed the work in progress or original time records, the work was actually performed for the benefit of the client and was necessary for the proper representation of the client, and that charges for any unnecessary or duplicative work has been eliminated from the application or motion.

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

Rule 119.03 Additional Records; *In Camera* Review

The court may require production of copies of additional records, including any fee agreement relevant to the fee application, bills actually rendered to the client, work in progress reports, time sheets, invoices or statements for disbursements, or other relevant records. These documents may be ordered produced for review by all parties or for *in camera* review by the court.

(Amended effective January 1, 1998.)

Rule 119.04 Memorandum of Law

The motion should be accompanied by a memorandum of law that discusses the basis for recovery of attorney's fees and explains the calculation of the award of fees sought and the appropriateness of that calculation under applicable law.

(Amended effective January 1, 1998.)

Rule 119.05 Attorney Fees in Default Proceedings

(a) A party proceeding by default and seeking an award of attorney fees that has established a basis for the award under applicable law, including parties seeking to enforce a confession of judgment, may obtain approval of the fees administratively without a motion hearing, provided that:

(1) the fees requested do not exceed fifteen percent (15%) of the principal balance owing as requested in that party's pleadings, up to a maximum of $3,000.00. Such a party may seek a minimum of $250.00; and

(2) the requesting party's pleading includes a claim for attorney fees in an amount greater than or equal to the amount sought upon default; and

(3) the defaulting party, after default has occurred, has been provided notice of the right to request a hearing under section (c) of this rule, a form for making such a request substantially

similar to Form 119.05 as published by the state court administrator, and the affidavit required under Rule 119.02.

(b) A party may request a formal hearing and seek fees in excess of the amount described herein if that party provides the court with evidence relevant to the amount of attorneys' fees requested as established by the factors a court considers when determining the reasonableness of the attorneys' fees.

(c) A defaulting party may request a hearing and further judicial review of the attorneys' fees requested by completing a "Request for Hearing" provided by the plaintiff substantially similar to Form 119.05 as published by the state court administrator. A party may serve the form, at any time after a default has occurred, provided that the defaulting party is given at least 21 days' notice before the request for judgment is made. A defaulting party must serve the Request for Hearing upon the requesting party or its counsel within 21 days of its receipt. Upon timely receipt of a Request for Hearing the party seeking fees shall request a judicial assignment and have the hearing scheduled.

(d) Rule 119.05 does not apply to contested cases, ancillary proceedings (e.g., motions to compel or show cause) or proceedings subsequent to the entry of judgment.

(Added effective January 1, 2004; amended effective January 1, 2005; amended effective March 1, 2009; amended effective January 1, 2020.)

Advisory Committee Comment - 1997 Amendment

This rule is intended to establish a standard procedure for supporting requests for attorney fees. The committee is aware that motions for attorney fees are either not supported by any factual information or are supported with conclusionary, non-specific information that is not sufficient to permit the court to make an appropriate determination of the appropriate amount of fees. This rule is intended to create a standard procedure only; it neither expands nor limits the entitlement to recovery of attorneys' fees in any case.

Where fees are to be determined under the "lodestar" method widely used in the federal courts and adopted in Minnesota in Specialized Tours, Inc. v. Hagen, 392 N.W.2d 520, 542-43 (Minn. 1986), trial courts need to have information to support the reasonableness of the hours claimed to be expended as well as the reasonable hourly rate under the circumstances. This rule is intended to provide a standard set of documentation that allows the majority of fee applications to be considered by the court without requiring further information. The rule specifically acknowledges that cases involving complex issues or serious factual dispute over these issues may require additional documentation. The rule allows the court to require additional materials in any case where appropriate. This rule is not intended to limit the court's discretion, but is intended to encourage streamlined handling of fee applications and to facilitate filing of appropriate support to permit consideration of the issues.

This rule also authorizes the court to review the documentation required by the rule in camera. This is often necessary given the sensitive nature of the required fee information and the need to protect the party entitled to attorney fees from having to compromise its attorney's thoughts, mental impressions, or other work product in order to support its fee application. As an alternative to permitting in camera review by the trial judge, the court can permit submission of redacted copies, with privileged material removed from all copies.

The amendment in 1997, adding the exceptions to the requirements of the rule for certain probate and trust proceedings, is designed to obviate procedures that serve no purpose for the courts and unduly burden the parties. Probate and trust matters have separate statutes and case law relating to attorney fees. See Minnesota Statutes, sections 524.3-721 and 525.515; In re Great

Northern Iron Ore Properties, 311 N.W.2d 488 (Minn. 1981) and In re Living Trust Created by Atwood, 227 Minn. 495, 35 N.W.2d 736 (1949). In probate and trust matters, if no interested party objects to the attorney fees, there is ordinarily no reason for the court to require the detail specified in Rule 119. In contested matters, however, such detail may be appropriate to enable the court to resolve the matter under the standards of applicable probate and trust law. The court may protect the sensitive and confidential information that may be contained in attorney time records by entering an appropriate order in a particular case. Similarly, the exemption of these cases from the requirements of the rule does not prevent the court from requiring any of the fee application documentation in a particular matter.

(amended 1997; 1998; 2005.)

Advisory Committee Comment - 2003 Amendment

Rule 119.05 is a new rule to establish a streamlined procedure for considering attorney fees on matters that will be heard by default. The rule does not apply to situations other than default judgments, such as motions to compel discovery, motions to show cause, sanctions matters, or attorney fees in contested matters. This subsection is modeled on a rule adopted by the Fourth Judicial District and implemented as a local standing order. A simpler procedure for defaults is appropriate and will serve to conserve judicial resources, and it is appropriate to have a uniform rule throughout Minnesota.

New Form 119.05 is intended to provide useful information to the defaulting party and some care has gone into its drafting. Although use of the form is not required, the requirement that any notice conform "substantially" to the form should be heeded. The committee has attempted to use language that fairly advises the defaulting party of the procedure under Rule 119.05 without threatening consequences or confusing the defaulting party on the effect of either contesting or not contesting the fee award. The rule requires that notice be given after the defendant has defaulted. Notice given earlier is not effective to comply with the rule, as such notice is likely to confuse the recipient as to the differing procedures and timing for response to the Summons and responding to the request for fees. An affidavit detailing the basis for the award as required under Rule 119.02 must accompany the notice and the form.

The rule does not affect the amounts that may be recovered for attorney fees; it allows either side to obtain a hearing on the request for fees; the rule supplies an efficient mechanism for the numerous default matters where a full hearing is not required. Similarly, the rule does not remove the requirement that a party seeking fees file a motion; it simply provides a mechanism for resolution of some motions without formal hearings.

(amended 2005.)

Advisory Committee Comment - 2004 Adoption

Rule 119.05 was amended in 2004 in a single way: to make it clear that the mechanism for streamlined approval of attorney fees in default matters is also available for matters proceeding pursuant to confession of judgment, even if not technically a default. Confessions of judgment are authorized and limited by Minnesota Statutes 2002, section 548.22, but that statute does not address how attorney fee requests that accompany confessions of judgment should be heard. Because the rule both allows streamlined entry of a judgment for attorney fees and provides procedural protection to the judgment debtor, the committee believes it is appropriate to apply this procedure to judgments pursuant to confession.

Advisory Committee Comment - 2008 Amendment

Rule 119.05 is amended to remove Form 119.05 from the rules, and to permit the maintenance and publication of the form by the state court administrator. The form, together with other court forms, can be found at http://www.mncourts.gov/.

Rule 120. (Reserved for Future Use.)

PART E. TRIAL MANAGEMENT

Rule 121. Notice of Settlement

When any action in which any pleading or other document has been filed is settled, counsel shall immediately advise the appropriate assignment office, and shall also advise the office of the judge or judicial officer assigned to the case or then assigned to hear any matter relating to the case.

Cross Reference: Minn. R. Civ. P. 40, 41.

(Amended effective July 1, 2015.)

Task Force Comment - 1991 Adoption

This rule is based on 2d Dist. R.9(a). Other districts have similar rules. This new rule, derived from current local rule provisions, makes explicit what courts now expect and which common courtesy requires.

Rule 122. Continuance

If a trial setting has been established by scheduling order after hearing the parties, the court shall decline to consider requests for continuance except those made by motion or when a judge determines that an emergency exists. A single request for a reasonable continuance of a trial setting set by notice without hearing should be granted by the court upon agreement of all parties, provided that the request is made within 21 days after notice of the setting to the parties. All other requests for continuance shall be made by motion with notice to all parties.

(Amended effective January 1, 2020.)

Cross Reference: Minn. R. Civ. P. 40.

Task Force Comment - 1991 Adoption

This rule reflects the result of extensive discussions by the Task Force. This rule is intended to create a uniform continuance practice statewide, consistent with the widely differing assignment practices. The rule creates a presumptive right to one continuance only in cases where a trial setting is made mechanically and without consultation of the parties and their lawyers and then only if all parties agree. If the setting has been made after hearing parties, there would be no presumed continuance. In any case, the court can deny requests for continuance.

Rule 123. Voir Dire of Jurors in Cases in Which Insurance Company Interested in Defense or Outcome of Action

In all civil jury cases, in which an insurance company or companies are not parties, but are interested in the defense or outcome of the action, the presiding judge shall, upon the request of any party, be advised of the name of such company or companies, out of the hearing of the jury, as well as the name of the local agent of such companies. When so disclosed, no inquiry shall be

permitted by counsel as to such names in the hearing of the jury, nor shall disclosure be made to the jury that such insurance company is interested in the action.

During examination of the jurors by the court, the jurors shall, upon request of any party, be asked collectively whether any of them have any interest as policyholders, stockholders, officers, agents or otherwise in the insurance company or companies interested in the defense or outcome of the action, but such question shall not be repeated to each individual juror. If none of the jurors indicate any such interest in the company or companies involved, then no further inquiry shall be permitted with reference thereto.

If any of the jurors manifest an interest in any of the companies involved, then the court shall further inquire of such juror or jurors as to any interest in such company, including any relationship or connection with the local agent of such interested company, to determine whether such interests or relationship disqualifies such juror.

Cross Reference: Minn. R. Civ. P. 47, Minn. Civ. Trialbook, section 6.

Task Force Comment - 1991 Adoption

This rule is derived from Rule 31 of the Code of Rules for the District Courts. The rule is modified to specify that the court conducts the examination of potential jurors about their possible involvement with any interested insurers, thereby allowing the subject to be covered without the potential for introducing prejudice, rather than revealing it. The court should exercise its discretion to make certain that any affirmative answers to the court's questions be fully explored. See Hunt v. Regents of Univ. of Minn., 460 N.W.2d 28, 33-34 (Minn. 1990).

Rule 124. Reporting of Opening Statement and Final Arguments

Opening statements and final arguments shall be reported.

Cross Reference: Minn. R. Civ. P. 39.04, Minn. Civ. Trialbook, section 8.

Task Force Comment - 1991 Adoption

This rule is new. The practice of various courts in reporting opening statements and final arguments has not been uniform. The Task Force strongly recommends that the rules provide for reporting of all opening statements and final arguments so that these portions of the trial proceedings are available for transcription. Most judges now follow this practice. In some cases, parties exercising their right to make a record of these trial proceedings have been presented with bills from the official court reporter for this service. In the absence of an order for a transcript, the Task Force believes no extra charges should properly be made for the mere making of a record of what transpires in the trial court.

Rule 125. Automatic Stay

The court administrator shall stay entry of judgment for thirty days after the court orders judgment following a trial unless the court orders otherwise. Upon expiration of the stay, the court administrator shall promptly enter judgment.

(Amended effective January 1, 1993.)

Cross Reference: Minn. R. Civ. P. 58.

Advisory Committee Comment - 1992 Amendment

This rule is derived from 7th Dist. R. 11, and is similar to the local rules in other districts.

This rule reflects a common practice in the trial courts, even in those districts that do not have a specific rule requiring a stay. The Task Force believes it is desirable to make this practice both uniform and explicit. The stay allows parties to file post-trial motions and to perfect an appeal without entry of judgment or formal collection efforts. At the end of the 30-day period, stay is governed by Minn. R. Civ. P. 62.03 and the supersedeas bond requirements of the Minnesota Rules of Civil Appellate Procedure. The stay anticipated by this rule applies only following a trial. Where judgment is ordered pursuant to pretrial motion or by default (e.g., temporary hearings in family law), or in situations governed by other rules, including marriage dissolutions by stipulation (Rule 307(b)) and housing court matters (Rules 609 and 611(b)), the stay is not necessary and not intended by the rule.

The rule only creates a standard, uniform procedure for staying entry of judgment. The court can enter such a stay in any case and can order immediate entry of judgment in any case.

Rule 126. Judgment-Entry by Adverse Party

When a party is entitled to have judgment entered in that party's favor upon the verdict of a jury, report of a referee, or decision or finding of the court, and neglects to enter the same for 14 days after the rendition of the verdict or notice of the filing of the report, decision or finding; or after the expiration a stay, the opposite party may cause judgment to be entered on 7 days' notice to the party entitled thereto.

(Amended effective January 1, 2020.)

Cross Reference: Minn. R. Civ. P. 58.

Task Force Comment - 1991 Adoption

This rule is derived from existing Rule 17 of the Code of Rules for the District Courts.

Rule 127. Expert Witness Fees

The amount allowed shall be in such amount as is deemed reasonable for such services in the community where the trial occurred and in the field of endeavor in which the witness has qualified as an expert. No allowance shall be made for preparation or in conducting of experiments outside the courtroom by an expert.

Cross Reference: Minn. R. Civ. P. 54.

(Amended effective July 1, 2010.)

Task Force Comment - 1991 Adoption

This rule is derived from Rule 11 of the Code of Rules for the District Courts.

Advisory Committee Comment - 2010 Amendment

This rule is amended to remove the $300 limit on expert fees contained in the former rule. This change is part of the new procedure established for taxation of expert costs established by amendment of Minn. R. Civ. P. 54.04 in 2010. The rule allows taxation of costs by either the court administrator or district court judge, and there is no reason to continue a rule that limits the amount the court administrator can order, thereby making a two-step taxation process inevitable. The $300 limit in the former rule also had not been changed for several decades, so was unduly miserly in the 21st century.

Rule 128. Retrieval or Destruction of Exhibits

It shall be the duty of the lawyer or party offering exhibits in evidence to remove all exhibits from the custody of the court upon final disposition of a case. Failure to do so within 14 days of being notified to do so will be deemed authorization to destroy such exhibits.

(Amended effective January 1, 2020.)

Cross Reference: Minn. R. Civ. P. 43, 77; Minn. Civ. Trialbook, sections 13, 14.

Task Force Comment - 1991 Adoption

This rule is derived from 2d Dist. R. 11, with changes.

Rule 129. Use of Administrator's Files

No documents on file in a cause shall be taken from the custody of the court administrator except upon order of the court.

Cross Reference: Minn. R. Civ. P. 77; Minn. Civ. Trialbook, sections 13, 14.

(Amended effective July 1, 2015.)

Task Force Comment - 1991 Adoption

This rule is derived from Rule 12(b) of the Code of Rules for the District Courts, without substantial change.

Rule 130. Exhibit Numbering

Exhibits proposed by any party shall be marked in a single series of arabic numbers, without designation of the party offering the exhibit. Exhibit numbers may be consecutive or may be preassigned in blocks to each party. If adhesive exhibit labels are used, they shall be white with black printing.

(Added effective January 1, 1994.)

Advisory Committee Comment - 1994 Amendment

This new rule requires a uniform method of marking exhibits, without the cumbersome prefixes that are frequently now encountered. The committee believes that a uniform numbering system will benefit the courts and litigants. The new system will permit exhibits to be used without labeling to show "ownership" or "lineage" of the exhibit. This system will also facilitate numbering of exhibits in multi-party cases, where the current practice creates complicated numbers at trial and burdensome citations on appeal. Attorneys and judges with experience in using this system believe it works fairly, predictably, and efficiently. The rule permits flexibility in assignment of exhibit numbers, allowing them to be issued seriatim at trial or in blocks of numbers assigned to each party prior to trial. The rule requires uniform exhibit labels to prevent any uncertainty or wasted effort by parties attempting to obtain a perceived advantage in identifying "ownership" of exhibits through the color of labels.

Rule 131. Use of Interactive Video Teleconference in Civil Cases

Rule 131.01 Definitions

(a) "ITV" refers to interactive video teleconference.

(b) A "terminal site" is any location where ITV is used for any portion of a court proceeding.

(c) The "venue county" is the county where pleadings are filed and hearings are held under current court procedures.

(Added effective March 1, 2009.)

Rule 131.02 Permissible Uses; Initiation

In all civil actions and proceedings including commitment proceedings subject to the Special Rules of Procedure Governing Proceedings Under the Minnesota Commitment and Treatment Act, the court may conduct hearings and admit oral testimony, subject to cross-examination, by live audio-visual means, where authorized by this rule.

(a) Scheduling Conflicts. All scheduling conflicts and priorities shall be determined by the judge(s).

(b) Use of ITV on Court's Initiative; Notice. If the court on its own initiative orders the use of live audio-visual means (ITV) to conduct hearings and proceedings, it shall give notice in accordance with the Rules of Civil Procedure and General Rules of Practice, which notice shall advise the parties of the duty to exchange information under Rule 131.04, and the prohibition on recording in Rule 131.06(i).

(c) Use of ITV Upon Stipulation. The parties may, subject to court approval and site availability, stipulate that a hearing or proceeding be conducted by ITV in accordance with the procedures established in this rule. The parties shall contact the court administrator as soon as possible to permit scheduling of ITV facilities. A written, signed stipulation requesting the use of ITV shall be filed with the court at least 24 hours prior to the date set for the ITV hearing or proceeding. The stipulation shall be substantially in the form set forth in the Stipulation and Approval form as published by the state court administrator. The parties are responsible for making arrangements to use any site that is outside the control of the court in the venue county, for providing the necessary contact information to the court administrator, and for ensuring the compatibility of the equipment.

(d) Use of ITV Upon Motion.

(1) Request. Any party may, by motion, request the use of ITV for a hearing or proceeding in accordance with this rule. No motion for use of ITV shall be heard until the moving party serves a copy of the motion on the opposing counsel and files the original with the court administrator at least 7 days before the scheduled hearing or proceeding for which ITV use is requested. The moving party may, ex parte, contact the court for an expedited hearing date on the motion for use of ITV and for waiver of the usual notice of hearing. The moving party is responsible under Rule 131.02(c) for making arrangements to use any site that is outside the control of the court in the venue county, for providing the necessary contact information to the court administrator, and for ensuring the compatibility of the equipment. The motion shall include, as an attachment, a notice advising the other parties of their right to object to use of ITV, the consequences of failing to timely file an objection, the duty to exchange information under Rule 131.04, and the prohibition on recording in Rule 131.06(i). A sample notice is published by the state court administrator.

(2) Objection. Any party objecting to a motion for use of ITV may file and serve a response to the motion 48 hours prior to the hearing on the motion for use of ITV.

(3) Burden of Proof. The moving party must establish good cause for use of ITV by a preponderance of the evidence.

(4) Good Cause. The Court shall consider the following factors to determine "good cause":

(i) Whether a timely objection has been made;

(ii) Whether any undue surprise or prejudice would result;

(iii) The convenience of the parties, counsel, and the court;

(iv) The cost and time savings;

(v) The importance and complexity of the proceeding;

(vi) Whether the proponent has been unable, after due diligence, to procure the physical presence of a witness;

(vii) The convenience to the parties and the proposed witness, and the cost of producing the witness in relation to the importance of the offered testimony;

(viii) Whether the procedure would allow effective cross-examination, especially where documents and exhibits available to the witness may not be available to counsel;

(ix) Whether the surroundings maintain the solemnity and integrity of the proceedings and thereby impress upon the witness the duty to testify truthfully;

(x) Whether the witness is presently in prison or incarcerated; and,

(xi) Such other factors as the court may, in each individual case, determine to be relevant.

(5) Emergency Circumstances. The court may shorten the time periods provided in this Rule 131.02(d) upon a showing of good cause.

(6) Determination. If the use of ITV is thereafter allowed and ordered by the court, the hearing shall proceed, by ITV, in accordance with the provisions of this rule. If the court determines that good cause for the use of ITV has not been established, the hearing or proceeding shall be heard as provided by the Rules of Civil Procedure and General Rules of Practice.

(Added effective March 1, 2009; amended effective January 1, 2020.)

Rule 131.03 Costs and Arrangements; Certification

(a) Costs. The party or parties, other than the court, requesting use of ITV for any hearing or proceeding shall be responsible for any additional use or other fees over and above those normally incurred by the venue county in connecting from one court site to another court site within the district or collaboration area.

(b) Arrangements. If the court on its own initiative orders ITV, the court shall, through the court administrator where the case is venued, establish and make arrangements to carry out the ITV procedures required in order for the court to hear the case as an ITV hearing or proceeding. In all other cases it will be the responsibility of the party requesting the use of ITV to contact the court administrator where the case is venued who shall, working with the judge assigned, establish a hearing date and time so that the case may be scheduled as an ITV hearing or proceeding. The court and counsel shall use reasonable efforts to confer with one another in scheduling ITV hearings or proceedings so as not to cause, delay or create scheduling conflicts.

(c) Service. The moving party shall have the responsibility of preparing, serving and filing the motion and notice of motion documents as required by this rule.

(d) Certification. By signing a stipulation or motion for use of ITV, a person certifies that the use of ITV will be in accordance with the provisions of this rule, including, without limitation, the

requirement in Rule 131.06(i) that no recording shall be made of any ITV proceeding except the recording made as the official court record.

(Added effective March 1, 2009; amended effective July 1, 2015.)

Rule 131.04 Exchange of Information

Whenever ITV is to be used to conduct a hearing or proceeding, evidentiary exhibits shall be exchanged with all other parties and submitted to the court, as appropriate, prior to the commencement of the hearing or proceeding.

(Added effective March 1, 2009.)

Rule 131.05 Location of Participants

During the ITV hearing:

(a) The judge may be at any terminal site.

(b) The court clerk shall be in the venue county unless otherwise authorized by the presiding judge.

(c) Except as otherwise provided in Rule 131.05(d) regarding commitment proceedings, counsel for the parties shall be present at the site from which the party they represent will participate in the hearing, unless the court approves another location prior to the hearing, and witnesses and other interested parties may be located at any terminal site that will allow satisfactory video and audio reception at all other sites.

(d) In commitment proceedings, the respondent's attorney shall be present at the ITV site from which the respondent will participate in the proceedings.

(Added effective March 1, 2009.)

Rule 131.06 Proceedings

In any proceeding conducted by ITV under this rule:

(a) Parties entitled to be heard shall be given prior notice of the manner and time of the hearing or proceeding.

(b) Witnesses may testify by ITV at all hearings, including contested matters.

(c) Regardless of the physical location of any party to the ITV hearing or proceeding, any waiver, stipulation, motion, objection, decision, order or any other actions taken by the court or a party has the same effect as if done in person. Court orders that bear the presiding judge's or judicial officer's signature may be transmitted electronically to the various ITV sites for the purpose of service.

(d) The court administrator of the venue county will keep court minutes and maintain court records as if the proceeding were heard in person.

(e) All proceedings held by ITV will be governed by the Minnesota Rules of Civil Procedure, the General Rules of Practice and state law, except as herein provided. Courtroom decorum during ITV hearings will conform to the extent possible to that required during traditional court proceedings.

(f) A sheriff, sheriff's deputy, bailiff or other licensed peace officer shall be present at each ITV site for the purpose of maintaining order, as the court deems necessary.

(g) The court shall ensure that each party has adequate opportunity to speak privately with counsel, including, where appropriate, suspension of the audio transmission and recording or allowing counsel to leave the conference table to communicate with the client in private.

(h) Judges may continue any hearing that cannot proceed due to ITV equipment problems or failure, unless other arrangements to proceed with the hearing are agreed upon by all parties.

(i) No recording shall be made of any ITV proceeding except the recording made as the official court record. This Rule 131 does not supersede the provisions of the Minnesota Rules of Public Access to Records of the Judicial Branch.

(Added effective March 1, 2009; amended effective July 1, 2015.)

Rule 131.07 Administrative Procedures

The following administrative procedures are applicable to all ITV proceedings:

(a) Off-Camera Presence. During a hearing conducted by ITV, all off-camera persons at any participating ITV terminal site must be identified for the record. This shall not apply to members of the public located in general public seating areas of any courtroom.

(b) Court Administrator Duties. The court administrator for each county shall be responsible for the following:

(1) Ensure that the ITV equipment is ready and functioning properly in advance of any ITV hearing, so that there will be no interference with the punctual commencement of a hearing.

(2) Provide participants an opportunity to become familiar with use of the ITV equipment and courtroom procedure prior to commencement of the hearing.

(3) Set ITV system configuration as designated by the presiding judge. The presiding judge shall consider the objections or concerns of any party.

(4) Monitor audio and video quality, making adjustments and providing technical assistance throughout the hearing as necessary.

(5) Ensure that any court documents or exhibits that the judge or judicial officer will require prior to or during the course of the hearing are delivered or available to the judge or judicial officer prior to commencement of the hearing.

(6) Be familiar with problem management procedures, including steps to be taken in performing initial problem determination, identity and location of individual(s) who should be contacted if initial problem/resolution attempts fail, and service call placement procedures.

(c) Technical Standards. The following technical standards should be followed:

(1) To optimize picture clarity, the room should have diffused lighting and window shades to block external light.

(2) To optimize viewing, monitors should be placed in a darkened area of the room and be of sufficient size and number to allow convenient viewing by all participants.

(3) Cameras and microphones should be sufficient in number to allow video and audio coverage of all participants, prevent crowding of participants, facilitate security, and protect confidential communications.

(4) Audio and visual must be synchronized and undistorted.

(5) All hearing participants should speak directly into their microphones.

(Adopted effective March 1, 2009; amended effective July 1, 2015.)

Advisory Committee Comment - 2008 Amendment

In October 1999 the Supreme Court informally approved the use of ITV in civil cases but did not adopt any specific rules. The addition of Rule 131 in 2008 is intended to provide a uniform procedure permitting the use of interactive video teleconferencing (ITV) to conduct hearings and admit oral testimony in civil cases. It is based on protocols developed and implemented for a pilot project in the Ninth Judicial District and later tweaked by a subcommittee of the Court's former Technology Planning Committee. The success of the pilot project is reported in NATIONAL CENTER FOR STATE COURTS, COURT SERVICES DIVISION, ASSESSMENT OF THE INTERACTIVE TELEVISION PROGRAM IN THE NINTH JUDICIAL DISTRICT OF MINNESOTA (Sept. 1999).

Rule 131.02 identifies the situations in which the district court may authorize the use of ITV by order: upon the court's own initiative, upon stipulation by the parties, or upon a showing of good cause. The court as part of its overall case management practice initiated the bulk of the orders in the Ninth Judicial District pilot project. It is anticipated that use of ITV will vary by district, depending on factors such as geographical size and the nature of the cases.

Rule 131.02(b) recognizes that when a court orders the use of ITV on its own initiative, the court must notify the parties of the use of ITV. Notices are to be in accordance with rules of civil procedure and the general rules of practice. Once an order is filed, Minn. R. Civ. P. 77.04 requires the court administrator to serve notice of the order immediately by mail, and Minn. Gen. R. Prac. 1.03 requires that service be made on a party's attorney if represented, otherwise on the party directly. The notice of ITV use may also be incorporated into a scheduling order issued under Minn. Gen. R. Prac. 11.03. Regardless of the precise mechanism, the notice of ITV use must include the information required in Rule 131.02(b). A sample notice is set forth for publication by the state court administrator.

Parties may, subject to court approval, stipulate to the use of ITV under Rule 131.02(c). Upon reaching a stipulation, the parties must contact the court administrator as soon as possible to obtain a date and time for the ITV hearing. Failure to provide adequate lead time may result in rejection of the stipulation. The parties are responsible for making arrangements to use any site that is outside the control of the court in the venue county. Parties should be aware that use of court and other governmental terminal sites might be subject to collaboration agreements entered into between courts and other government agencies. This may limit the availability of, or control the costs of using or accessing certain terminal sites, particularly those outside the county or district where the action is venued or outside the state's dedicated MNET network. Under Rule 131.03 parties requesting use of ITV for any hearing or proceeding are responsible for any additional use or other fees over and above those normally incurred by the venue county in connecting from one collaboration site to another. Parties are also responsible for ensuring compatibility of equipment for sites outside the control of the venue county.

Finally, a written, signed stipulation in the format substantially similar to the form appended to the rule must be filed with the court no later than twenty-four (24) hours prior to the hearing. By signing the stipulation the parties certify that they will follow the protocol, including, without limitation, the requirement in Rule 131.06(i) that no recording shall be made of the ITV proceeding except a recording made as the official record of the proceeding. Access to recordings of proceedings is governed by Rule 4, subdivision 3, of the RULES OF PUBLIC ACCESS TO RECORDS OF THE JUDICIAL BRANCH.

Rule 131.02(d) sets forth requirements for requesting ITV use when there is no stipulation by the parties. A formal motion is required, and it must be served and filed at least seven days prior to the scheduled hearing or proceeding for which ITV use is requested. The rule authorizes ex parte contact with the court for purposes of obtaining an expedited hearing date on the motion for use of ITV. See Minn. Gen. R. Prac. 115.04 (non-dispositive motions normally must be served and filed at least 14 days in advance of the hearing). The moving party is responsible under Rule 131.03 for making arrangements to use any site that is outside the control of the court in the venue county, for providing the necessary contact information to the court administrator, for ensuring the compatibility of the equipment, and paying any additional costs incurred by the court in facilitating the ITV session. The motion must also include or be accompanied by a notice informing opposing parties of their right to object, consequences of failure to object, requirements for exchange of information, and prohibitions on recording an ITV session (a sample notice is provided for publication by the state court administrator).

Objections to a motion for use of ITV must be made prior to the hearing on the motion. The failure of an opposing party to object may be considered along with other factors set forth in Rule 131.02(d)(4) that may determine good cause for use of ITV. The moving party has the burden of establishing good cause.

Rule 131.02(d)(5) permits the court to shorten the time periods provided for in Rule 131.02 in emergent circumstances upon a proper showing. As of the time of the drafting of this commentary, a different time period is established for requesting ITV use in commitment cases under Rule 14 of the SPECIAL RULES OF PROCEDURE UNDER THE MINNESOTA COMMITMENT AND TREATMENT ACT (requires notice to the other party at least 24 hours in advance of the hearing, and court approval). The drafting committee is of the opinion that following the protocol with the ability to shorten the time frames when necessary will be sufficient to address the needs of commitment and other matters covered by this rule.

Rule 131.03 places responsibility for costs and site arrangements with those seeing to use ITV. The court assumes this responsibility when ordering ITV on its own initiative, as is done for the bulk of the ITV proceedings in the Ninth Judicial District pilot project. When a party or parties initiate the request, however, Rules 131.02(c) and 131.02(d) shift some of the responsibility to the requesting party or parties. Parties also certify that they will comply with the protocol, including the prohibition in Rule 131.06(i) against recording ITV sessions.

Rule 131.04 attempts to highlight an important logistical requirement when ITV is used. Documents and other information need to be exchanged and submitted to the court, where appropriate, prior to the ITV session. This is particularly important when the parties are located at different sites.

Rule 131.07(b) recognizes that ITV use imposes new logistical duties on court administration staff. This section is intended to assist courts as they implement ITV use and to train new staff.

Rules 131.05-.07 set forth the ground rules for conducting ITV sessions. The prohibition on recording ITV sessions set forth in Rule 131.06(i) and echoed throughout the rule is identical to that applicable to telephone hearings under Minn. Gen. R. Prac. 115.09. This requirement is consistent with the directives of the Supreme Court regarding use of cameras in the courtroom. See In re Modification of Section 3A(10) of the Minnesota Code of Judicial Conduct, No. C7-81-300 (Minn. S. Ct., filed Jan. 11, 1996) (order reinstating experimental program for audio and video coverage of trial court proceedings); Order for Interactive Audio-Video Communications Experiment in First Judicial District-Mental Illness Commitment Proceedings, No. C6-90-649 (Minn. S. Ct., filed April 5, 1995); Order re Interactive Audio-Video Communications Pilot Program in Third Judicial District Mental Illness Commitment Proceedings, No. C6-90-649 (Minn. S. Ct., filed Jan.

29, 1999); Order for Interactive Audio and Video Communications, Fourth Judicial District, Mental Health Division, Price and Jarvis Proceedings, No. C6-90-649 (Minn. S. Ct., filed April 8, 1991).

Rule 131.05(c) requires that counsel and their party must be present at the same terminal site unless otherwise permitted by the court. In commitment cases, court rules do not permit counsel for the patient and the patient to be present at different sites. See Rule 14 of the Special Rules of Procedure Under the Minnesota Commitment and Treatment Act. Witnesses and other participants may be located at any terminal site that allows satisfactory video and audio reception.

Rule 131.07(c) describes equipment and room standards in functional terms. A more detailed discussion of technical issues and terminology can be found in STATEWIDE VIDEOCONFERENCING COMMITTEE, BRIDGING THE DISTANCE: IMPLEMENTING VIDEOCONFERENCING IN WISCONSIN (10/30/2007) (a dynamic document that is continually updated and that is currently available for download from the Wisconsin Supreme Court Web site, located at http://www.wicourts.gov/about/committees/ppacvidconf.htm).

Rule 132. (Reserved for Future Use.)

Rule 133. (Reserved for Future Use.)

Rule 134. (Reserved for Future Use.)

PART F. SPECIAL PROCEDURES

Rule 135. Restraining Order-Bond

Before any restraining order shall be issued, except in aid of writs of execution or replevin, in harassment proceedings, in actions for dissolution of marriage or orders for protection in domestic abuse proceedings, or in any other case exempted by law, the applicant shall give a bond in the penal sum of at least $2,000, executed by the applicant or by some person for the applicant as a principal, approved by the court and conditioned for the payment to the party restrained of such damages as the restrained person shall sustain by reason of the order, if the court finally decides that the applicant was not entitled thereto.

Cross Reference: Minn. R. Civ. P. 65.

Task Force Comment - 1991 Adoption

This rule is derived from Rule 24 of the Code of Rules for the District Courts.

By statute, governmental entities are not required to post bonds for temporary restraining orders. Minnesota Statutes 1990, section 574.18. In addition, the court may waive the bond requirement when granting an order temporarily restraining an action on a contract for the conveyance of real estate. Minnesota Statutes 1990, section 559.211. Accordingly, a specific provision allowing waiver of the bond requirement is included in the rule for cases provided by law.

Rule 136. Garnishments and Attachments-Bonds to Release-Entry of Judgment Against Garnishee

Rule 136.01 Bond

Garnishments or attachments shall not be discharged through a personal bond under Minnesota Statutes, sections 571.931 and 571.932 without 7 days' written notice of the application therefor to the adverse party; but if a surety company's bond is given, notice shall not be required.

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

Rule 136.02 Requirement of Notice

Judgment against a garnishee shall be entered only upon notice to the garnishee and the defendant, if known to be within the jurisdiction of the court, showing the date and amount of the judgment against the defendant, and the amount for which plaintiff proposes to enter judgment against the garnishee after deducting such fees and allowances as the garnishee is entitled to receive. If the garnishee appears and secures a reduction of the proposed judgment, the court may make an appropriate allowance for fees and expense incident to such appearance.

Cross Reference: Minn. R. Civ. P. 64.

Advisory Committee Comment - 1992 Amendment

This rule is derived from Rule 15 of the Code of Rules for the District Courts. The statutes governing garnishment and attachment have been amended, and the statutory reference in the rule has been corrected to reflect this change.

Advisory Committee Comment - 2019 Amendments

Rule 136.01 is amended as part of the "timing" amendments recommended to the Court in 2018. The committee recommends the change from one to seven days because one day's notice is usually inadequate time to allow the adverse party a meaningful opportunity to evaluate and respond to the request for the posting of a personal bond. The notice period applies only when a garnishee seeks to post a bond that is not issued by an approved surety company.

Rule 137. Receivers

Rule 137.01 Venue

All actions or proceedings for the sequestration of the property of corporations or for the appointment of receivers thereof, except actions or proceedings instituted by the Attorney General in behalf of the state, shall be instituted in the county in which the principal place of business of said corporation is situated; provided, that for the convenience of witnesses and to promote the ends of justice the venue may be changed by order of court.

Rule 137.02 Appointment of Receivers

Receivers, trustees, guardians and others appointed by the court to aid in the administration of justice shall be wholly impartial and indifferent to all parties in interest, and selected with a view solely to their character and fitness. Except by consent of all parties interested, or where it clearly appears that prejudice will otherwise result, no person who is or has been during the preceding year a stockholder, director or officer of a corporation shall be appointed as receiver for such corporation. Receivers shall be appointed only upon notice to interested parties, such notice to be given in the manner ordered by the court; but if it shall be clearly shown that an emergency exists requiring the immediate appointment of a temporary receiver, such appointment may be made ex parte.

Rule 137.03 Bond

Every receiver after appointment shall give a bond to be approved by the court in such sum and conditioned as the court shall direct, and shall make and file with the court administrator an inventory and estimated valuation of the assets of the estate in the receiver's custody; and, unless otherwise ordered, appraisers shall then be appointed and their compensation fixed by order of the court.

Rule 137.04 Claims

Claims of creditors of corporations, the subject of sequestration or receivership proceedings, shall be duly verified and filed in the office of the court administrator. The court, by order, shall fix the time for presentation, examination and adjustment of claims and the time for objecting thereto, and notice of the order shall be given by such means, including publication if deemed desirable, as the court therein shall direct. Written objections to the allowance of any claim may be made by the party to the proceeding by serving a copy of such objection upon the claimant or the claimant's lawyer. Where no objection is made within the time fixed by said order, the claim may stand admitted and be allowed without proof. Issues of law and fact shall be tried as in other cases.

Rule 137.05 Annual Inventory and Report

Every receiver shall file an annual inventory and report showing the condition of the estate and a summary of the proceedings to date. The clerk shall keep a list of receiverships and notify each receiver and the court when such reports are due.

Rule 137.06 Lawyer as Receiver

When a lawyer has been appointed receiver, no lawyer for such receiver shall be employed except upon the order of the court, which shall be granted only upon the petition of the receiver, stating the name of counsel whom the receiver wishes to employ and showing the necessity for such employment.

Rule 137.07 Employment of Counsel

No receiver shall employ more than one counsel, except under special circumstances requiring the employment of additional counsel; and in such cases only after an order of the court made on a petition showing such circumstances, and on notice to the party or person on whose behalf or application the receiver was appointed. No allowance shall be made to any receiver for expenses paid or incurred in violation of this rule.

Rule 137.08 Use of Funds

No receiver or other trustee appointed by the court, nor any lawyer acting for such receiver or trustee, shall withdraw or use any trust funds to apply on the receiver's compensation for services except on written order of court, duly made after such notice as the court may direct, and filed in the proceeding.

Rule 137.09 Allowance of Fees

All applications for the allowance of fees to receivers and their lawyers shall be accompanied by an itemized statement of the services performed and the amount charged for each item shown.

Compensation of receivers and their lawyers shall be allowed only upon the order of the court after such notice to creditors and others interested as the court shall direct, of the amounts claimed, as compensation and of the time and place of hearing the application for their allowance.

Rule 137.10 Final Account

Every receiver shall take a receipt for all disbursements made by him in excess of one dollar, shall file the same with the final account, and shall recite such filing in a verified petition for the allowance of such account. Final accounts shall disclose the status of the property of the estate as to unpaid or delinquent taxes and the same shall be paid by the receiver to the extent that the funds in the receiver's custody permit, over and beyond costs and expenses of the receivership.

Cross Reference: Minn. R. Civ. P. 66.

Task Force Comment - 1991 Adoption

This rule is derived from Rule 23 of the Code of Rules for the District Courts.

Rule 138. Banks in Liquidation

Petitions for orders approving the sale or compounding of doubtful debts, or the sale of real or personal property, or authorizing a final dividend, of any bank, state or national, in liquidation, shall be heard after notice to all interested persons given as herein provided.

Upon the filing of the petition, the court shall enter an order reciting the substance of the petition and the time and place for hearing thereon, and advising all interested parties of their right to be heard.

A copy of the order shall be published once in a legal newspaper published near the location of the bank in liquidation, which publication shall be made at least ten days prior to the time fixed for the hearing; or the court may direct notice to be given by such other method as it shall deem proper. If it shall appear to the court that delay may prejudice the rights of those interested, the giving of notice may be dispensed with.

Cross Reference: Minn. R. Civ. P. 66.

Task Force Comment - 1991 Adoption

This rule is derived from Rule 5 of the Code of Rules for the District Court.

Rule 139. Lawyers as Sureties

No practicing lawyer shall be accepted as surety on a bond or undertaking required by law.

Cross Reference: Minn. R. Civ. P. 67.

Task Force Comment - 1991 Adoption

This rule is derived from Rule 4 of the Code of Rules for the District Courts.

Rule 140. Supplemental Proceedings

Rule 140.01 Previous Applications

If an ex parte application is made, any previous applications for a supplemental proceeding order concerning the pending case shall be disclosed to the court in the form of an affidavit.

Rule 140.02 Referee

Referees in supplementary proceedings and in garnishment disclosures shall be notaries public or lawyers and shall not be the creditor's lawyer or an employee or partner of the creditor or of the creditor's lawyer and said referees must take and subscribe the appropriate oath.

Rule 140.03 Continuances

Orders in supplementary proceedings shall specify the name of the Referee and provide that in the examination of the judgment debtor the Referee shall not grant more than two continuances.

Cross Reference: Minn. R. Civ. P. 69.

Task Force Comment - 1991 Adoption

This rule is derived from 4th Dist. R. 12.

Rule 141. Condemnation

Rule 141.01 Objection to Commissioner

Within 14 days after the order appointing the commissioners has been filed, the petitioner or any respondent may serve on all other parties and file with the appointing judge an affidavit objecting to the appointment of any one or more of the commissioners and setting forth the reasons for the objection. Within 7 days after receiving such an objection, the judge in the exercise of discretion may appoint a new commissioner to replace any commissioner concerning whom objection has been made. If the judge does not appoint a new commissioner within 7 days, the objection shall be deemed overruled.

(Amended effective January 1, 2020.)

Rule 141.02 Notice of Appeal

In condemnation cases the notice of appeal from the award of the Commissioners shall be deemed the filing of the first document in the case for the purposes of Minn. Gen. R. Prac. 104 and 111.

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

Advisory Committee Comment - 1992 Amendment

This rule is derived from 4th Dist. R. 10 and is intended to supplement statutes providing for the appointment of commissioners and the filing of a notice of appeal. See Minnesota Statutes, sections 117.075 and 117.145 (1990).

Rule 141.02 as amended in 1992 establishes that the appeal from the award of the commissioners, not any earlier proceedings relating to appointment of commissioners or a "quick take" of the property, triggers the scheduling requirements of Rules 104 and 111.

Rule 142. [Renumbered Rule 417]

Rule 143. Actions by Representatives-Attorneys' Fees

In actions for personal injury or death by wrongful act, brought by persons acting in a representative capacity, contracts for attorney's fees shall not be regarded as determinative of fees to be allowed by the court.

Cross Reference: Minn. R. Civ. P. 17.

Task Force Comment - 1991 Adoption

This rule is Rule 1 of the Code of Rules for the District Court, without change.

Rule 144. Actions for Death by Wrongful Act

Rule 144.01 Application for Appointment of Trustee

Every application for the appointment of a trustee of a claim for death by wrongful act under Minnesota Statutes, section 573.02, shall be made by the verified petition of the surviving spouse or one of the next of kin of the decedent. The petition shall show the dates and places of the decedent's birth and death; the decedent's address at the time of death; the name, age and address of the decedent's surviving spouse, children, parents, grandparents, and siblings; and the name, age, occupation and address of the proposed trustee. The petition shall also show whether or not any previous application has been made, the facts with reference thereto and its disposition shall also be stated. The written consent of the proposed trustee to act as such shall be endorsed on or filed with such petition. The application for appointment shall not be considered filing of a document in the case for the purpose of any requirement for filing a certificate of representation or civil cover sheet.

(Amended effective January 1, 1993; amended effective January 1, 2000; amended effective July 1, 2013.)

Cross Reference: Minn. R. Civ. P. 17.

Rule 144.02 Notice and Hearing

The petition for appointment of trustee will be heard upon such notice, given in such form and in such manner and upon such persons as may be determined by the court, unless waived by the next of kin listed in the petition or unless the court determines that such notice is not required.

(Amended effective January 1, 2000.)

Rule 144.03 Caption

The petition, any order entered thereon, and the trustee's oath, will be entitled: "In the matter of the appointment of a trustee for the next of kin of _____, Decedent."

Rule 144.04 Transfer of Action

If the trustee, after appointment and qualification, commences an action for death by wrongful act in a county other than that in which the trustee was appointed, a certified copy of the petition, the order entered thereon and the oath shall be filed in the court where such action be commenced, at the time the summons and complaint are filed therein, and the court file and jurisdiction over the trust will thereupon be transferred to such court.

Rule 144.05 Distribution of Proceeds

Application for the distribution of money recovered under Minnesota Statutes, section 573.02, shall be by verified petition of the trustee. Such petition shall show the amount which has been received upon action or settlement; a detailed statement of disbursements paid or incurred, if any; the amount, if any, claimed for services of the trustee and of the trustee's lawyer; the amount of the funeral expenses and of demands for the support of the decedent; the name, age and address of the surviving spouse and each next of kin required to be listed in the petition for appointment of trustee and all other next of kin who have notified the trustee in writing of a claim for pecuniary loss, and the share to which each is entitled.

If an action was commenced, such petition shall be heard by the court in which the action was tried, or in the case of a settlement, by the court in which the action was pending at the time of settlement. If an action was not commenced, the petition shall be heard by the court in which the

trustee was appointed. The court hearing the petition shall approve, modify, or disapprove the proposed disposition and shall specify the persons to whom the proceeds are to be paid.

The petition for distribution will be heard upon notice, given in form and manner and upon such persons as may be determined by the court, unless waived by all next of kin listed in the petition for distribution or unless the court determines that such notice is not required. The court by order, or by decree of distribution, will direct distribution of the money to the persons entitled thereto by law. Upon the filing of a receipt from each distributee for the amount assigned to that distributee, the trustee shall be discharged.

The foregoing procedure will, so far as can be applicable, also govern the distribution of money recovered by personal representatives under the Federal Employers' Liability Act (45 U.S.C. section 51) and under Minnesota Statutes, section 219.77.

(Amended effective January 1, 2000.)

Cross Reference: Minn. R. Civ. P. 17.

Rule 144.06 Validity and Timeliness of Action

The failure to name the next of kin in a petition required by Rule 144.01 or the failure to notify or obtain a waiver from the next of kin shall have no effect on the validity or timeliness of an action commenced by the trustee.

(Added effective January 1, 2000.)

Advisory Committee Comment - 2007 Amendment

This rule is derived from Rule 2 of the Code of Rules for the District Courts. The Task Force has amended the rule to refer to "next of kin" rather than "heirs." Minnesota Statutes, section 573.02, makes no requirements as to who must receive notification of petitions for appointment of trustees or for orders for distribution. Amendments to Rule 144.01, 144.02, and 144.05 codify the longstanding practice of requiring petitioners to name and notify only the decedent's surviving spouse and close relatives, not "all next of kin," which under Wynkoop v. Carpenter, 574 N.W.2d 422 (Minn. 1998), and recent changes to Minnesota's intestacy statute would include distant relatives such as nieces, nephews, aunts, uncles, and cousins. These amendments address only the matter of notification and are not intended to reduce substantive rights of any next of kin.

The Task Force considered the advisability of amending Rule 144.05 to require the court to consider and either approve, modify, or disapprove the settlement itself, in addition to the disposition of proceeds as required under the existing rule. Although it appears that good reasons exist to change the rule in this manner, the Minnesota Supreme Court has indicated that the trial court has no jurisdiction to approve or disapprove the settlement amounts agreed upon by the parties. The court can only approve the distribution of those funds among the heirs and next of kin. See Minneapolis Star & Tribune Co. v. Schumacher, 392 N.W.2d 197, 200 n. 1 (Minn. 1986).

The final sentence of Rule 144.01 was added in 1992 to make it clear that it is the filing of papers in the actual wrongful death action, and not papers relating to appointment of a trustee to bring the action, that triggers the scheduling requirements of the rules, including the requirement to file a certificate of representation and parties (Rule 104) and an informational statement (Rule 111.02). Some have interpreted this comment to mean that the advisory committee intended there to be two separate actions for purposes of computing filing fees. Although a filing fee must be paid when the petition for appointment of a trustee is filed, a second filing fee should not be required in the wrongful death action, even when that wrongful death action is commenced in a different county or district.

Rule 144.06 codifies existing law holding that failure to notify some next of kin does not void an appointment. See Stroud v. Hennepin County Medical Center, 544 N.W.2d 42, 48-49 (Minn. App. 1996) (failure to list and obtain signatures of all next of kin did not invalidate trustee's appointment and commencement of a wrongful death action), rev'd on other grounds, 556 N.W.2d 552, 553-55, nn. 3 & 5 (Minn. 1996) (trustee's original complaint effectively commenced wrongful death action despite her improper appointment).

Rule 145. Actions on Behalf of Minors and Incompetent Persons

Rule 145.01 When Petition and Order are Required

No part of the proceeds of any action or claim for personal injuries on behalf of any minor or incompetent person shall be paid to any person except under written petition to the court and written order of the court as hereinafter provided. This rule governs a claim or action brought by a parent of a minor, by a guardian ad litem or general guardian of a minor or incompetent person, or by the guardian of a dependent, neglected or delinquent child, and applies whether the proceeds of the claim or action have become fixed in amount by a settlement agreement, jury verdict or court findings, and even though the proceeds have been reduced to judgment.

Rule 145.02 Contents and Filing of Petition

The petition shall be verified by the parent or guardian, shall be filed before the court makes its order, and shall include the following:

(a) The name and birth date of the minor or other incompetent person.

(b) A brief description of the nature of the claim if a complaint has not been filed.

(c) An attached affidavit, letter or records of a health care provider showing the nature of the injuries, the extent of recovery, and the prognosis if the court has not already heard testimony covering these matters.

(d) Whether the parent, or the minor or incompetent person, has collateral sources covering any part of the principal and derivative claims, including expenses and attorneys fees, and whether subrogation rights have been asserted by any collateral source.

(e) In cases involving proposed structured settlements, a statement from the parties disclosing the cost of the annuity or structured settlement to the tortfeasor.

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

Rule 145.03 Representation

(a) If the lawyer who presents the petition has been retained by the tortfeasor or its insurer, the lawyer shall disclose to the court and to the petitioner the nature of the representation, how he or she is being paid, the frequency with which the lawyer has been retained by the tortfeasor or insurer, and whether the lawyer is giving legal advice to the petitioner. The petition shall not be denied by the court solely because of the petitioner's representation.

(b) The court may, at its discretion, refer the petitioner to a lawyer selected by the petitioner (or by the court if petitioner requests or declines to select a lawyer), to evaluate the proposed settlement and advise the court whether the settlement is reasonable considering all relevant facts. The opinion shall be in writing, and the court shall provide a copy to the petitioner and all tortfeasors or their representative, regardless of whether a filing fee has been paid by the tortfeasor. This appointment shall be made pursuant to Minn. R. Evid. 706.

(c) The lawyer accepting the referral must agree not to represent the petitioner or the minor or accept a referral fee in the event that the petition is denied by the court.

(d) For the legal opinion thus rendered to the court, the tortfeasor or the insurer shall pay a reasonable sum ordered by the court; however, the insurer or tortfeasor may be reimbursed from settlement proceeds up to one half of the sum so ordered, also upon order of the court. An order for attorney's fees payment in excess of $300.00 can issue only upon a court hearing with notice to the insurer or tortfeasor and the petitioner.

(e) The opinion of the referred-to lawyer shall not be binding upon the court.

Rule 145.04 Hearing on the Petition

The minor or incompetent person and the petitioner shall personally appear before the court at the hearing on the petition unless their appearance is specifically waived by the court because the action has been fully or partially tried or for other good cause. The reporter shall, when ordered by the court, keep a record of the hearing. The hearing shall be ex parte unless otherwise ordered.

Rule 145.05 Terms of the Order

The court's order shall:

(a) Approve, modify or disapprove the proposed settlement or disposition and specify the persons to whom the proceeds are to be paid.

(b) State the reason or reasons why the proposed disposition is approved if the court is approving a settlement for an amount which it feels is less than what the injuries and expenses, might seem to call for, e.g., limited insurance coverage, dubious liability, comparative fault or other similar considerations.

(c) Determine what expenses may be paid from the proceeds of any recovery by action or settlement, including the attorney's fee. Attorney's fees will not be allowed in any amount in excess of one-third of the recovery, except on a showing that: (1) an appeal to an appellate court has been perfected and a brief by the plaintiff's lawyer has been printed therein and (2) there has been an expenditure of time and effort throughout the proceeding which is substantially disproportionate to a one-third fee. No sum will be allowed, in addition to attorney fees, to reimburse any expense incurred in paying an investigator for services and mileage, except in those circumstances where the attorney's fee is not fully compensatory or where the investigation must be conducted in any area so distant from the principal offices of the lawyer so employed that expense of travel and related expense would be substantially equal to, or in excess of, usual investigating expenses.

(d) Specify what disposition shall be made of the balance of the proceeds of any recovery after payment of the expenses authorized by the court.

(1) The court may authorize investment of all or part of such balance of the proceeds in securities of the United States, or in an annuity or other form of structured settlement, including a medical assurance agreement, but otherwise shall order the balance of the proceeds deposited in one or more banks, savings and loan associations or trust companies where the deposits will be fully covered by Federal deposit insurance.

(2) In lieu of such disposition of the proceeds, the order may provide for the filing by the petitioner of a surety bond approved by the court conditioned for payment to the ward in a manner therein to be specified of such moneys as the ward is entitled to receive, including interest which would be earned if the proceeds were invested.

(e) If part or all of the balance of the proceeds is ordered deposited in one or more financial institutions, the court's order shall direct:

(1) that the defendant pay the sum to be deposited directly to the financial institution;

(2) that the account be opened in the name of the minor or incompetent person and that any deposit document be issued in the name of the minor or incompetent person;

(3) that the petitioner shall, at the time of depositing, supply the financial institution with a tax identification number or a social security number for the minor and a copy of the order approving settlement;

(4) that the financial institution forthwith acknowledge to the court receipt of the order approving settlement and the sum and that no disbursement of the funds will occur unless the court so orders, using the form substantially equivalent to Form 145.1;

(5) that the financial institution shall not make any disbursement from the deposit except upon order of the court;

(6) that a copy of the court's order shall be delivered to said financial institution by the petitioner with the remittance for deposit. The financial institution(s) and the type of investment therein shall be as specified in Minnesota Statutes, section 540.08, as amended. Two or more institutions shall be used if necessary to have full Federal deposit insurance coverage of the proceeds plus future interest; and time deposits shall be established with a maturity date on or before the minor's age of majority. If automatically renewing instruments of deposit are used, the final renewal period shall be limited to the date of the age of majority; and

(7) that the petitioner shall be ordered to file or cause to be filed timely state and federal income tax returns on behalf of the minor.

(f) Authorize or direct the investment of proceeds of the recovery in securities of the United States only if practicable means are devised comparable to the provisions of paragraphs (d) and (e) above, to insure that funds so invested will be preserved for the benefit of the minor or incompetent person, and the original security instrument be deposited with the court administrator consistent with paragraph (e) above.

(g) Provide that applications for release of funds, either before or upon the age of majority may be made using the form substantially similar to Form 145.2.

(Amended effective January 1, 1993; amended effective January 1, 2003.)

Rule 145.06 Structured Settlements

If the settlement involves the purchase of an annuity or other form of structured settlement, the court shall:

(a) Determine the cost of the annuity or structured settlement to the tortfeasor by examining the proposal of the annuity company or other generating entity;

(b) Require that the company issuing the annuity or structured settlement:

(1) Be licensed to do business in Minnesota;

(2) Have a financial rating equivalent to A. M. Best Co. A+, Class VIII or better;

(3) Has complied with the applicable provisions of Minnesota Statutes, sections 549.30 to 549.34;

or that a trust making periodic payments be funded by United States Government obligations; and

(4) If the company issuing the proposed annuity or structured settlement is related to either the settling party or its insurer, that the proposed annuity or structured settlement is at least as favorable to the minor or incompetent person as at least one other competitively-offered annuity obtained from an issuer qualified under this rule and not related to the party or its insurer. This additional proposal should be for an annuity with the same terms as to cost and due dates of payments.

(c) Order that the original annuity policy be deposited with the court administrator, without affecting ownership, and the policy be returned to the owner of the policy when:

(1) The minor reaches majority;

(2) The terms of the policy have been fully performed; or

(3) The minor dies, whichever occurs first.

(d) In its discretion, permit a "qualified assignment" within the meaning and subject to the conditions of Section 130(c) of the Internal Revenue Code;

(e) In its discretion, order the tortfeasor or its insurer, or both of them, to guarantee the payments contracted for in the annuity or other form of structured settlement; and

(f) Provide that:

(1) The person receiving periodic payments is entitled to each periodic payment only when the payment becomes due;

(2) That the person shall have no rights to the funding source; and

(3) That the person cannot designate the owner of the annuity nor have any right to control or designate the method of investment of the funding medium; and

(g) Direct that the appropriate party or parties will be entitled to receive appropriate receipts, releases or a satisfaction of judgment, pursuant to the agreement of the parties.

(Amended effective January 1, 1993; amended effective January 1, 1996; amended effective March 1, 2001; amended effective January 1, 2003.)

Cross Reference: Minn. R. Civ. P. 17.

Rule 145.07 General Guardians

When an action is brought by a general guardian appointed and bonded by a court of competent jurisdiction, the requirements of this rule may be modified as deemed desirable by the court because of bonding or other action taken by the appointing court, except that there must be compliance with the settlement approval requirements of Minnesota Statutes, section 540.08, or amendments thereof.

Cross Reference: Minn. R. Civ. P. 17.

Advisory Committee Comments - 2000 Amendment

This rule is derived from Minnesota Statutes 1990, section 540.08 and Rule 3 of the Code of Rules for the District Courts.

The Task Force considered it a thoughtful recommendation that a minor's social security number be required to be included on all minor settlement petitions. Such a requirement would make it

easier to locate a minor at the time of reaching majority. The Task Force ultimately concluded, however, the privacy interests dictate that the inclusion of this number should not be mandatory. The information may nonetheless be required by the financial institution with which the funds are deposited, and many lawyers will routinely include it in petitions in order to facilitate locating the minor should the need arise.

The 1994 amendment of Rule 145.02(c) allows the filing of medical records in lieu of a full report of each health care provider where those records provide the information necessary to evaluate the settlement. This may be especially appropriate where the injuries are not severe, or where the cost of obtaining reports would represent a substantial portion of the settlement proceeds. The court can, in any case, require any further information or reports deemed necessary to permit the court to discharge its duty to evaluate the overall fairness of the settlement to the minor.

Rule 145.02(d) is new. It is designed to advise the court of factors to take into consideration when approving or disapproving a settlement on behalf of the minor or incompetent person. Rule 145.02(e) is added in 1992 to provide the court in the petition the information necessary for the court to make the determination required by Rule 145.06(a). Although the parties are the obvious source of the cost information necessary to make the cost determination, the rule explicitly requires the petition to include this information. This information must be disclosed by the parties, and not only the party filing the petition, as often the tortfeasor will have the only accurate information on this subject.

Rule 145.03 is new. It addresses a situation where a tortfeasor or insurer has negotiated a settlement with a minor's family or guardian, and court approval of that settlement is necessary. Oftentimes the plaintiff does not wish to incur attorney's fees to obtain that approval, so as a part of the settlement, the tortfeasor or the insurer makes the arrangements to draft and present the petition. The court needs to be satisfied that the settlement is fair. The Task Force discussed at length whether or not a lawyer hired and paid by an insurer or tortfeasor should be permitted to represent the minor or incompetent person to obtain the approval of the court. It was decided that the petitioner should not be compelled to obtain counsel, and that "arranged counsel" may appear, provided that there is full disclosure to the petitioner of the interests of the insurer or tortfeasor.

Rule 145.03(b) is new and is designed to provide a procedure for the court to obtain advice to evaluate the reasonableness of a settlement. The court may appoint a lawyer selected by the petitioner or the court may designate a lawyer of its own choice. In either case, where a referral is made under this section, the lawyer accepting the referral may not represent the petitioner to pursue the claim, should the petition be denied by the court. Rule 145.03(d) provides that the cost of the consultation provided for in Rule 145.03(b) shall be born equally by the petitioner and the tortfeasor or insurer.

Finally, Rule 145.03(d) provides that any opinions rendered by a selected lawyer on behalf of the minor or incompetent person are advisory only.

Rule 145.05(d) expands the types of investments that may be used in managing the settlement proceeds while retaining the requirements of security of investment. It incorporates Minnesota Statutes 1990, section 540.08 regarding structured settlements, and it allows that settlements may include a medical assurance agreement. A medical assurance agreement is a contract whereby future medical expenses of an undetermined amount will be paid by a designated person or entity.

Rule 145.05(e)(5) requires that funds placed in certificates of deposit or other deposits with fixed maturities have those maturities adjusted so they do not mature after the age of majority. This rule places the burden on the financial institution by the notice to be included in the order for deposit.

Rule 145.06 is new. It establishes criteria for approval of structured settlements, and it requires the court to determine the cost of the annuity to insure that the periodic payments reflect a cost comparable to a reasonable settlement amount. Where a minor or incompetent receives a verdict representing future damages greater than $100,000 and the guardian determines that a structured settlement pursuant to Minnesota Statutes 1990, section 549.25 would be in the best interests of the minor or incompetent person, this rule shall apply to the implementation of the election pursuant to the statute. The amendment of the rule in 1995 (effective January 1, 1996) is intended to make it clear that it is important that the original annuity policy be retained by the court administrator, and that this is for the purpose of security, not establishing any ownership interest which might affect the tax treatment of the settlement.

Rule 145.06(b) is modified by amendment in 2000. The amendment is intended to require the court approving a minor settlement that includes a structured settlement provision to verify that the annuity issuer is licensed to do business and that Minnesota Statutes 1998, sections 549.30 to 549.34 is followed. The amendment is not intended to impose any additional substantive requirements, as compliance with statutes is assumed under the current rule. The rule will require the trial court to verify the fact of compliance, however, and will probably require submitting this information to the court.

Advisory Committee Comment - 2002 Amendment

Rule 145.05 is revamped to create a new procedure for handling the deposit of funds resulting from minor settlements. The new rule removes provisions calling for deposit of funds in "passbook" savings accounts, largely because this form of account is no longer widely available from financial institutions. The revised rule allows use of statement accounts, but requires that the financial institution acknowledge receipt of the funds at the inception of the account. A form for this purpose is included as Form 145.1. Additionally, the rule is redrafted to remove inconsistent provisions. Under the revised rule, release of funds is not automatic when the minor reaches majority; a separate order is required. A form to implement the final release of funds, as well as any permitted interim release of funds, is included as Form 145.2.

Rule 145.06(b)(4) is a new provision to require at least two competitive proposals for a structured settlement. This requirement applies only when one of the proposals is for an annuity issued by the settling party, its liability insurer, or by an insurer related to either of them. The rule requires that the competitive bids be issued by annuity companies that would be qualified to issue an annuity that complies with the requirements of Rule 145.06. In order to permit the trial court to determine that the proposed settlement adequately provides for the interests of the minor, the competitive bids must be for annuities with comparable terms. The rule requires only a second proposal, but permits the court to require additional proposals or analysis of available proposals in its discretion. The rule, as revised, does not direct how the trial court should exercise its discretion in aproving or disapproving the proposed structure settlement. It is intended, however, to provide the court some information upon which it can base the decision.

Rule 146. Complex Cases

146.01 Purpose; Principles

The purposes of the Complex Case Program ("CCP") are to promote effective and efficient judicial management of complex cases in the district courts, avoid unnecessary burdens on the court, keep costs reasonable for the litigants and to promote effective decision making by the court, the parties and counsel.

The core principles that support the establishment of a mandatory CCP include:

(a) Early and consistent judicial management promotes efficiency.

(b) Mandatory disclosure of relevant information, rigorously enforced by the court, will result in disclosure of facts and information necessary to avoid unnecessary litigation procedures and discovery.

(c) Blocking complex cases to a single judge from the inception of the case results in the best case management.

(d) Firm trial dates result in better case management and more effective use of the parties' resources, with continuances granted only for good cause.

(e) Education and training for both judges and court staff will assist with the management of complex cases.

146.02 Definition of a Complex Case

(a) Definition. A "complex case" is an action that requires exceptional judicial management to avoid placing unnecessary burdens on the court or the litigants and to expedite the case, keep costs reasonable, and promote effective decision making by the court, the parties, and counsel.

(b) Factors. In deciding whether an action is a complex case under (a), the court must consider, among other things, whether the action is likely to involve:

(1) Numerous hearings, pretrial and dispositive motions raising difficult or novel legal issues that will be time-consuming to resolve;

(2) Management of a large number of witnesses or a substantial amount of documentary evidence;

(3) Management of a large number of separately represented parties;

(4) Multiple expert witnesses;

(5) Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court;

(6) Substantial post judgment judicial supervision; or

(7) Legal or technical issues of complexity.

(c) Provisional designation. An action is provisionally a complex case if it involves one or more of the following types of claims:

(1) Antitrust or trade regulation claims;

(2) Intellectual property matters, such as trade secrets, copyrights, patents, etc.;

(3) Construction defect claims involving many parties or structures;

(4) Securities claims or investment losses involving many parties;

(5) Environmental or toxic tort claims involving many parties;

(6) Product liability claims;

(7) Claims involving mass torts;

(8) Claims involving class actions;

(9) Ownership or control of business claims; or

(10) Insurance coverage claims arising out of any of the claims listed in (c)(1) through (c)(9).

(d) Parties' designation. In any action not enumerated above, the parties can agree to be governed by Rule 146 of these rules by filing a "CCP Election," in a form to be developed by the state court administrator and posted on the main state court website, to be filed along with the initial pleading.

(e) Motion to Exclude Complex Case Designation. A party objecting to the provisional assignment of a matter to the CCP must serve and file a motion setting forth the reasons that the matter should be removed from the CCP. The motion must be served and filed within 14 days of the date the moving party is served with the CCP Designation. The motion shall be heard during the Case Management Conference or at such other time as determined by the court. The factors that should be considered by the court in ruling on the motion include the factors set forth in Rule 146.02 (b) and (c) above.

(Amended effective July 1, 2015.)

146.03 Judge Assigned to Complex Cases

A single judge shall be assigned to all designated complex cases within 28 days of filing in accordance with Rule 113 of these rules. In making the assignment the assigning judge should consider, among other factors, the needs of the court, the judge's ability, interest, training, experience (including experience with complex cases) and willingness to participate in educational programs related to the management of complex cases.

(Amended effective January 1, 2020.)

146.04 Mandatory Case Management Conferences

(a) Within 28 days of assignment, the judge assigned to a complex case shall hold a mandatory case management conference. Counsel for all parties and all self-represented litigants shall attend the conference. At the conference, the court will discuss all aspects of the case as contemplated by Minn. R. Civ. P. 16.01.

(b) The court may hold such additional case management conferences, including a pretrial conference, as it deems appropriate.

(Amended effective July 1, 2015.)

146.05 Case Management Order and Scheduling Order

In all complex cases, the judge assigned to the case shall enter a Case Management Order and a Scheduling Order (together or separately) addressing the matters set forth in Minn. R. Civ. P. 16.02 and 16.03, and including without limitation the following:

(a) The dates for subsequent Case Management Conferences in the case;

(b) the deadline for the parties to meet and confer regarding discovery needs and the preservation and production of electronically stored information;

(c) the deadline for joining other parties;

(d) the deadline for amending the pleadings;

(e) the deadline by which fact discovery will close and provisions for disclosure or discovery of electronically stored information;

(f) the deadlines by which parties will make expert witness disclosures and deadlines for expert witness depositions;

(g) the deadlines for non-dispositive and dispositive motions;

(h) any modifications to the extent of required disclosures and discovery, such as, among other things, limits on:

(1) the number of fact depositions each party may take;

(2) the number of interrogatories each party may serve;

(3) the number of expert witnesses each party may call at trial;

(4) the number of expert witnesses each party may depose; and

(i) a date certain for trial subject to continuation for good cause only, and a statement of whether the case will be tried to a jury or the bench and an estimate of the trial's duration.

(Added effective July 1, 2013.)

PART G. APPENDIX OF FORMS

FORM 104 CERTIFICATE OF REPRESENTATION AND PARTIES

State of Minnesota

District Court

_____

JUDICIAL DISTRICT CASE NO.

COUNTY

_____ _____

CERTIFICATE OF REPRESENTATION AND PARTIES

**(ONLY THE INITIAL FILING LAWYER/

PARTY NEEDS TO COMPLETE THIS FORM)**

Date Case Filed: _____

_____ vs. _____

This certificate must be filed pursuant to Rule 104 of the General Rules of Practice for the District Courts, which states: "A party filing a civil case shall, at the time of filing, notify the court administrator in writing of the name, address, and telephone number of all counsel and unrepresented parties, if known (see form 104 appended to these rules). If that information is not then known to the filing party, it shall be provided to the court administrator in writing by the filing party within seven days of learning it. Any party impleading additional parties shall provide the same information to the court administrator. The court administrator shall, upon receipt of the completed certificate, notify all parties or their lawyers, if represented by counsel, of the date of filing the action and the file number assigned."

LIST ALL LAWYERS/PRO SE PARTIES INVOLVED IN THIS CASE.

LAWYER FOR PLAINTIFF(S)	LAWYER FOR DEFENDANT(S) (if not known, name party and address)
_____	_____
Name of Party	Name of Party
_____	_____
Atty Name (Not firm name)	Atty Name (Not firm name)
_____	_____
Address	Address
_____	_____
_____	_____
_____	_____
Phone Number	Phone Number
_____	_____
MN Atty ID No.	MN Atty ID No.

(Please use other side for additional lawyers/parties).

_____	_____
Date	Filing Lawyer/Party
Lawyer for:	Lawyer for:
_____	_____
Name of Party	Name of Party
_____	_____
Atty Name (Not firm name)	Atty Name (Not firm name)
_____	_____
Address	Address
_____	_____
_____	_____
_____	_____
Phone Number	Phone Number
_____	_____
MN Atty ID No.	MN Atty ID No.
Lawyer for:	Lawyer for:

_____	_____
Name of Party	Name of Party
_____	_____
Atty Name (Not firm name)	Atty Name (Not firm name)
_____	_____
Address	Address
_____	_____
_____	_____
_____	_____
Phone Number	Phone Number
_____	_____
MN Atty ID No.	MN Atty ID No.

FORM 111.02 INFORMATIONAL STATEMENT

(Civil Matters-Non-Family)

State of Minnesota

District Court

COUNTY _____ JUDICIAL DISTRICT _____ CASE NO. _____

Case Type: _____

_____
Plaintiff

and

_____
Defendant

INFORMATIONAL STATEMENT FORM

1. All parties (have) (have not) been served with process.

2. All parties (have) (have not) joined in the filing of this form.

3. Brief description of the case: _____

_____

_____

4. It is estimated that the discovery specified below can be completed within ____ months from the date of this form. (Check all that apply, and supply estimates where indicated.)

a. Factual Depositions No ____ Yes ____, estimated number: ____
b. Medical Evaluations No ____ Yes ____, estimated number: ____
c. Experts Subject to Discovery No ____ Yes ____, estimated number: ____

5. Assignment as an ____ expedited ____ standard ____ complex case is requested. (If not standard case assignment, include brief setting forth the reasons for the request.)

_____

_____

6. The dates and deadlines specified below are suggested.

a. _____ Deadline for joining additional parties, whether by amendment or third party practice.
b. _____ Deadline for bringing nondispositive motions.
c. _____ Deadline for bringing dispositive motions.
d. _____ Deadline for submitting_____ to the court.
(specify issue)

e. _____ Deadline for completing independent physical examination pursuant to Minn. R. Civ. P. 35.

f. _____ Date for formal discovery conference pursuant to Minn. R. Civ. P. 26.06.

g. _____ Date for pretrial conference pursuant to Minn. R. Civ. P. 16.

h. _____ Date for scheduling conference.

i. _____ Date for submission of a Joint Statement of the Case pursuant to Minn. Gen. R. Prac. 112.

j. _____ Trial Date.

k. _____ Deadline for filing (proposed instructions), (verdicts), (findings of fact), (witness list), (exhibit list).

l. _____ Deadline for _____
(specify)

7. Estimated trial time: ____ days ____ hours (estimates less than a day must be stated in hours).

8. A jury trial is: () waived by consent of _____
(specify party)

pursuant to R. Civ. P. 38.02.

() requested by _____
(specify party)

(NOTE: Applicable fee must be enclosed.)

9. a. MEETING: Counsel for the parties met on _____
(Date)

to discuss case management issues.

b. ADR PROCESS (Check one):

_____ Counsel agree that ADR is appropriate and choose the following:

_____ Mediation
_____ Arbitration (non-binding)
_____ Arbitration (binding)
_____ Med-Arb
_____ Early Neutral Evaluation
_____ Moderated Settlement Conference
_____ Mini-Trial
_____ Summary Jury Trial
_____ Consensual Special Magistrate
_____ Impartial Fact-Finder
_____ Other (describe) _____

_____

_____ Counsel agree that ADR is appropriate but request that the Court select the process.

_____ Counsel agree that ADR is NOT appropriate because:

_____ the case implicates the federal or state constitution.

_____ other (explain with particularity) _____

_____

_____

_____ domestic violence has occurred between the parties.

c. PROVIDER (check one):

_____ The parties have selected the following ADR neutral:

_____

_____ The parties cannot agree on an ADR neutral and request to Court to appoint one

_____ The parties agreed to select an ADR neutral on or before

_____

d. DEADLINE: The parties recommend that the ADR process be completed by _____
(Date)

10. Please identify any party or witness who will require interpreter services, and describe the services (specifying language and, if known, particular dialect) needed. _____

_____

_____

11. Please list any additional information which might be helpful to the court when scheduling this matter. _____

_____

_____

Signed: _____	Signed: _____
Lawyer for (Plaintiff) (Defendant)	Lawyer for (Plaintiff) (Defendant)
Attorney Reg. #: _____	Attorney Reg. #: _____
Firm: _____	Firm: _____
Address: _____	Address: _____
Telephone: _____	Telephone: _____
Date: _____	Date: _____

(Amended effective January 1, 1993; amended effective July 1, 1994, and shall supersede Second Judicial District Local Rules 5 and 25 and Fourth Judicial District Local Rule 5 to the extent inconsistent therewith; amended effective January 1, 1996; amended effective March 1, 2009.)

FORM 111.03 REQUEST FOR DEFERRAL OF SCHEDULING DEADLINES

STATE OF MINNESOTA DISTRICT COURT

_____ COUNTY _____ JUDICIAL DISTRICT

CASE NO. :

_____ Case Type: _____

Plaintiff

and REQUEST FOR DEFERRAL

_____

Defendant

The undersigned parties request, pursuant to Minn. Gen. R. Prac. 111.05, that this action be deferred and excused from normal scheduling deadlines until _____, to permit the parties to engage in a formal collaborative law process. In support of this request, the parties represent to the Court as true:

1. All parties have contractually agreed to enter into a collaborative law process in an attempt to resolve their differences.

2. The undersigned attorneys are each trained as collaborative lawyers.

3. The undersigned attorneys each agree that if the collaborative law process is not concluded by the complete settlement of all issues between the parties, each attorney and his or her law firm will withdraw from further representation and will consent to the substitution of new counsel for the party.

4. The undersigned attorneys will diligently and in good faith pursue resolution of this action through the collaborative law process, and will promptly report to the Court when a settlement is reached or a soon as they determine that further collaborative law efforts will not be fruitful.

Signed: _____
Collaborative Lawyer for (Plaintiff) (Defendant)
Attorney Reg. #: _____
Firm: _____
Address: _____
Telephone: _____
Date: _____

Signed: _____
Collaborative Lawyer for (Plaintiff) (Defendant)
Attorney Reg. #: _____
Firm: _____
Address: _____
Telephone: _____
Date: _____

ORDER FOR DEFERRAL

The foregoing request is granted, and this action is deferred and placed on the inactive calendar until _____, 20__, or until further order of this Court.

Dated: _____, 20__.

_____

Judge of District Court

(Added effective January 1, 2008.)

Advisory Committee Comment - 2007 Amendment

Form 111.03 is a new form, designed to facilitate the making of a request for deferral of a case from scheduling as permitted by Rule 111.05 when that case is going to be the subject to a collaborative law process as defined in that rule.

FORM 112.01 JOINT STATEMENT OF THE CASE

State of Minnesota

District Court

COUNTY JUDICIAL DISTRICT CASE NO.

_____ _____

Case Type:_____

_____

Plaintiff

and **JOINT STATEMENT OF THE CASE**

_____

Defendant

1. All parties have been served with process. The case is at issue and all parties have joined in the filing of this Joint Statement of the Case.

2. Estimated trial time: ___ days ___ hours (estimates less than a day must be stated in hours).

3. Jury is requested by the ___ plaintiff ___ defendant. (If this is a change from a court to a jury request, then a $30 fee must be paid when filing this document.)

4. Concise statement of the case including facts plaintiff(s) intend to prove and legal basis for claims:

_____

_____

_____

5. Concise statement of the case indicating facts defendant(s) intend to prove and legal basis for defenses and counterclaim:

_____

_____

_____

6. List the names and addresses of witnesses known to either party that either party may call. Indicate the party who expects to call the witness and whether the party intends to qualify that witness as an expert. (Attach additional sheets if necessary.)

Party	Name/Addresses of Witnesses	Please Indicate if Expert Witness
_____	_____	_____Yes
_____	_____	_____Yes
_____	_____	_____Yes

7. Identify any party or witness who will require interpreter services, and describe the services (specifying language, and, if known, particular dialect) needed. _____

_____

_____

8. In claims involving personal injury, attach a statement by each claimant, whether by complaint or counterclaim, setting forth a detailed description of claimed injuries and an itemized list of special damages as required by the rule. Indicate whether parties will exchange medical reports.

9. In claims involving vehicle accidents, attach a statement describing the vehicles with information as to ownership and the name of insurance carriers, if any.

[Signature Blocks]

(If more space is needed to add additional information or parties, attach a separate sheet typed in the same format.)

The undersigned counsel have met and conferred this ___ day of _____ and certify the foregoing is true and correct.

_____
Signature

_____
Signature

_____
Signature

_____
Signature

(Amended effective March 1, 2009.)

FORM 114.01 [Deleted effective January 1, 1998]

FORM 114.02 [Deleted effective January 1, 1998]

FORM 119.05 (Form deleted effective March 1, 2009.)

FORM 142.02 [Renumbered Form 417.02]

FORM 145.1 - RECEIPT OF MINOR SETTLEMENT ORDER AND FUNDS

(Gen. R. Prac. 145.05)

State of Minnesota **District Court**

County of _____ _____ **Judicial District**

Case Type: _____

_____

Plaintiff/Petitioner **Case No.** _____

and **RECEIPT OF MINOR SETTLEMENT ORDER AND FUNDS**

_____ (Provided Pursuant to Rule 145 of the Minnesota General Rules of Practice)

Defendant/Respondent

1._____ ("**Financial Institution**") acknowledges receipt of the sum of $_____ on behalf of _____ in this action.

2. **Financial Institution** acknowledges receipt of the Order Approving Settlement and For Deposit Into Restricted Account dated _____ in this action, and that the funds delivered remain subject to that order in the account specified below:

Name of Depository: _____

Branch Name: _____

Branch Address: _____

_____

Account Number: _(Place on separate form 11.1*)_____

Date Account Opened: _____

Current Balance: $ _____

3. This account is a federally insured, restricted account, and no withdrawal of either principal or interest shall be allowed by **Financial Institution** without a signed court order in this case.

Dated: _____ Type or Print Name _____

Signature: _____

Title: _____

* = As required by Rule 11.2 of the Minnesota General Rules of Practice

(Added effective January 1, 2003; amended effective July 24, 2013.)

FORM 145.2 - COMBINED MOTION AND ORDER FOR RELEASE OF MINOR SETTLEMENT FUNDS
(Gen. R. Prac. 145.05)

State of Minnesota **District Court**

County of _____ _____ **Judicial District**

Case Type: _____

_____

Plaintiff/Petitioner **Case No.** _____

and **COMBINED MOTION AND ORDER FOR RELEASE OF MINOR SETTLEMENT FUNDS**

_____ (Pursuant to Rule 145 of the Minnesota General Rules of Practice)

Defendant/Respondent

1. _____ ("Movant") requests an order of permitting withdrawal of funds now held in a restricted account pursuant to a minor settlement approved in this action on _____. Movant brings this Motion as the

_____ (Minor, now past the age of majority-Date of Birth _____)

or

_____ _____ to minor. (Specify whether trustee, custodian, parent, legal guardian, conservator, or other specified role).

2. Funds are now held on behalf of _____ in the following account:

Name of Depository: _____

Branch Name: _____

Branch Address: _____

_____

Account Number: ____(Place on separate form 11.1*)___

Date Account Opened: _____

Current Balance: $ _____

* = As required by Rule 11.2 of the Minnesota General Rules of Practice

3. Previous withdrawals from the account, each of which was approved by the Court, are as follows:

_____ None

or

_____ $_____ on _____ for the purpose of _____

$_____ on _____ for the purpose of _____

$_____ on _____ for the purpose of _____

□ Check if additional space is necessary, and attach a separate sheet with that information.

4. Movant seeks the release of funds in the amount of $_____ for the following reason:

_____ Minor has reached the age of 18 and this is a final distribution

or

_____ The funds will be used for the benefit of the minor in the following way:

_____

_____

_____.

□ Check if additional space is necessary, and attach a separate sheet with that information.

5. Funds should be disbursed as follows:

$ _____ to _____

$ _____ to _____

$ _____ to _____

□ Check if additional space is necessary, and attach a separate sheet with that information.

I declare under oath and penalty of perjury under the laws of the State of Minnesota that the foregoing is true and correct and that any funds released pursuant to this request will be used for the benefit of the minor and in the way stated.

Dated: _____.

Type or Print Name _____

Signature: _____

(sign only in front of notary public or court administrator)

Sworn / affirmed before me this

_____ day of _____,_____

(DATE) _____ (MONTH) _____ (YEAR)

_____

Notary Public / Deputy Court Administrator

ORDER APPROVING RELEASE OF FUNDS

Pursuant to the foregoing Motion,

IT IS HEREBY ORDERED that

1. Movant is authorized to withdraw funds to be made payable as follows:

$ _____ to _____

$ _____ to _____

2. _____ This is a final distribution of funds from this account and the account may accordingly be closed following this final distribution

or

_____ This is not a final distribution of funds and this account must be maintained as to the remaining funds and subject to all restrictions on distribution previous ordered.

3. Other provisions: _____

_____

Dated: _____.

_____

Judge of District Court

(Added effective January 1, 2003; amended effective January 13, 2003; amended effective July 24, 2013.)

PART H. MINNESOTA CIVIL TRIALBOOK

Section 1. Scope; Policy

This Trialbook is a declaration of practical policies and procedures to be followed in the civil trials in all the trial courts of Minnesota. It has been written to standardize practices and procedures throughout the state with the hope, and expectation, that trial time and expense will be reduced and that justice to the litigants and public acceptance of trial procedures will be increased.

It is recommended that the policies and procedures be generally and uniformly used. However, it is recognized that situations will arise where their use would violate the purpose for which they were drafted. In such circumstances, the policies and procedures should be disregarded so that justice, not form, may prevail. The provisions of this Trialbook may be cited as Minn. Civ. Trialbook section _____.

Sections 2 to 4. (Deleted effective January 1, 1998)

Section 5. Pre-Trial Conferences

(a) Settlement procedures. Settlement conferences are encouraged and recommended for case disposition. However, because of the diversity of approaches to be used, specific procedures are not set forth.

Lawyers will be notified by the court of the procedures to be followed in any action where settlement conferences are to be held.

(b) Procedures to be followed. In those courts where a formal pre-trial conference is held prior to assignment for trial, a trial date shall be set and the conference shall cover those matters set forth in paragraphs (d) and (e) of this section.

(c) Settlement discussions with court. The court may request counsel to explore settlement between themselves further and may engage in settlement discussions.

(d) Pretrial chambers conferences. At an informal chambers conference before trial the trial court shall:

(1) determine whether settlement possibilities have been exhausted;

(2) determine whether all pleadings have been filed;

(3) ascertain the relevance to each party of each cause of action; and,

(4) with a view to ascertaining and reducing the issues to be tried, shall inquire:

(i) whether the issues in the case may be narrowed or modified by stipulations or motions;

(ii) whether dismissal of any of the causes of actions or parties will be requested;

(iii) whether stipulations may be reached as to those facts about which there is no substantial controversy;

(iv) whether stipulations may be reached for waiver of foundation and other objections regarding exhibits, tests, or experiments;

(v) whether there are any requests for producing evidence out of order;

(vi) whether motions in limine to exclude or admit specified evidence or bar reference thereto will be requested; and

(vii) whether there are any unusual or critical legal or evidentiary issues anticipated;

(5) direct the parties to disclose the number and names of witnesses they anticipate calling, and to make good faith estimates as to the length of testimony and arguments;

(6) direct the parties to disclose whether any party or witness requires interpreter services and, if so, the nature of the interpreter services (specifying language and, if known, particular dialect) required;

(7) inquire whether the number of experts or other witnesses may be reduced;

(8) ascertain whether there may be time problems in presentation of the case, e.g., because of other commitments of counsel, witnesses, or the court and advise counsel of the hours and days for trial; and

(9) ascertain whether counsel have graphic devices they want to use during opening statements; and

(10) ascertain whether a jury, if previously demanded, will be waived. If a jury is requested, the judge shall make inquiries with a view to determining:

(i) the areas of proposed voir dire interrogation to be directed to prospective jurors, and whether there is any contention that the case is one of "unusual circumstances";

(ii) the substance of a brief statement to be made by the trial court to the prospective jurors outlining the case, the contentions of the parties, and the anticipated issues to be tried;

(iii) the number of alternate jurors (it is suggested that the identity of the alternates not be disclosed to the jury); and

(iv) in multiple party cases, whether there are issues as to the number of "sides" and allocation of peremptory challenges.

(e) Formal conference. After conclusion of the informal chambers conference and any review of the court file and preliminary research the court finds advisable, a formal record shall be made of:

(1) arguments and rulings upon motions, bifurcation, and order of proof;

(2) statement of stipulations, including whether graphic devices can be used during opening statement; and

(3) in a jury trial, specification of:

(i) the brief statement the trial court proposes to make to prospective jurors outlining the case, contentions of the parties, and anticipated issues to be tried;

(ii) the areas of proposed voir dire interrogation to be directed to the prospective jurors;

(iii) whether any of the defendants have adverse interests to warrant individual peremptory challenges and number of them;

(iv) the number of alternate jurors, if any, and the method by which the alternates shall be determined;

(v) the need for any preliminary jury instructions.

Cross Reference: Minn. R. Civ. P. 116; Minn. Gen. R. Prac. 111, 112.

(Amended effective March 1, 2009.)

Task Force Comment - 1991 Adoption

Subsection (a) is derived from existing Trialbook paragraph 6. The deleted language is unnecessary as it merely repeats other requirements.

Subsection (b) is derived from existing Trialbook paragraph 7.

Subsection (c) is derived from existing Trialbook paragraph 8.

Subsection (d) is derived from existing Trialbook paragraph 9.

Subsection (e) is derived from existing Trialbook paragraph 10.

This section sets forth many of the matters which can, and often should, be discussed in pretrial proceedings. The section does not enumerate all the subjects that can be discussed or resolved in pretrial conferences or other pretrial proceedings. The pretrial conference is intended to be a flexible device and the trial judge has considerable discretion to tailor the pretrial conference to suit the needs of an individual case. Many matters that may be useful in pretrial conferences are discussed in the Federal Judicial Center's Manual for Complex Litigation (2d ed. 1985).

The Task Force considered proposals and concerns expressed on the subject of the role of trial judges, both in jury trial matters and bench trial matters. The Task Force believes this is a difficult issue, and one on which trial judges and counsel should have guidance. The Task Force recommends

that this problem area be given further study by the Minnesota Supreme Court and interested bar associations.

Advisory Committee Comment - 2008 Amendment

Section 5(d)(6) is new, added to reflect the amendments to Rules 111.02(l), 111.03(b)(8), and 112.02(g), requiring earlier disclosure of information about the potential need for interpreter services in a case, either for witnesses or for a party. See Minn. Gen. R. Prac. 8.13.

Section 6. Voir Dire of Jurors

(a) Swearing Jurors to Answer. The entire panel shall be sworn by the clerk to truthfully answer the voir dire questions put to them. The clerk shall then draw the names of the necessary persons who shall take their appropriate seats in the jury box.

(b) Statement of the Case To and Examination of Prospective Jurors. The court shall make a brief statement to the prospective jurors introducing the counsel and parties and outlining the case, contentions of the parties, and anticipated issues to be tried and may then permit the parties or their lawyers to conduct voir dire or may itself do so. In the latter event, the court shall permit the parties or their lawyers to supplement the voir dire by such further nonrepetitive inquiry as it deems proper.

(c) Challenges for Cause. A challenge for cause may be made at any time during voir dire by any party or at the close of voir dire by all parties.

(d) Peremptory Challenges. Each adverse party shall be entitled to two peremptory challenges, which shall be made alternately beginning with the defendant. The parties to the action shall be deemed two, plaintiffs being one party, defendants the other. If the court finds that two or more defendants have adverse interests, the court shall allow each adverse defendant additional peremptory challenges. When there are multiple adverse parties, the court shall determine the order of exercising peremptory challenges.

(e) Voir Dire of Replacements. When a prospective juror is excused, the replacement shall be asked by the court:

(1) whether he or she heard and understood the brief statement of the case previously made by the judge;

(2) whether he or she heard and understood the questions;

(3) whether, other than to personal matters such as prior jury service, area of residence, employment, and family, the replacement's answers would be different from the previous answers in any substantial respect.

If the replacement answers in the affirmative to (3) above, the court shall inquire further as to those differing answers and counsel may make such supplemental examination as the court deems proper.

(f) Alternates. (Deleted effective January 1, 2000.)

Cross Reference: Minn. R. Civ. P. 47; Minn. Gen. R. Prac. 123.

Advisory Committee Comment - 1999 Amendment

Subsections (a), (b), (d), and (f) are derived from existing Trialbook paragraphs 11-15.

Subsection (c) is derived from the analogous provision of the rules of criminal procedure, Minn. R. Crim. P. 26.02(3)(a)(4). The present provisions relating to jury selection are spread among numerous different sets of rules. The civil rules have not heretofore specified a time for exercise of peremptory challenges. Some judges ask a party conducting voir dire examination before the conclusion of the jury selection process to "pass the jury for cause." This section will make it clear that challenges for cause can be made at any time, even after voir dire by other parties.

Although the section provides for administration of oaths to jurors, an affirmation should be used as to any juror or panel member preferring it.

Section 6(f) dealing with alternates is deleted in 1999 to conform this rule to the abolition of alternates under the Rules of Civil Procedure. Minn. R. Civ. P. 47.02 was abrogated by the 1998 amendments to the Rules of Civil Procedure, effective January 1, 1999.

Section 7. Preliminary Instructions

After the jury is sworn, but before opening statements, the judge shall instruct the jurors generally as follows:

(1) to refrain from communicating in writing or by other means about the case, to use the jury room rather than remaining in the courtroom or hallway, and to avoid approaching, or conversations with counsel, litigants, or witnesses, and that they must not discuss the case, or any aspect of it among themselves or with other persons;

(2) that if a juror has a question or communication for the court (e.g., as regards time scheduling), it should be taken up with, or transmitted through, the appropriate court personnel who is in charge of the jurors as to their physical facilities and supplies;

(3) that the jurors will be supplied with note pads and pencils, on request, and that they may only take notes on the subject of the case for their personal use, though they may bring such notes with them into the jury room once they commence deliberations in the case. The jury should receive a cautionary instruction that they are to rely primarily on their collective recollection of what they saw and heard in the courtroom and that extensive note taking may distract them from properly fulfilling this function;

(4) as to law which the judge determines to be appropriate; and

(5) that, as with other statements of counsel, the opening statement is not evidence but only an outline of what counsel expect to prove.

Upon submission of the case to the jury, the judge shall instruct the jury that they shall converse among themselves about the case only in the jury room and only after the entire jury has assembled.

Cross Reference: Minn. R. Civ. P. 39.03.

Task Force Comment - 1991 Adoption

This section was derived from existing Trialbook paragraph 16, without significant change.

Section 8. Opening Statement and Final Arguments

(a) Scope of Opening. Counsel on each side, in opening the case to the jury, shall only state the facts proposed to be proven. During opening statement counsel may use a blackboard or paper for illustration only. There shall be no display to the jury of, nor reference to, any chart, graph, map, picture, model or any other graphic device unless, outside the presence of the jurors:

(1) it has been admitted into evidence; or

(2) such display or reference has been stipulated to; or

(3) leave of court for such reference or display has been obtained.

(b) Final Arguments. Final arguments to the jury shall not misstate the evidence. During final argument counsel may use a blackboard or paper for illustration only. A graphic device, such as a chart, summary or model, which is to be used for illustration only in argument shall be prepared and shown to opposing counsel before commencement of the argument. Upon request by opposing counsel, it shall remain available for reference and be marked for identification.

(c) Objections. Objections to remarks by counsel either in the opening statement to the jury or in the closing argument shall be made while such statement or argument is in progress or at the close of the statement or argument. Any objection shall be argued outside the juror's hearing. If the court is uncertain whether there has been a misstatement of the evidence in final argument, the jurors shall be instructed to rely on their own recollections.

Cross Reference: Minn. R. Civ. P. 39.04; Minn. Gen. R. Prac. 124.

Task Force Comment - 1991 Adoption

Subsection (a) is derived from Rule 27(a) of the Code of Rules for the District Court and existing Trialbook paragraph 17.

Subsection (b) is derived from existing Trialbook paragraphs 30 and 44.

Subsection (c) is derived from Rule 27(f) of the Code of Rules and existing Trialbook paragraph 31.

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.

Section 10. Examination of Witnesses

(a) Objections. Lawyers shall state objections succinctly, stating only the specific legal grounds for the objection without argument. Argument, if allowed by the court, and any offer of proof shall be made outside of the hearing of the jury and on the record.

(b) Caution to Witnesses. Before taking the stand and outside of the hearing of the jury, a witness called by counsel shall be cautioned by such counsel to be responsive to the questions and to wait in answering until a question is completed and a ruling made on any objection. Lawyers should advise their clients and witnesses of the formalities of court appearances.

Counsel may request the court to caution a witness while on the stand as to the manner of answering questions.

(c) Questions Not to be Interrupted. A question shall not be interrupted by objection unless then patently objectionable.

(d) Effect of Asking Another Question. An examiner shall not repeat the witness' answer to the prior question before asking another question.

An examiner shall wait until the witness has completed answering before asking another question. If a question is asked before the preceding question of the same examiner is answered or any objection is ruled upon, it shall be deemed a withdrawal of the earlier question.

(e) Number of Examinations. On the trial of actions only one counsel on each side shall examine or cross-examine a witness, and one counsel only on each side shall sum up the case to the jury, unless the judge otherwise orders.

(f) Counsel's Use of Graphic Devices. Counsel may use a graphic device to diagram, calculate, or outline chronology from witnesses' testimony.

(g) Familiarity with witnesses, jurors and opposing counsel. Lawyers and judges shall not exhibit undue familiarity with adult witnesses, parties, jurors or opposing counsel, or each other and the use of first names shall be avoided. In arguments to the jury, no juror shall be singled out and addressed individually. When addressing the jury, the lawyers shall first address the court, who shall recognize the lawyer.

(h) Matters to be Out of Jury's Hearing. The following matters shall be held outside the hearing of jurors. Counsel wishing to argue such matters shall request leave from the court. The first time this request is granted in a trial, the judge shall advise the jurors that matters of law are for the court rather than the jury and that discussions as to law outside the jurors' hearing are necessary and proper for counsel to request.

(1) Arguments: Evidentiary arguments and offers of proof as provided for in section 10(a) of this Trialbook;

(2) Offers to Stipulate: Counsel shall not confer about stipulations within possible jury hearing, nor without leave of the court when such conference would impede trial progress;

(3) Requests for Objects: Other than requests to a witness during testimony, requests by a party to opposing counsel for objects or information purportedly in the possession of the opposing counsel or party shall be made outside the hearing of jurors;

(4) Motions: Motions for judgments on the pleadings, to exclude evidence, directed verdict, and mistrial shall be made and argued outside the hearing of the jurors. If the ruling affects the issues to be tried by the jury, the court, after consulting with counsel, shall advise the jurors. Immediately upon granting a motion to strike any evidence or arguments to the jury, the court shall instruct the jury to disregard the matter stricken; and

(5) Sensitive Areas of Inquiry: Areas of inquiry reasonably anticipated to be inflammatory, highly prejudicial, or inadmissible, shall be brought to the attention of opposing counsel and the court outside the hearing of jurors before inquiry. A question of a witness shall be framed to avoid the suggestion of any inadmissible matter.

(i) Questioning by Judge. The judge shall not examine a witness until the parties have completed their questions of such witness and then only for the purpose of clarifying the evidence. When the judge finishes questioning, all parties shall have the opportunity to examine the matters touched upon by the judge. If a lawyer wants to object to a question posed by the court, he or she shall make an objection on the record outside the presence of the jury. The lawyer shall make a "motion to strike" and ask for a curative instruction.

(j) Advice of Court as Self-Incrimination. Whenever there is a likelihood of self-incrimination by a witness, the court shall advise the witness outside the hearing of the jurors of the privilege against self-incrimination.

(k) Policy Against Indication as to Testimony. Persons in the courtroom shall not indicate by facial expression, shaking of the head, gesturing, shouts or other conduct disagreement or approval of testimony or other evidence being given, and counsel shall so instruct parties they represent, witnesses they call, and persons accompanying them.

(l) Policy on Approaching the Bench. Except with approval of the court, persons in the courtroom shall not traverse the area between the bench and counsel table, and counsel shall so instruct parties they represent, witnesses they call, and persons accompanying them.

(m) Use of Depositions and Interrogatories. A party, before reading into evidence from depositions or interrogatories, shall cite page and line numbers to be read, and pause briefly for review by opposing counsel and the court and for any objections. The court may require designation of portions of depositions to be used at trial in a pretrial order.

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

Task Force Comment - 1991 Adoption

Subsections (a)-(d) are derived from paragraphs 48-53 of the existing Trialbook, in order.

Subsection (e) is derived from Rule 27(d) of the Code of Rules.

Subsection (f) is derived from paragraph 59 of the existing Trialbook.

Subsection (g) is derived from paragraph 58 of the existing Trialbook.

Subsection (h) is derived from paragraph 18 of the existing Trialbook.

Subsections (i)-(l) are derived from paragraphs 62-65 of the existing Trialbook, in order.

Subsection (m) is derived from existing Trialbook, paragraph 22.

Section 11. Interpreters

The party calling a witness for whom an interpreter is required shall advise the court in the Civil Cover Sheet, Initial Case Management Statement, or Joint Statement of the Case of the need for an interpreter and interpreter services (specifying language and, if known, particular dialect) expected to be required. Parties shall not use a relative or friend as an interpreter in a contested proceeding, except as approved by the court.

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

(Amended effective March 1, 2009; amended effective July 1, 2013.)

Task Force Comment - 1991 Adoption

This section is derived from existing Trialbook paragraph 60.

Advisory Committee Comment - 2008 Amendment

This section is amended to incorporate the amendments to Rules 111.02(l), 111.03(b)(8), and 112.02(g), requiring earlier disclosure of information about the potential need for interpreter services in a case, either for witnesses or for a party. See Minn. Gen. R. Prac. 8.13.

Section 12. Exhibits

(a) Pre-Trial Exchange of Lists of Exhibits. Each party shall prepare a list of exhibits to be offered in evidence, and exchange copies of such lists with other counsel prior to the pre-trial conference. Such lists shall briefly describe each exhibit anticipated to be offered in evidence. Prior to the commencement of trial, copies of all documents on the list of exhibits shall be made available by the proponent for examination and copying by any other party.

(b) Counsel to Organize Numerous Exhibits. If it can reasonably be anticipated that numerous exhibits will be offered in a trial, all counsel shall meet with designated court personnel shortly prior to or during a recess of the trial for the purpose of organizing and marking the exhibits.

All exhibits shall be marked for identification before any reference by counsel or by a witness.

(c) Marking of Exhibits First Disclosed During Trial. When an exhibit is first disclosed, the proponent shall have it marked for identification before referring to it.

(d) Collections of Similar and Related or Integrated Documents. Each collection of similar and related or integrated documents shall be marked with a single designation. If reference is made

to a specific document or page in such collection, it shall be marked with a letter the arabic exhibit number assigned to the collection, e.g., "1-a," "21-b," "2-g," etc.

(e) Oral Identification of Exhibits at First Reference. Upon first reference to an exhibit the proponent shall briefly refer to its general nature, without describing the contents.

(f) When Exhibits to be Given to Jurors. Exhibits admitted into evidence, subject to cursory examination, such as photographs and some other demonstrative evidence, may be handed to jurors only after leave is obtained from the court.

Other exhibits admitted into evidence, not subject to cursory examination, such as writings, shall not be handed to jurors until they retire to the jury room upon the cause being submitted to them. If a party contends that an exhibit not subject to cursory examination is critical and should be handed to jurors in the jury box during the course of the trial, counsel shall request leave from the court. Such party shall be prepared to furnish sufficient copies of the exhibit, if reasonably practicable, for all jurors in the event such leave is granted; and upon concluding their examination, the jurors should return the copies to the bailiff. In lieu of copies, and if reasonably practicable, enlargements or projections of such exhibits may be utilized. The court may permit counsel to read short exhibits or portions of exhibits to the jury.

(g) Exhibits Admitted in Part. If an exhibit admitted into evidence contains some inadmissible matter, e.g., a reference to insurance, excluded hearsay, opinion or other evidence lacking foundation, the court, outside the hearing of the jury, shall specify the excluded matter and withhold delivery of such exhibit to the jurors unless and until the inadmissible matter is physically deleted.

Such redaction may be accomplished by photocopying or other copying which deletes the inadmissible portions, and in such event, the proponent of such exhibit shall prepare and furnish a copy.

If redaction by such copying is not accomplished, the parties shall seek to reach a stipulation as to other means; and failing so to do, the admissible matter may be read into evidence with leave of the court.

(h) Evidence Admitted for a Limited Purpose. When evidence is received for a limited purpose or against less than all other parties, the court shall so instruct the jury at the time of admission and, if requested by counsel, during final instructions.

(Amended effective January 1, 1994.)

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

Advisory Committee Comment - 1994 Amendment

Subsection (a) is derived from existing Trialbook paragraph 37.

Subsection (b) is derived from existing Trialbook paragraph 38.

Subsection (c) is derived from existing Trialbook paragraph 39.

Subsection (d) is derived from existing Trialbook paragraph 41.

Subsection (e) is derived from existing Trialbook paragraph 42.

Subsection (f) is derived from existing Trialbook paragraph 19.

Subsection (g) is derived from existing Trialbook paragraph 20.

Subsection (h) is derived from existing Trialbook paragraph 21.

Former subsection (d) is deleted because uniform exhibit marking is now covered by Minn. Gen. R. Prac. 130, a new rule effective on the same date. The remaining sections are renumbered for convenience.

The provisions of subsection (f) are not intended to limit in any way the discretion of the trial court as to what evidence is allowed to go to the jury room. Any evidence that is fragile, perishable, or hazardous may properly not be allowed into the jury deliberation room.

Section 13. Custody of Exhibits

(a) Return of Exhibits to Court Personnel. Immediately after conclusion of the examination of a witness regarding an exhibit shown to a witness, counsel shall return it to the court personnel.

(b) Exhibits after Trial. Upon the completion of trial, the administrator shall index and retain all exhibits until the case is finally disposed of and all times for appeal have expired and they are either retrieved by the party offering them or destroyed pursuant to Minn. Gen. R. Prac. 128. In the event an appeal is taken, the court administrator shall deliver the exhibits to the Clerk of Appellate Courts in accordance with the procedures of the appellate courts.

(c) Bulky Exhibits. Any time after trial and upon the agreement of all parties, the court administrator may arrange the return of bulky exhibits to the party offering them at trial.

Cross Reference: Minn. R. Civ. P. 43, 77; Minn. Gen. R. Prac. 128, 129.

Task Force Comment - 1991 Adoption

Subsection (a) is derived from existing Trialbook paragraph 43.

Subsection (b) is new, although the subject is covered in a number of current rules.

Section 14. Sealing and Handling of Confidential Exhibits

When briefs, depositions, and other documents or an exhibit such as a trade secret, formula or model are to be treated as confidential, if size permits, such an exhibit shall be placed in a sealed envelope clearly labeled as follows:

> "This envelope contains Exhibits _____ which are confidential and sealed by order of the court. This envelope shall not be opened, nor the contents hereof revealed, except by order of the court."

Such an envelope and other confidential exhibits shall be kept in a locked container such as a file cabinet or some other secure location under the supervision of the administration until released by order of the court.

If testimony is taken which would reveal the substance of confidential exhibits, the courtroom shall be cleared of all persons other than parties, their lawyers, and court personnel. Those present, including jurors, shall be directed by the court to refrain from disclosing the substance of the confidential exhibits.

The pertinent portions of the reporter's notes or transcript shall be kept in a locked container after being placed in a sealed envelope clearly labeled as follows:

> "This envelope contains confidential references sealed by order of the court. This envelope shall not be opened, nor the contents hereof revealed, except by order of the court."

Briefs and other documents submitted in or after trial ordinarily should not describe the substance of confidential exhibits but should refer to them only by number or letter designation pursuant to the uniform method of marking exhibits.

Cross Reference: Minn. R. Civ. P. 26.03, 43, 77; Minn. Gen. R. Prac. 128, 129.

(Amended effective July 1, 2015.)

Task Force Comment - 1991 Adoption

This section is derived from existing Trialbook paragraph 47. For a discussion of balancing tests applicable to requests to seal documents, see Minneapolis Star & Tribune Co. v. Schumacher, 392 N.W.2d 197, 202-206 (Minn. 1986).

Section 15. Instructions

(a) When Jury Instructions to be Submitted. Jury instructions shall be submitted in accordance with Minn. R. Civ. P. 51. Written requests for instructions shall list authorities.

(b) Conference Regarding Instructions and Verdicts. Before final argument and after submission to the court of all proposed jury instructions and verdict forms, a conference shall be held outside the presence of jurors.

A reporter is not required at the beginning of the conference while the court reviews with counsel any proposed instructions or verdict forms and discusses:

(1) whether any proposed instructions or verdict forms are inappropriate and will be voluntarily withdrawn;

(2) whether there is any omission of instructions or verdict forms which are appropriate and shall be offered and given without objection; and

(3) whether there is any other modification of instructions or verdict forms to which the parties will stipulate.

Thereafter, the conference shall be reported and the court shall:

(1) specify those instructions and verdict forms the court proposes to give, refuse, or modify, whether at the request of a party or on its own initiative;

(2) hear formal argument, and rule upon any objections to, and offers of, the proposed instruction and verdict forms.

(c) Specifying Disposition of Instructions. Upon determining the instructions to be given, refused, or modified, the court shall indicate the disposition and sign or initial them.

(d) Stipulations Regarding Further Procedure. At a conference prior to the submission of the case to the jury, the court may request that the parties consider stipulating:

(1) that in the absence of any counsel the court may, upon request of the jury, read to the jury any and all instructions previously given;

(2) that in the absence of the court after the original submission of the case to the jury, any judge of the court may act in the court's place up to and including the time of dismissal of the jury;

(3) that a stay of entry of judgment for an agreed upon number of days shall be granted after a verdict;

(4) that a sealed verdict may be returned; and

(5) that the presence of the clerk and reporter, the right to poll the jury, and the right to have the verdict immediately recorded and filed in open court are waived.

(e) Changing Jury Instructions. If, after the chambers conference and at any time before giving the instructions and verdict form to the jurors, the court determines to make any substantive change the court shall so advise all parties outside the hearing of jurors. If the court determines to make a substantive change after final argument, the court shall permit additional final argument. The court shall also make a statement on the record regarding any changes.

(f) Use of Jury Instructions in Jury Room. Jury instructions may be sent to the jury room for use by the jurors if the court so directs. The number, title, citation of authority, and history shall be removed from each instruction. Stricken portions shall be totally obliterated and any additions shall be completely legible.

Cross Reference: Minn. R. Civ. P. 51.

Task Force Comment - 1991 Adoption

Subsection (a) is derived from existing Trialbook paragraph 24.

Subsection (b) is derived from existing Trialbook paragraph 25.

Subsection (c) is derived from existing Trialbook paragraph 26.

Subsection (d) is derived from existing Trialbook paragraph 27.

Subsection (e) is derived from existing Trialbook paragraph 28.

Subsection (f) is derived from existing Trialbook paragraph 32.

Section 16. Questions by Jurors

If the jury has a question regarding the case during deliberations, the court shall instruct the foreperson to reduce it to writing and submit it through appropriate court personnel. Upon receipt of such a written question, the court shall review the propriety of an answer with counsel, unless counsel have waived the right to participate or cannot be found after reasonable and diligent search documented by the court. Such review may be in person or by telephone, and shall be on the record outside the hearing of the jury. The written question and answer shall be made a part of the record. The answer shall be given in open court, absent a stipulation to the contrary.

Cross Reference: Minn. R. Civ. P. 47, 49.

Task Force Comment - 1991 Adoption

This section is derived from existing Trialbook paragraph 34.

Section 17. Special Verdicts

(a) Special Verdict Forms. A party requesting a special verdict form should prepare the proposed form and submit it to the court and serve it upon the other counsel prior to the chambers conference referred to in section 15 of this Trialbook.

(b) Filing. Proposed special verdict forms shall be filed and made part of the record in the case.

(c) Copies of Verdict. The court may provide copies of the verdict form to the jury or to each juror for use during arguments or instruction.

Cross Reference: Minn. R. Civ. P. 49.

Task Force Comment - 1991 Adoption

Subsection (a) is derived from existing Trialbook paragraph 33.

Subsection (b) is new.

Subsection (c) is new. The Task Force believes that it may be useful in some cases to allow the jury to have a copy or copies to be used during arguments of counsel or instructions by the court. It is not wise to permit multiple copies of the verdict form to be taken into the jury room, however.

Section 18. Polling and Discharge

(a) Polling the Jury. Upon the return of any verdict and at the request of a party the jury shall be polled. Polling shall be conducted by the trial court or by the clerk at the trial court's direction by asking each juror: "Is the verdict read your verdict?"

(b) Discharge of the Jury. In discharging the jury, the court shall:

(1) Thank the jury for its service;

(2) Not comment on the propriety of any verdict or failure to reach same;

(3) Advise the jurors that they may, but need not, speak with anyone about the case; and

(4) Specify where and when any jurors are to return for further service.

Cross Reference: Minn. R. Civ. P. 47-49.

Task Force Comment - 1991 Adoption

Subsection (a) is derived from existing Trialbook paragraph 35.

Subsection (b) is derived from existing Trialbook paragraph 36.

TITLE III. REGISTRATION OF LAND TITLES

PART A. PROCEEDINGS FOR INITIAL REGISTRATION

Rule 201. Applicability of Rules

Rules 201 through 222 of these rules apply to all actions and proceedings in the district court relating to registration of land titles, including proceedings subsequent to initial registration.

Task Force Comment - 1991 Adoption

These rules include all of the provisions of the Code of Rules for the District Courts, Part II, and include additional rules derived from detailed local rules provisions dealing with subjects not addressed in the Code of Rules. No significant substantive changes have been made except to add these new provisions to the state-wide rules.

Rule 202. Applications-Indorsements

Applications shall be approved as to form by the examiner, and there shall be indorsed thereon the name and address of the applicant's lawyer, or of the applicant if the applicant appears in person.

Rule 203. Abstracts of Title

The abstract when filed shall show the record of the patent or other conveyance from the United States, the record of the certified copy of the application, and shall include searches as to all state and federal judgments, federal and state tax liens, real estate taxes and tax and special assessment sales. The abstract also shall contain bankruptcy searches in the office of the County Recorder in the county in which the land is located. Additional bankruptcy searches in the office of the clerk of federal district court shall be required only in examination of title to lands in Hennepin, Ramsey and St. Louis counties.

Rule 204. Title Based Upon an Adjudication Not Final, or Upon Estoppel

When the title of the applicant or the release or discharge of any incumbrance thereon is based upon an adjudication not final, or upon estoppel, and there remains a right of appeal or contest, all parties having such right of appeal or contest shall be made parties defendant.

Rule 205. Examiner's Report-Petition and Order for Summons

The examiner's report shall specify the names of all parties deemed necessary parties defendant. Petitions for summons shall set forth those names and the names of such other parties as the applicant deems to be necessary, and the names, if known to the applicant, or ascertainable by reasonable inquiry of the successors in interest of such persons known to the applicant to be deceased. The petition shall recite that the petitioner has made a diligent effort by reasonable inquiry and search to ascertain the place of residence of all defendants named therein, and where the place of residence of a defendant is unknown to the petitioner, the petition shall so state such fact.

Rule 206. Documents to be Filed-Effect of Notice and Appearance

A defendant who appears or files an answer, and who also serves a copy on the applicant or the applicant's lawyer, shall be entitled to notice of all subsequent proceedings in that action.

(Amended effective July 1, 2015.)

Rule 207. Affidavit of No Answer and Court Administrator's Certificate of Default

The default of defendants who fail to appear and answer shall be shown by the certificate of the court administrator of the district court in which the action is filed, and by the affidavit of the applicant's lawyer, if the applicant appears by lawyer; otherwise by the applicant's affidavit.

Rule 208. Hearings in Default Cases-Filing Documents

Initial applications, where no issue has been joined, shall be heard by the court at any special term, or they may be heard by an examiner, to whom the matter has been specially referred. In counties where the examiner checks the proceedings in advance of the hearings, all documents necessary to complete the files shall be filed; and all documentary evidence proposed to be used by the applicant or petitioner shall be delivered to the examiner at least 7 days before the hearing, together with the proposed order for judgment and decree.

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

Rule 209. Issues Raised by Answer-Reply

All facts alleged in an answer, which are not in accordance with the allegations of the application, shall be considered at issue without reply by the applicant. But if the answer sets up rights admitted

in the application, or in a reply of the applicant, the hearing may proceed as in case of a default, and the registration shall be subject to such rights.

Rule 210. Trial of Contested Issues

In all cases where the answer raises an issue which is not disposed of by stipulation or otherwise, the matter shall be set for trial. The procedure and the method of determination shall be the same as in the trial of similar issues in civil actions or proceedings.

Rule 211. Interlocutory Decree Establishing Boundaries

When the application seeks to fix and establish all or some of the boundary lines of the land, the applicant shall have the premises surveyed by a registered land surveyor and shall cause to be filed in the proceeding a plat of the survey showing the correct boundaries of the premises. The applicant shall furnish the examiner with such abstracts of title of adjoining lands as the latter shall require in determining the necessary parties defendant in the fixing and establishing of such boundaries. The hearing upon such application may be separate from or in connection with the hearing upon the application to register, but before any final adjudication of registration, the court by order shall fix and establish such boundaries and direct the establishment of "judicial landmarks" in the manner provided by Minnesota Statutes, section 559.25. In the decree of registration thereafter entered, and in certificates of title thereafter issued, the description of the land shall contain appropriate reference to such "judicial landmarks."

Rule 212. Protection of Interests Acquired Pendente Lite-Provision for Immediate Registration after Hearing

At the time of the hearing of the application for judgment, the applicant shall satisfy the court by continuation of abstract, if required by the examiner, and other proper proof, of any changes in the title, or in the incumbrances arising since the filing of the application. When the decree is signed, the applicant shall forthwith file it with the court administrator, together with a receipt of the registrar showing payment of all sums due for the registration of the decree, and the issuance of a certificate of title, and thereupon the court administrator shall certify a copy of the decree and file the same for registration with the registrar.

PART B. PROCEEDINGS SUBSEQUENT TO INITIAL REGISTRATION

Rule 213. Title of Proceedings

Proceedings subsequent to the initial registration under Minnesota Statutes, sections 508.44, 508.45, 508.58, 508.59, 508.61, 508.62, 508.67, 508.671, 508.70, 508.71, and 508.73, shall be commenced by filing with the court administrator a verified petition by a party in interest, which shall be entitled:

In the Matter of the Petition of _____ in

Relation to (description of property) registered in

Certificate of Title No. _____ for (relief sought).

The petition shall allege the facts justifying the relief sought, the names of all interested parties as shown by the certificate of title, and their interests therein.

Rule 214. Trial and Hearing

In proceedings where no notice is required and in proceedings where the required process or notice has been served and the time for appearance has expired without any issue having been raised, the proceedings shall be set for trial and heard the same as in proceedings upon default for initial registration. Issues raised in these proceedings shall be set for trial and disposed of the same as similar issues in other civil proceedings.

Rule 215. New Certificates, Amendments, Etc.

In proceedings under Minnesota Statutes, sections 508.44, 508.45, 508.58, 508.59, 508.61, 508.62, 508.67, 508.671, 508.70, 508.71, and 508.73, the examiner shall make such examination as to the truth of the allegations contained in the petition as the examiner considers necessary, or as directed by the court. In all cases where notice is necessary and the manner of notice is not prescribed by statute, it shall be by an order to show cause, which shall designate the respondents, the manner of service, and the time within which service shall be made. Any final order or decree directed in such proceeding shall be approved as to form by the examiner before presentation to the court.

Rule 216. New Duplicate Certificate

Every petition for a new duplicate certificate shall be filed with the clerk and a certified copy thereof may be filed with the registrar for registration as a memorial on the certificate of title. Thereupon the court shall issue a citation addressed "To Whom It May Concern," fixing a time and place of hearing and prescribing the mode of service. No order shall be made for a new duplicate except upon hearing and due proof that the duplicate theretofore issued has been lost or destroyed, or cannot be produced. If it shall appear at the hearing that there are any known parties in interest to whom notice should be given, the hearing shall be continued and an order entered accordingly.

PART C. MISCELLANEOUS PROVISIONS

Rule 217. Cases Not Requiring Special Order of Court

When the interest of a life tenant has been terminated by death, the Registrar may receive and enter a memorial of a duly certified copy of the official death certificate and an affidavit of identity of the decedent with the life tenant named in the certificate of title; and in such case the memorial of said certificate and affidavit shall be treated as evidence of the discharge of said life tenancy.

Task Force Comment - 1991 Adoption

This rule is derived from 4th Dist. R. 11.02(d).

Rule 218. State Tax Deeds

A deed from the State of Minnesota in favor of the registered owner shall be registered as a memorial on the certificate of title as a discharge of an Auditor's Certificate of Forfeiture to the State.

In cases where the state deed of repurchase is dated subsequent to the date of any conveyance by the repurchasing registered owner to another, the County Auditor, a Deputy Auditor, or the County Land Commissioner may endorse on the state deed a statement that the repurchase was made prior to or concurrent with the date of the conveyance by the registered owner.

Task Force Comment - 1991 Adoption

This rule is derived from 4th Dist. R. 11.03.

Rule 219. Deeds of Housing and Urban Development

In the registration of deeds or other instruments hereinafter listed for titles or interest registered in the name of an individual as Secretary of Housing and Urban Development, the Registrar of Titles shall be guided by 12 U.S.C. section 1710(g), which confers upon any designated officer, agent or employee the power to convey and to execute in the name of the Secretary deeds of conveyance, deeds of release, assignments of mortgages, satisfactions of mortgages, and any other written instrument relating to real property or any interest therein which has been acquired by the Secretary; and the Registrar of Titles shall accept the statement of the certificate of acknowledgement attached to any such instrument as evidence of the official character of the Secretary or the Secretary's designated officer, agent or employee executing the instrument.

Task Force Comment - 1991 Adoption

This rule is derived from 4th Dist. R. 11.04.

Rule 220. Birth Certificates

The Registrar of Titles is authorized to receive for registration of memorials upon any outstanding certificate of title an official birth certificate pertaining to a registered owner named in said certificate of title showing the date of birth of said registered owner, providing there is attached to said birth certificate an affidavit of an affiant who states that he/she is familiar with the facts recited, stating that the party named in said birth certificate is the same party as one of the owners named in said certificate of title; and that thereafter the Registrar of Titles shall treat said registered owner as having attained the age of the majority at a date 18 years after the date of birth shown by said certificate.

Task Force Comment - 1991 Adoption

This rule is derived from 4th Dist. R. 11.05.

Rule 221. Death Certificates

The Registrar of Titles may receive official certificates of death issued by the United States Department of Defense or other military department in lieu of a certificate of death.

Task Force Comment - 1991 Adoption

This rule is derived from 4th Dist. R. 11.06.

Rule 222. Condominiums

The procedure for administration by the Registrar of the Uniform Condominium Act shall be as follows:

(a) The declaration, bylaws and any amendments thereto, to be filed in the office of the Registrar of Titles, must be executed and acknowledged and embrace land within the county.

(b) In order to have uniformity in the recording offices and to protect the interests of the public generally, the general requirements of Minnesota Statutes, section 505.08, as to the platting of land shall be followed, namely: as authorized by Minnesota Statutes, section 505.08, subdivision 2a, only one set of transparencies shall be filed. The transparencies shall be of 4 mil. thickness, black

on white on clear Mylar and be made by a fixed photo process. The transparencies shall be 20 by 30 inches in size. More detailed information on the drafting of the condominium plat may be obtained from the Registrar of Titles.

(c) The condominium plat is to be numbered serially beginning with the next number after the last apartment ownership number assigned pursuant to the Minnesota Condominium Act, Minnesota Statutes, chapter 515, and the numbers shall run consecutively within the offices of the County Recorder and the Registrar of Titles.

(d) Where registered land is to be submitted for administration under said act, the declarant, prior to filing the declaration and bylaws, shall obtain an Order of the Court in a Proceedings Subsequent to Initial Registration of land that the Declaration, including the condominium plat, and Bylaws, as submitted, comply with the various requirements of Minnesota Statutes, chapter 515A, and any amendments thereto. The Order shall direct the Registrar of Titles to accept such documents for registration and to enter them as separate memorials on the original Certificate of Title and on the Owner's Duplicate Certificate thereof. Reference to such documents, including the document numbers and dates of filing, shall be carried forward to each succeeding Certificate, including any Mortgagees' or Lessees' Duplicate Certificates.

(e) A condominium shall not include both registered land and unregistered land, but shall consist only of land that is all registered under Minnesota Statutes, chapter 508, or land of which no part is so registered.

Task Force Comment - 1991 Adoption

This rule is derived from 4th Dist. R. 11.07.

TITLE IV. RULES OF FAMILY COURT PROCEDURE

PART A. PROCEEDINGS, MOTIONS, AND ORDERS

Rule 301. Scope; Time

Rule 301.01 Applicability of Rules

(a) Applicable Rule or Statute. Rules 301 through 314 and, where applicable, the Minnesota Rules of Civil Procedure shall apply to Family Law actions except where they are in conflict with applicable statutes or the Expedited Child Support Process Rules, Minn. Gen. R. Prac. 351 through 379.

(b) Included Proceedings. The following types of proceedings are referred to in these rules as Family Court Actions:

(1) Marriage dissolution, legal separation, annulment proceedings, and child custody actions (Minnesota Statutes, chapter 518);

(2) Child custody enforcement proceedings (Minnesota Statutes, chapter 518D);

(3) Domestic abuse proceedings (Minnesota Statutes, chapter 518B);

(4) Proceedings to determine or enforce child support obligations (Minnesota Statutes, chapters 518A, 518C - U.I.F.S.A., sections 256.87; 289A.50, subdivision 5; and 393.07, subdivision 9);

(5) Contempt proceedings in Family Court (Minnesota Statutes, chapter 588);

(6) Parentage determination proceedings (Minnesota Statutes, sections 257.51 to 257.74);

(7) Proceedings for support, maintenance or county reimbursement judgments (Minnesota Statutes, section 548.091);

(8) Third-party custody proceedings (Minnesota Statutes, chapter 257C); and

(9) Proceedings pursuant to the Hague Convention on Civil Aspects of International Child Abductions and the International Child Abduction Remedies Act.

Other matters may be treated as family court matters by order of the court.

(c) Excluded proceedings. Rules 301 through 314 do not apply to proceedings commenced in the Expedited Child Support Process, except for Rules 302.02, 303.05, 308.02, 309, 313, and 314.

(d) Applicability of Rules of Civil Procedure. The Minnesota Rules of Civil Procedure apply to Family Court Actions as to matters not addressed by these rules. To the extent there is any conflict in the rules, these rules govern.

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

Advisory Committee Comment - 2012 Amendment

Rules 301 through 314 were originally derived primarily from the Rules of Family Court Procedure as they existed in 1992. These rules have been revised in several important ways in the ensuing years, and were revised and completely restated in 2011. The prior Advisory Committee Comments have been incorporated into a single set of Advisory Committee Comments for the benefit of the Minnesota Supreme Court as well as for courts and litigants. As is consistently made clear by the orders that have amended the rules, the Advisory Committee Comments are not adopted by the Supreme Court and do not have any official status. They reflect the views of the Supreme Court's advisory committees that have recommended amendments of the rules from time to time.

Rules 301 through 314 apply in the enumerated proceedings, comprising the majority of types of cases involving family relations. Adoption proceedings are governed by separate Rules of Adoption Procedure, adopted effective January 1, 2005.

Minn. Gen. R. Prac. 351.01 states that the Rules of Civil Procedure, Rules of Evidence, and General Rules of Practice shall apply to proceedings in the expedited process unless inconsistent with the Expedited Child Support Rules, Minn. Gen. R. Prac. 351 through 379. With the exception of Family Court Rules 302.02, 303.05, 308.02, 309, 313 and 314, Rules 301 through 314 are inconsistent with the Expedited Child Support Rules and therefore do not apply to the expedited process.

Rule 301.02 Time

Computation of time under these rules is governed by Rule 6 of the Minnesota Rules of Civil Procedure.

(Amended effective March 1, 2001; amended effective September 5, 2001; amended effective May 1, 2012.)

Advisory Committee Comment - 1992 Amendment

These rules are derived primarily from the Rules of Family Court Procedure. The advisory committee comments from the Rules of Family Court Procedure are included except where inconsistent with new provisions or where applicable rules are not retained.

These rules apply to the following specific types of proceedings that are generally treated as family court actions:

1. Marriage dissolution, legal separation, and annulment proceedings (Minnesota Statutes, chapter 518);

2. Child custody enforcement proceedings (Minnesota Statutes, chapter 518A);

3. Domestic abuse proceedings (Minnesota Statutes, chapter 518B);

4. Support enforcement proceedings (Minnesota Statutes, chapter 518C--R.U.R.E.S.A.);

5. Contempt actions in Family Court (Minnesota Statutes, chapter 588);

6. Parentage determination proceedings (Minnesota Statutes, sections 257.51 to 257.74);

7. Actions for reimbursement of public assistance (Minnesota Statutes, section 256.87);

8. Withholding of refunds from support debtors (Minnesota Statutes, section 289A.50 subdivision 5,);

9. Proceedings to compel payment of child support (Minnesota Statutes, section 393.07, subdivision 9); and

10. Proceedings for support, maintenance or county reimbursement judgments (Minnesota Statutes, section 548.091).

Other matters may be heard and treated as family court matters.

Advisory Committee Comment - 2001 amendment

Minn. Gen. R. Prac. 351.01 states that the Rules of Civil Procedure, Rules of Evidence, and General Rules of Practice shall apply to proceedings in the expedited process unless inconsistent with the Expedited Child Support Rules, Minn. Gen. R. Prac. 351 through 379. With the exception of Family Court Rules 302.04, 303.05, 303.06, 308.02, and 313, Minn. Gen. R. Prac. 301-313 are inconsistent with the Expedited Child Support Rules and therefore do not apply to the expedited process.

Advisory Committee Comment - 2012 Amendment

The rules relating to computation of time are critical, and it is important that they be clear and predictable to all users of the court system. Rule 6 of the Minnesota Rules of Civil Procedure provides the appropriate clarity and makes it expressly applicable in family matters thereby eliminating any room for confusion. Rule 6 is consistent with the general day-counting rules set forth in Minnesota Statutes, section 645.15, and provides additional guidance for counting days where the periods of time are short and for responding to papers served by mail, or facsimile.

The time periods in the rules are intended to apply in most situations. Where unusual circumstances exist and justice so requires, the court may shorten the time limits. See Rule 1.02 of these rules.

Rule 302. Commencement; Parties

Rule 302.01 Commencement of Proceedings

(a) Methods of Commencement. Family Court Actions shall be commenced by service of a summons and petition or other means authorized by statute upon the person of the other party. Commencement can be accomplished by the following means:

(1) *Personal Service.* The summons and petition may be served upon the person of the party to be served.

(2) *Admission or Waiver of Service.* Service may be accomplished when the party to be served signs an admission of service or waives service as permitted in Minn. R. Civ. P. 4.05.

(3) *Alternate Means.* Service of the summons and petition may be accomplished by alternate means as authorized by statute.

(4) *Publication.* Service of the summons and petition may be made by publication only upon an order of the court. If the respondent subsequently is located and has not been served personally or by alternate means, personal service shall be made before the final hearing.

(5) *Joint Petition.* The filing of a joint petition as provided in section (c) of this rule.

(b) Service After Commencement. After a Family Law Action has been commenced, service may be accomplished in accordance with Minn. R. Civ. P. 5.

(c) Joint Petition in Marriage Dissolution Proceedings.

(1) No summons shall be required if a joint petition is filed to commence marriage dissolution proceedings. Proceedings shall be deemed commenced when both parties have signed the verified petition.

(2) Where the parties to a marriage dissolution proceeding agree on all issues, the parties may proceed using a joint petition, agreement, and judgment and decree for marriage dissolution.

(3) Upon filing of the "Joint Petition, Agreement and Judgment and Decree," and Form 11.1 appended to Title I of these rules, and a Notice to the Public Authority if required by Minnesota Statutes, section 518A.44, the court administrator shall place the matter on the appropriate calendar pursuant to Minnesota Statutes, section 518.13, subdivision 5. A Certificate of Representation and Parties and documents required by Rule 306.01 shall not be required if the "Joint Petition, Agreement and Judgment and Decree" published by the state court administrator is used.

(4) The state court administrator shall develop forms that may be used by parties to file joint petitions to commence marriage dissolution proceedings.

(Amended effective January 1, 2004; amended effective January 1, 2006; amended effective January 1, 2008; amended effective May 1, 2012; amended effective July 1, 2019.)

Family Court Rules Advisory Committee Commentary*

Proceedings for dissolution, legal separation and annulment are governed by Minnesota Statutes, chapter 518. Minnesota Statutes, section 518.10, sets out the requisites for the petition. Minnesota Statutes, section 518.11, governs service by publication and precludes substitute service or service by mail under Minn. R. Civ. P. 4.05. The respondent's answer must be served within 30 days. Minnesota Statutes, section 518.12. The joint proceeding is commenced on the date when both parties have signed the petition; no summons is required. Minnesota Statutes, sections 518.09 and 518.11. In cases involving foreign nationals, see Part I, Rule 30, Code of Rules for District Court.

Custody proceedings under the Uniform Child Custody Jurisdiction Act are governed by Minnesota Statutes, chapter 518A. Interstate service and notice must be accomplished at least 20 days prior to any hearing in Minnesota. Service within the state is set forth in Minn. R. Civ. P. 4.

Domestic abuse proceedings are governed by Minnesota Statutes, chapter 518B. Ex parte orders for protection must include notice of a hearing within 14 days of the issuance of the order. Personal service upon the respondent must be effected not less than five days prior to the first hearing.

Support proceedings under the revised Uniform Reciprocal Enforcement of Support Act are governed by Minnesota Statutes, chapter 518C. The time for answer is governed by the law of the responding jurisdiction.

Actions to establish parentage are governed by Minnesota Statutes, chapter 257. Actions for reimbursement for public assistance are governed by Minnesota Statutes, section 256.87. Defendant has 20 days to answer the complaint in each action.

The Petitioner must notify the public agency responsible for support enforcement of all proceedings if either party is receiving or has applied for public assistance. Minnesota Statutes, section 518.551.

A party appearing pro se shall perform the acts required by rule or statute in the same manner as an attorney representing a party. An attorney dealing with a party pro se shall proceed in the same manner, including service of process, as in dealing with an attorney.

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

Task Force Comment - 1991 Adoption

Subsection (a) is derived from Rule 1.01 of the Rules of Family Court Procedure.

Subsection (b) is derived from Second District Local Rule 1.011.

Subsection (c) is derived from Second District Local Rule 1.013. See Minnesota Statutes, section 518.11 (1990). This is to protect the children and help avoid secret proceedings if the respondent is able to be located.

Advisory Committee Comment - 2003 Amendment

Subsections (2), (3), and (4), and Form 12, are new in 2003 and were recommended for adoption by the Minnesota State Bar Association's Pro Se Implementation Committee.

Subsections (2) and (3) of Rule 302.01(b) intended to provide a streamlined process for marriage dissolutions without children, where the parties agree on all property issues. These rule provisions essentially create a new process, commenced with a combined petition, stipulation and judgment and decree. Although intended to facilitate handling of cases by parties appearing without an attorney, it is available to represented parties as well. A new form is provided and should be made readily available to litigants. If either party to the proceedings is receiving public assistance, a Notice to Public Authority is also required. The Joint Petition, Agreement, and Judgment and Decree includes a statement regarding non-military status and a pro se waiver of right to be represented by a lawyer, thus satisfying the requirements of Rule 306.01(c). Court Administrators shall place the matter on the default calendar for final hearing without filing of Form 10 appended to the Rules. The Joint Petition, Agreement and Judgment and Decree may be used by parties represented by attorneys or parties representing themselves. The committee believes that the Joint Petition, Agreement, and Judgment and Decree procedure will reduce costs for litigants, reduce paper handling and storage expenses for the courts, and improve access to the courts.

Attorneys should approach the use of a Joint Petition with care. The amendment of this rule to allow use of a joint petition does not modify the professional liability constraints on joint representation of parties with divergent interests.

As part of this amendment, Rule 306.01 is also amended for internal consistency.

Advisory Committee Comment - 2006 Amendment

Rule 302 is amended to incorporate procedures to deal with service "by alternate means" as authorized by statute. Minnesota Statutes, section 518.11, expressly provides authority for service by various other means. The rule retains provision for service by publication as well, because publication is authorized for a summons and petition that may affect title to real property. See Minnesota Statutes 2004, section 518.11, paragraph (c).

Advisory Committee Comment - 2007 Amendment

Although Rule 302 is not amended, the amendment made to Rule 308.04 creates a procedure similar to that in Rule 302.01(b)(2). The Rule 302 procedure is available only in limited circumstances to allow for a completely streamlined procedure - use of a joint petition, agreement and judgment and decree of marriage dissolution without children. The Rule 308 procedure is a more limited streamlined procedure, although it is available in any case, but it does not obviate service of a petition (or use of a separate joint petition). That procedure simply allows the parties to combine the marital termination agreement and judgment and decree into a single document. The decision to use the procedure established in Rule 308.04 may be made at any time, while the procedure in Rule 302.01(b) is, by its nature, limited to a decision prior to commencement of the proceedings.

Advisory Committee Comment - 2007 Amendment

Rule 302(b) is amended to expand the availability of the streamlined procedure allowing a marriage dissolution to proceed by use of a single pleading that combines a joint petition, marital termination agreement, and judgment and decree. The prior rule allowed this procedure only in marriages with no children; the amendment allows its use in marriage dissolution proceedings with children where the parties have agreed on all issues. The combined form permits the parties to proceed more expeditiously and make it easier for the parties and the court to verify that the judgment and decree to be entered by the court conforms to the parties' agreement.

The rule also deletes the reference to the former Rule 12 as part of a transition to maintain practice forms related to practice under the rules by court administration and available on the courts' website [http://www.mncourts.gov] rather than as part of the rule.

Advisory Committee Comment - 2012 Amendment

Family court proceedings are generally governed by statute in Minnesota, and these rules implement the statutory procedures. Proceedings for dissolution, legal separation and annulment are governed in detail by Minnesota Statutes, chapter 518. See generally Minnesota Statutes, section 518.10 (requirements for petition); section 518.11 (service by publication and precluding substitute service or service by mail under Minn. R. Civ. P. 4.05); section 518.12 (requiring respondent's answer to be served within 30 days). Service "by alternate means" is authorized by statute. See Minnesota Statutes, section 518.11 (authorizing service by various other means). The rule retains provision for service by publication because publication is authorized for a summons and petition that may affect title to real property. See Minnesota Statutes, section 518.11, paragraph (c) (2010).

A joint proceeding is commenced on the date when both parties have signed the petition, and no summons is required. Minnesota Statutes, sections 518.09 and 518.11. Rule 308.04 creates a procedure similar to that in Rule 302.01(c)(2) and (3). The Rule 302 procedure is available only in limited circumstances to allow for a completely streamlined procedure - use of a joint petition, agreement and judgment and decree of marriage dissolution without children or with children where the parties have agreed on all issues. The Rule 308 procedure is a more limited streamlined procedure, although it is available in any case, but it does not obviate service of a petition (or use

of a separate joint petition). That procedure simply allows the parties to combine the marital termination agreement and judgment and decree into a single document. The decision to use the procedure established in Rule 308.04 may be made at any time, while the procedure in Rule 302.01(c) is, by its nature, limited to a decision prior to commencement of the proceedings.

Custody proceedings under the Uniform Child Custody Jurisdiction and Enforcement Act are governed by Minnesota Statutes, chapter 518D. Interstate service and notice must be accomplished at least 20 days prior to any hearing in Minnesota. Service within the state is governed by Minn. R. Civ. P. 4.

Domestic abuse order for protection proceedings are governed by Minnesota Statutes, chapter 518B. Notice and the timing of personal service on the respondent varies according to the circumstances detailed in the statute. Support proceedings under the revised Uniform Interstate Family Support Act are governed by Minnesota Statutes, chapter 518C. The time for answer is governed by the law of the responding jurisdiction.

Statutes authorize commencement of certain Family Court Actions other than by summons and petition. Commencement of contempt proceedings under Minnesota Statutes, section 588.04, is addressed in Rule 309 of these rules. Court decisions set forth in Rodewald v. Taylor, 797 N.W.2d 729 (Minn. Ct. App. 2011), also permit commencement by motion following the signing of a Recognition of Parentage under Minnesota Statutes, section 257.75.

Actions to establish parentage are governed by Minnesota Statutes, chapter 257. Rule 314 of these rules addresses specific procedures applicable in these actions.

A child support proceeding that is not a IV-D case as defined in Rule 352.01(g) must be commenced in district court and is subject to Rules 301 through 314. Actions for reimbursement for public assistance are governed by Minnesota Statutes, section 256.87, and are governed by the expedited process rules, Rules 351, et seq. The Petitioner must notify the public agency responsible for support enforcement of all proceedings if either party is receiving or has applied for public assistance. Minnesota Statutes, section 518A.44.

A party appearing pro se is required to perform the acts required by rule or statute in the same manner as an attorney representing a party. An attorney dealing with a party appearing pro se shall proceed in the same manner, including service of process, as in dealing with an attorney.

Advisory Committee Comment - 2019 Amendment

Rule 302.01(a) is amended to reflect the amendment of Rule 4.05 of the Rules of Civil Procedure, effective July 1, 2018, to create a new means of obtaining waiver of service under the rule. A new subsection (5) is added to reflect that an action can be commenced by joint petition as provided in Rule 302.01(c).

Rule 302.02 Designation of Parties

(a) Petitioner and Respondent. Parties to Family Court Actions shall be designated as petitioner (joint petitioners or petitioner and co-petitioner) and respondent. After so designating the parties, it is permissible to refer to them as husband and wife, father and mother, or other designations if applicable by inserting the following in any petition, order, decree, etc.:

Petitioner is hereinafter referred to as (familial designation), and respondent as (familial designation).

(b) Guardians Ad Litem. Appointment of a guardian ad litem for minor children is governed by the Rules of Guardian Ad Litem Procedure in Juvenile and Family Court (Rules 901 through

907). The guardian ad litem shall carry out the responsibilities set forth in the Rules of Guardian Ad Litem Procedure in Juvenile and Family Court. The guardian ad litem shall have the rights set forth in the Rules of Guardian Ad Litem Procedure in Juvenile and Family Court.

A guardian ad litem for minor children may be designated a party to the proceedings in the order of appointment. If the child is made a party to the proceeding, then the child's guardian ad litem shall also be made a party.

(Amended effective for guardians ad litem appointed in Minnesota's juvenile and family courts after 12 o'clock midnight January 1, 2005; amended effective May 1, 2012.)

Family Court Rules Advisory Committee Commentary *

Family Court proceedings involve human considerations which may require expeditious judicial attention. The shortening of time should be the exception and not the rule. A motion to shorten time will be granted only upon demonstration of the unusual circumstances justifying this extraordinary relief. See Rule 2.05.

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

Task Force Comment - 1991 Adoption

This rule is derived from existing Rule 1.04 of the Rules of Family Court Procedure.

Family Court Rules Advisory Committee Commentary *

A guardian appointed pursuant to Minnesota Statutes, section 257.60, becomes a party to the action if the child is made a party. The guardian then would be entitled to initiate and respond to motions, conduct discovery, call and cross-examine witnesses, make oral or written arguments or reports and appeal on behalf of a child without the necessity of applying to the court.

A guardian appointed under Minnesota Statutes, section 518.165, is not a party to the proceeding and may only initiate and respond to motions and make oral statements and written reports on behalf of the child.

A party has the right to cross-examine as an adverse witness the author of any report or recommendation on custody and visitation of a minor child. Thompson v. Thompson, 288 Minn. 41, 55 N.W. 329 (1952) and Scheibe v. Scheibe, 308 Minn. 449, 241 N.W.2d 100 (1976).

Practice among the courts may vary with respect to appointments. Some courts maintain panels of lay guardians while other courts maintain panels of attorney guardians. If a lay guardian is appointed, an attorney for the guardian may also be appointed. Guardians may volunteer or be paid for their services. An attorney requesting appointment of a guardian should inquire into local practice.

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

Task Force Comment - 1991 Adoption

Subdivision (a) of this rule is derived from existing Second District R. 1.07.

Subdivision (b) of this rule is derived from Rule 1.02 of the Uniform Rules of Family Court Procedure. The first sentence of the subdivision is new and is intended to make it clear that practice involving guardians ad litem is also governed by another rule provision.

Advisory Committee Comment - 2012 Amendment

Rule 302.02(a) specifies that the proper designation of parties in family court proceedings is as petitioner and respondent. Where a proceeding is commenced jointly, both parties may be designated as co-petitioners. The rule permits the parties, once properly designated in the appropriate pleadings, to be designated by less formal terms that indicate their relationship. The rule is amended to recognize that those designations are not limited to husband and wife, and other forms of relationships are encountered in family court proceedings. The "petitioner" and "respondent" labels are to be used in parentage cases, despite the historic use of "plaintiff" and "defendant" in these cases. There is no statutory or other requirement for the use of those labels, although at least one statute uses the term "defendant" in specifying the proper venue for these actions. See Minnesota Statutes, section 257.59. It is particularly helpful to use common terminology given the fact parentage proceedings may be combined with or joined with an action for dissolution, annulment, legal separation, custody under Minnesota Statutes, chapter 518, or reciprocal enforcement of support pursuant to Minnesota Statutes, section 257.59, subdivision 1.

Rule 302.02(b) deals with guardians ad litem. A guardian appointed pursuant to Minnesota Statutes, section 257.60, becomes a party to the action if the child is made a party. The guardian then would be entitled to initiate and respond to motions, conduct discovery, call and cross-examine witnesses, make oral or written arguments or reports and appeal on behalf of a child without the necessity of applying to the court. This rule applies to appointment of a guardian ad litem for minor children. Appointment of a guardian in other situations is governed by Rule 17.02 of the Minnesota Rules of Civil Procedure.

A guardian appointed under Minnesota Statutes, section 518.165, is not a party to the proceeding, but may initiate and respond to motions and make oral statements and written reports on behalf of the child. A party has the right to cross-examine as an adverse witness the author of any report or recommendation on custody and visitation of a minor child. Scheibe v. Scheibe, 308 Minn. 449, 241 N.W.2d 100 (1976); Thompson v. Thompson, 238 Minn. 41, 55 N.W.2d 329 (1952).

Rule 303. Motions; Emergency Relief; Orders to Show Cause

Rule 303.01 Scheduling of Motions

(a) Notice of Obtaining Hearing Date. Except in cases in which the parties reside in the same residence and there is a possibility of abuse, a party who obtains a date and time for hearing a motion shall promptly give written notice of the hearing date and time, name of the judicial officer, if known, and the primary issue(s) to be addressed at the hearing to all parties in the action. If the parties reside in the same residence and there is a possibility of abuse, notice shall be given in accordance with the Minnesota Rules of Civil Procedure.

(b) Notice of Motion. All motions shall be accompanied by either an order to show cause in accordance with Minn. Gen. R. Prac. 303.05 or by a notice of motion which shall state, with particularity, the date, time, and place of the hearing and the name of the judicial officer if known, as assigned by the local assignment clerk.

(c) Notice of Time to Respond. All motions and orders to show cause shall contain the following statement:

> The Rules establish deadlines for responding to motions. All responsive pleadings shall be served and filed with the court administrator no later than 7 days before the scheduled hearing. The court may, in its discretion, disregard any responsive pleadings served or filed with the

court administrator less than 7 days before such hearing in ruling on the motion or matter in question.

(Amended effective May 1, 2012; amended effective July 1, 2015; amended effective January 1, 2020.)

Family Court Rules Advisory Committee Commentary*

The scheduling of cases and the assignment of judges, judicial officers or referees is often a situation in which local calendaring practices prevail. Effective disposition of litigation requires immediate notice of the hearing officer's identity to preclude last minute filing of notices to remove or affidavits of prejudice.

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

Task Force Comment - 1991 Adoption

Subdivision (a)(1) of this rule is derived from existing Rule 2.01 of the Rules of Family Court Procedure.

Subdivision (a)(2) is from the new Minn. Gen. R. Prac. 115.02. 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.

Subdivision (b) of this rule is derived from Second Judicial District Rule 2.011.

Advisory Committee Comment - 2012 Amendment

Rule 303.01 imposes a simple burden on any party, whether or not represented by counsel: to promptly advise the other parties when a hearing date is obtained from the court. The rule codifies common courtesy, but also serves specific purposes of reducing the need to reschedule motion hearings and permitting the other side to submit motions at the same hearing, if appropriate. "Promptly" is intentionally not rigidly defined, but notice should be sent the same day the hearing date is obtained. Notice of the assignment of a judicial officer also starts the time to remove an assigned judicial officer under Minn. R. Civ. P. 63.03 and Minnesota Statutes, section 542.16.

The Rule exempts a party from giving prior notice if there is a "possibility of abuse" and where the two parties share the same residence. This admittedly subjective standard is retained in the rule for the protection of victims of domestic violence. The trial court retains the authority to impose sanctions for the improper use of this exception.

Rule 303.02 Form of Motion

(a) Specificity and Supporting Documents. Motions shall set out with particularity the relief requested in individually numbered paragraphs. All motions must be supported by affidavits that contain facts relevant to the issues before the court.

(b) Temporary Relief. When temporary financial relief such as child support, maintenance, payment of debt and attorney's fees is requested, the Parenting/Financial Disclosure Statement form developed by the state court administrator shall be served and filed by the moving and responding

parties, along with their motions and affidavits. Sanctions for failure to comply include, but are not limited to, the striking of pleadings or hearing.

(Amended effective January 1, 2008; amended effective May 1, 2012; amended effective July 1, 2015.)

Task Force Comment - 1991 Adoption

Subdivision (a) of this rule is derived from existing Rule 2.02 of Rules of Family Court Procedure.

Subdivision (b) of this rule is derived from Second Judicial District Rule 2.021.

The local rule from which subdivision (b) is derived included a requirement that information be filed on forms, and that typewritten or word-processed documents would not be accepted for filing. The Task Force considered the desirability of requiring information to be submitted on pre-printed forms, and determined that such requirements should not be retained. Many modern law offices cannot readily prepare such documents as word processing machines have displaced the typewriters for which the forms are designed. The Task Force also believes that these requirements only increase the cost of litigation and limit access to the courts.

Rule 303.03 Motion Practice

(a) Requirements for Motions.

(1) *Moving Party, Supporting Documents, Time Limits.* No motion shall be heard unless the moving party pays any required motion filing fee, properly serves a copy of the following documents on all parties and files them with the court administrator at least 21 days before the hearing:

(i) Notice of motion and motion in the form required by Minn. Gen. R. Prac. 303.01 and 303.02;

(ii) Relevant affidavits and exhibits; and

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

(2) *Motion Raising New Issues.* A responding party raising new issues other than those raised in the initial motion shall pay any required motion filing fee, properly serve a copy of the following documents on all parties and file them with the court administrator at least 14 days before the hearing:

(i) Notice of motion and motion in the form required by Minn. Gen. R. Prac. 303.01 and 303.02;

(ii) Relevant affidavits and exhibits; and

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

(3) *Responding Party, Supporting Documents, Time Limits.* The party responding to issues raised in the initial motion, or the party responding to a motion that raises new issues, shall pay any required motion filing fee, properly serve a copy of the following documents on all parties, and file them with the court administrator at least 7 days before the hearing:

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

(ii) Relevant affidavits and exhibits.

(4) **Computation of Time for Service.** Whenever this rule requires documents to be served and filed with the court administrator within a prescribed period of time before a specific event, service and filing must be accomplished as required by Minn. R. Civ. P. 5 and 6.

(5) **Post-Trial Motions.** The timing provisions of Section 303.03(a) do not apply to post-trial motions.

(b) Failure to Comply. In the event a moving party fails to timely serve and file documents required in this rule, the hearing may be canceled by the court. If responsive documents are not properly served and filed, the court may deem the initial motion unopposed and may issue an order without hearing. The court, in its discretion, may refuse to permit oral argument by the party not filing the required documents, may consider the matter unopposed, may allow reasonable attorney's fees, or may take other appropriate action.

(c) Settlement Efforts. Except in parentage cases when there has been no court determination of the existence of the parent and child relationship, and except in situations where a court has ordered that no contact occur between the parties, the moving party shall, within 7 days of filing a motion, initiate a settlement conference either in person, or by telephone, or in writing in an attempt to resolve the issues raised. Unless ADR is not required under Rule 310, this conference shall include consideration of an appropriate ADR process under Rule 114. The moving party shall certify to the court compliance with this rule or any reasons for not complying. The moving party shall file a Certificate of Settlement Efforts in the form developed by the state court administrator not later than 24 hours before the hearing. Unless excused by the Court for good cause, no motion shall be heard unless the parties have complied with this rule. Whenever any pending motion is settled, the moving party shall promptly advise the court.

(d) Request for Oral Testimony.

(1) *General Rule*. Motions shall be submitted on affidavits, exhibits, documents subpoenaed to the hearing, memoranda, and arguments of counsel except for contempt proceedings or as otherwise provided for in these rules.

(2) *Request for Leave for Oral Testimony.* Requests for the taking of oral testimony must be made by motion served and filed not later than the filing of that party's initial motion documents. The motion shall include names of witnesses, nature and length of testimony, including cross-examination, and types of exhibits, if any.

(3) *Request for Hearing Longer Than One-Half Hour.* Requests for hearing time in excess of one-half hour must be submitted by separate written motion specifically setting forth the necessity and reason that evidence cannot be submitted by affidavit.

(4) *Conversion to Prehearing Conference.* If the matter cannot be heard adequately in the scheduled time, the hearing shall be used as a prehearing conference.

(5) *Court Discretion to Solicit Oral Testimony.* If the request required by clause (2) of this rule has not been made, the court shall not take oral testimony at the scheduled hearing unless the court in its discretion solicits additional evidence from the parties by oral testimony.

(6) *Order.* In the event the court permits oral testimony, it may issue an order limiting the number of witnesses each party may call, the scope of their testimony, and the total time for each party to present evidence. Each party shall be afforded an opportunity to suggest appropriate limits.

(7) *Interviews of Minor Children.* Any motion relating to custody or visitation shall additionally state whether either party desires the court to interview minor children. No child under

the age of fourteen years will be allowed to testify without prior written notice to the other party and court approval.

(Amended effective January 1, 1994; amended effective July 1, 1997; amended effective January 1, 2004; amended effective May 1, 2012; amended effective July 1, 2015; amended effective January 1, 2020.)

Family Court Rules Advisory Committee Commentary *

Minnesota Statutes, section 518.131, subdivision 8, grants a party the right to present oral testimony upon the filing of a demand either in the initial application for temporary relief or in the response thereto.

The party demanding oral testimony should provide a list of the proposed witnesses, the scope of their testimony and an estimate of the required time.

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

Advisory Committee Comment - 1996 Amendment

Subdivisions (a)-(d) of this rule are new. They are derived from parallel provisions in new Minn. Gen. R. Prac. 115, and are intended to make motion practice in family court matters as similar to that in other civil actions as is possible and practical given the particular needs in family court matters.

Subdivision (d) of this rule is derived from Rule 2.04 of Rules of Family Court Procedure and from Second Judicial District Rules 2.041 and 2.042.

The requirement in subsection (c) of an attempt to resolve motion disputes requires that the efforts to resolve the matter be made before the hearing, not before bringing the motion. It is permissible under the rule to bring a motion and then attempt to resolve the motion. If the motion is resolved, subsection (c) requires the parties to advise the court immediately.

Rule 303.03(a)(5) is added by amendment to be effective January 1, 1994, in order to make it clear that the stringent timing requirements of the rule need not be followed on post-trial motions. This change is made to continue the uniformity in motion practice between family court matters and general civil cases, and is patterned on the change to Minn. Gen. R. Prac. 115.01(c) made effective January 1, 1993.

Subdivision (c) of this rule is amended in 1996 to require consideration of ADR in post-decree matters. The rule specifies how ADR proceedings are commenced in post-decree matters; the procedures for court-annexed ADR in these matters is generally the same under Rule 114 as for other cases.

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 Comment - 2012 Amendment

Motion practice in family law matters is intended to mirror, where appropriate to the needs of family law issues, the procedures followed generally in civil cases in Minnesota courts. The

prevailing practice in Minnesota courts is for the submission of evidence relating to motions by written submissions, with sworn testimony provided by affidavit, deposition, or other written submissions. Rule 303.03(d)(1) restates that rule. The balance of Rule 303.03(d) addresses the process to request leave to present oral testimony in the limited circumstances where it may be appropriate. Minnesota Statutes, section 518.131, subdivision 8, provides for allowing oral testimony upon demand of a party in requests for a temporary order or restraining order.

Rule 303.03(a)(5) makes it clear that the stringent timing requirements of the rule need not be followed on post-trial motions, such as a motion for a new trial or for amended findings made shortly after the conclusion of trial. See Minn. R. Civ. P. 52 and 59. This change is made to continue the uniformity in motion practice between family court matters and general civil cases, and is patterned on Minn. Gen. R. Prac. 115.01(c). Support, spousal maintenance, and custody modification motions, often brought months or years later, are subject to the general timing rules for motions.

The requirement in subsection (c) of an attempt to resolve motion disputes requires that the efforts to resolve the matter be made before the hearing, not before bringing the motion. The rule requires the moving party to initiate settlement efforts. If the motion is resolved, subsection (c) requires the parties to advise the court immediately. Although mandated settlement efforts may create additional challenges for pro se parties, Rule 1.04 requires compliance with the rules by all parties, including pro se parties, subject to relief granted by the court to prevent a manifest injustice under Rule 1.02.

The rule explicitly addresses the requirement for paying a motion filing fee. Since 2003, Minnesota law requires a fee for "filing a motion or response to a motion in civil, family, excluding child support, and guardianship cases." See Minnesota Statutes, section 357.021, subdivision 2, clause (4).

Rule 303.04 Ex Parte and Emergency Relief

(a) Governing Rules. The court may grant emergency relief if the requirements in this Rule 303.04 are met. If emergency relief is sought ex parte, the party seeking the relief must demonstrate compliance with Rule 3 of these rules.

(b) Order to Show Cause. An order to show cause shall not be used except in those cases where permitted pursuant to Minn. Gen. R. Prac. 303.05.

(c) Requirement of Motion; Form. The party seeking emergency relief must state with specificity in a motion and affidavit:

(i) Why emergency relief is required;

(ii) The relief requested;

(iii) Disclosure of any other attempts to obtain the same or similar relief and the result;

(iv) If there was a prior attempt to obtain emergency relief, the name of the judicial officer to whom the request was made;

(v) if a prior request was denied for the same or similar relief, explain what new facts are presented to support the current motion.

(d) Proposed Order. The party seeking emergency relief must present a proposed order for the court's consideration.

(e) Notice. The party seeking emergency relief must serve the motion and affidavit, including notice of the time when and the place where the motion will be heard, on the other party or counsel, unless:

(i) the party seeking emergency relief provides a written statement that the party has made a good faith effort to contact the other party or counsel and has been unsuccessful; or

(ii) the supporting documents show good cause why notice to the other party should not be required and the court waives the notice requirement.

(f) Hearing. An order granting emergency relief without notice shall include a return hearing date before the judicial officer hearing the matter. If the relief obtained affects custody or parenting time, the court shall set the matter for hearing within 14 days of the date the emergency relief is granted.

(Amended effective May 1, 2012.)

Family Court Rules Advisory Committee Commentary *

Minn. R. Civ. P. 65.01 states the notice requirements for ex parte relief. Minnesota Statutes, section 518.131, controls ex parte temporary restraining orders.

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

Task Force Comment - 1991 Adoption

Subdivisions (a), (b) and (c) of this rule are derived from existing Rule 2.05 of the Rules of Family Court Procedure.

Subdivision (d) of this rule is derived from Second District Local Rule 2.051.

Parties should be aware that Minn. Gen. R. Prac. 3 applies to all ex parte orders, including those relating to family court proceedings. Minn. R. Civ. P. 65.01 also applies in family court temporary restraining order practice.

Advisory Committee Comment - 2012 Amendment

Rule 303.04 is amended to make clearer the circumstances that justify seeking either emergency or ex parte relief. "Emergency" and "ex parte" are not synonymous, though sometimes both might be justified in a particular situation. Emergency relief may be appropriate where there is urgency, not cause by lack of diligence on the part of the moving party, that makes the normal deadlines in the rules unworkable. Even where exigent circumstances justify shortening the deadlines, they do not generally excuse the giving of notice - or the attempt thereof - to the other side. Rare situations may, however, permit or even demand that notice not be given to the other side before seeking relief from the court. Where destruction of property or evidence is threatened, assets appear to be concealed or are threatened to be concealed, or the abduction of children has occurred or is threatened, or other situations exist where the giving of notice is likely to make any relief impossible to obtain, the court may consider the matter ex parte (without notice to the other side). Rule 3 of these rules provides clear guidelines on seeking ex parte relief. The standards of Rule 65.01 of the Minnesota Rules of Civil Procedure also provide guidance for relief in family law manners. See Minn. R. Civ. P. 65.01 (permitting relief without notice if "immediate and irreparable injury, loss, or damage will result").

As is true for temporary restraining orders, any order granted without notice to all parties should be of extremely short duration and the court should hold a hearing upon notice to all parties

before continuing or extending the relief. The availability of temporary relief, and the limits on that relief, are set forth in Minnesota Statutes, section 518.131.

Rule 303.05 Orders to Show Cause

Orders to show cause shall be obtained in the same manner specified for ex parte relief in Rule 3 of these rules. Such orders may require production of limited financial information. An order to show cause shall be issued only where the motion seeks a finding of contempt under Rule 309 or the supporting affidavit makes an affirmative showing of:

(a) a need to require the party to appear in person at the hearing, or

(b) a need for interim support is warranted, or

(c) the production of limited financial information is deemed necessary by the court, or

(d) a need for the issuance of an order to show cause, subject to the discretion of the judge.

All orders to show cause must be appropriately signed out for service. A conformed file copy of such order shall be retained by the court administrator in the file.

Family Court Rules Advisory Committee Commentary *

The use of orders to show cause can be abused by requiring a personal appearance where none is necessary. A timely notice of motion informing a party of the time to appear, if he or she wishes, is adequate in most proceedings.

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

Task Force Comment - 1991 Adoption

This rule is derived from existing Rule 2.06 of the Rules of Family Court Procedure. The Family Law Section of the Minnesota State Bar Association recommended additional specific language limiting use of orders to show cause and the Task Force agrees that this clarification should be useful. Orders to show cause are specifically authorized, in limited circumstances, by statute. See, e.g., Minnesota Statutes 1990, sections 256.87, subdivision 1a, and 393.07, subdivision 9.

Advisory Committee Comment - 2012 Amendment

Orders to show cause should be issued only when it is necessary that a party appear at a hearing. In most situations, the provision of notice of a hearing, and allowing parties to appear if they choose to contest entry of the relief sought, is sufficient. Orders to show cause are specifically authorized, in limited circumstances, by statute. See, e.g., Minnesota Statutes, sections 256.87, subdivision 1a; 393.07, subdivision 9; 518A.73; and 543.20. It is often preferable to use a notice of motion, and if attendance is required, to issue a subpoena to a non-party. See, e.g., Stevens County Social Service Dept. ex rel. Banken v. Banken, 403 N.W.2d 693 (Minn. Ct. App. 1987). Orders to show cause are a recognized part of contempt proceedings. See, e.g., Minnesota Statutes, section 588.04.

Parties should be aware that improper use of an order to show cause can result in the imposition of sanctions. See, e.g., Nelson v. Quade, 413 N.W.2d 824 (Minn. Ct. App. 1987).

Former Rule 303.06 setting forth notices to be included in a final decree have largely been obviated by statutorily required notices. Notices required under statute are discussed in Rule 308.02 and its accompanying advisory committee comment.

Task Force Comment - 1991 Adoption

This rule is derived from Rule 7.01 of the Rules of Family Court Procedure and Second District Rule 2.09.

Rule 304. Scheduling of Cases

Rule 304.01 Scope

Rules 304.01 through 304.05 provide for scheduling matters for disposition and trial in all Family Court Actions, excluding only the following:

(a) Actions for reimbursement of public assistance (Minnesota Statutes, section 256.87);

(b) Contempt (Minnesota Statutes, chapter 588);

(c) Domestic abuse proceedings (Minnesota Statutes, chapter 518B);

(d) Child custody enforcement proceedings (Minnesota Statutes, chapter 518D);

(e) Support enforcement proceedings (Minnesota Statutes, chapter 518C--U.I.F.S.A.);

(f) Withholding of refunds from support debtors (Minnesota Statutes, section 289A.50, subdivision 5);

(g) Proceedings to compel payment of child support (Minnesota Statutes, section 393.07, subdivision 9);

(h) Proceedings for support, maintenance or county reimbursement judgments (Minnesota Statutes, section 548.091); and

(i) Expedited Child Support Proceedings (Minn. Gen. R. Prac. 351 through 379). Rule 304.06 applies to all Family Court Actions.

(Amended effective May 1, 2012.)

Rule 304.02 Scheduling Statement

(a) Except where the court orders the parties to use an Initial Case Management Conference ("ICMC"), within 60 days after the initial filing in a case, or sooner if the court requires, the parties shall file a Scheduling Statement that substantially conforms to the form developed by the state court administrator.

(b) In cases where the court orders the parties to use an Initial Case Management Conference, the parties shall comply with the order issued by the court as to what form to submit, its due date, and whether it should be filed or submitted to the court without filing.

(Amended effective January 1, 1993; amended effective January 1996; amended effective July 1, 1997; amended effective January 1, 2008; amended effective January 1, 2010; amended effective May 1, 2012; amended effective January 1, 2014.)

Advisory Committee Comment - 2009 Amendment

Rule 304.02 is amended to include section (b)(7) adopted to implement the gathering of information about the potential need for interpreter services in a case, either for witnesses or for a party. See Minn. Gen. R. Prac. 8.13.

Advisory Committee Comment - 2012 Amendment

Rule 304.02 is amended to reflect the more varied approaches to case management being used in Minnesota courts. The Initial Case Management Statement replaces the former Party's Information Statement form and is intended to be a more flexible device for obtaining information to be used by the court in making case-management decisions. Supplemental information regarding local programs such as Early Case Management and/or Early Neutral Evaluation addressing may require submission of separate information on a separate time deadline.

Advisory Committee Comment - 2014 Amendment

The amendments to Rules 304.02 and 304.03 recognize that different districts and counties use different processes for scheduling family law matters. Rule 304.02 is amended to rename the Initial Case Management Statement (formerly known as the Informational Statement) as the Scheduling Statement. This change is intended to make clear the distinction between it and the Initial Case Management Conference (ICMC) Data Sheet used in the many counties that hold Initial Case Management Conferences (ICMCs) and find them useful tools in managing their cases. Pursuant to Judicial Branch Policy 520.1, section IV, the ICMC Data Sheet is not to be filed with the court, but is provided to the court in advance of the ICMC to assist the court in preparing for and holding the ICMC. Further information on the ICMC process, if in use in a particular court, may be obtained on the individual court's websites, which may be accessed through the state court website, www.mncourts.gov.

The Scheduling Statement is formally filed with the court within 60 days of filing of the case. The court's management of the case from and after the ICMC ensures the case is concluded in a timely manner, alleviating the necessity of filing a Scheduling Statement. In counties that do not utilize ICMCs as part of case management, the filing of the Scheduling Statement will assist the court in scheduling appropriate court appearances to conclude the case in a timely manner.

Rule 304.03 Scheduling Order

(a) When issued. Within 28 days after the expiration of the time set forth in Rule 304.02 for filing a Scheduling Statement, the court shall enter its scheduling order. The court may issue the order after either a telephone or in court conference, or without a conference or hearing if none is needed.

(b) Contents of Order. The scheduling order shall provide for alternative dispute resolution as required by Rule 114.04(c) and may establish any of the following:

(1) Deadlines or specific dates for the completion of alternative dispute resolution including but not limited to mediation and early neutral evaluations;

(2) Deadlines or specific dates for the completion of discovery and other pretrial preparation;

(3) Deadlines or specific dates for serving, filing or hearing motions;

(4) Deadlines or specific dates for custody, parenting time or property evaluations;

(5) A deadline or specific date for the pretrial conference; and

(6) A deadline or specific date for the trial or final hearing.

(Amended effective July 1, 1997; amended effective May 1, 2012; amended effective January 1, 2014; amended effective January 1, 2020.)

Rule 304.04 Amendment

A scheduling order pursuant to this rule may be amended at any pretrial or settlement conference, upon motion for good cause shown, or upon stipulation of the parties if approved by the court.

(Amended effective May 1, 2012.)

Rule 304.05 Collaborative Law

A scheduling order under this rule may include provision for deferral on the calendar pursuant to Rule 111.05(b) of these rules and for exemption from additional ADR requirements pursuant to Rule 111.05(c).

(Added effective January 1, 2008.)

Advisory Committee Comment - 2007 Amendment

Rule 304.05 is a new provision, intended primarily to make it clear that the special scheduling procedures relating to collaborative law in Minn. Gen. R. Pract. 111.05 apply to scheduling of family law matters subject to Rule 304. The rule permits a scheduling order to include provision for collaborative law, but does not require it.

Rule 304.06 Continuances

(a) Trial. Minn. Gen. R. Prac. 122 governs continuances for trial settings unless the court directs otherwise.

(b) Motions and Pretrial. A request for a continuance of a motion or pretrial conference shall be in writing and set forth the basis for the request.

(Added effective May 1, 2012.)

Advisory Committee Comment - 1996 Amendment

This rule is new. It is patterned after the similar new Minn. Gen. R. Prac. 111. The Task Force believes that the scheduling information and procedures in family court and other civil matters should be made as uniform as possible, consistent with the special needs in family court matters. It is amended in 1996 to include information needed for using alternative dispute resolution in family law matters as required by Minn. Gen. R. Prac. 301.01, also as amended in 1996. These amendments follow the form of similar provisions in Minn. Gen. R. Prac. 111, and should be interpreted in the same manner.

Matters not scheduled under the procedures of this rule are scheduled by motion practice under Minn. Gen. R. Prac. 303.

Rule 304.02 now provides a definite time by which informational statements are required, even if a temporary hearing is contemplated and postponed. Under the prior version of the rule, informational statements might never be due because a temporary hearing might be repeatedly postponed. If the parties seek to have a case excluded from the court scheduling process, they may do so by stipulating to having the case placed on "Inactive Status." This stipulation can be revoked by either party, but removes the case from active court calendar management for up to one year. See Minnesota Conference of Chief Judges (See Exhibit A), Resolution Relating to the Adoption of Uniform Local Rules, Jan. 25, 1991.

This rule provides for a separate Form 9B for use by unrepresented parties. This form contains additional information useful to the court in managing cases where one or both parties are not represented by an attorney. This form is updated in 1996 to request information about any history

or claims of domestic abuse and the views of the parties on the use (or potential use) of alternative dispute resolution in the same manner as Form 9A for represented parties.

Rule 305. Pretrial Conferences

Rule 305.01 Parenting/Financial Disclosure Statement

Each party shall complete a Parenting/Financial Disclosure statement in the form developed by the state court administrator which shall be served upon all parties and filed with the court at least 7 days prior to the date of the pretrial conference.

(Amended effective January 1, 2008; amended effective May 1, 2012.)

Task Force Comment - 1991 Adoption

This rule is derived from existing Rule 4.02 of the Rules of Family Court Procedure. The existing family court rule includes a requirement that information be filed on forms, and that typewritten or word-processed documents would not be accepted for filing. The Task Force considered the desirability of requiring information to be submitted on preprinted forms, and determined that such requirements should not be retained. Many modern law offices cannot readily prepare such documents as word processing machines have displaced the typewriters for which the forms are designed. The Task Force also believes that these requirements only increase the cost of litigation and limit access to the courts.

Rule 305.02 Pretrial Conference Attendance

(a) Parties and Counsel. Unless excused by the court for good cause, the parties and lawyers who will try the proceedings shall attend the pretrial conference, prepared to negotiate a final settlement. The lawyers attending the pretrial conference must have authority to settle the case. If a stipulation is reduced to writing prior to the pretrial conference, the case may be heard administratively or as a default at the time scheduled for the conference. In the event the matter will proceed as a default, then only the party obtaining the decree need appear.

(b) Failure to Appear-Sanctions. If a party fails to appear at a pretrial conference, the court may dispose of the proceedings without further notice to that party.

(c) Failure to Comply-Sanctions. Failure to comply with the rules relating to pretrial conferences may result in the case being stricken from the contested calendar, granting of partial relief to the appearing party, striking of the nonappearing party's pleadings and the hearing of the matter as a default, award of attorney fees and costs, and such other relief as the court finds appropriate, without further notice to the defaulting party.

(Amended effective May 1, 2012.)

Family Court Rules Advisory Committee Commentary*

In disposing of a proceeding, the Court may dismiss it entirely, grant relief to the party appearing, grant attorney fees, bifurcate the proceedings and grant partial relief, or grant any other relief which the court may deem appropriate. See Rule 306.2(c).

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

Task Force Comment - 1991 Adoption

Subsection (a) of this rule is derived from existing Rule 4.03 of the Rules of Family Court Procedure.

Subsection (b) of this rule is derived from existing Rule 4.04 of the Rules of Family Court Procedure.

Subsection (c) of this rule is derived from existing Rule 4.05 of the Rules of Family Court Procedure.

A prehearing conference without both parties and lawyers familiar with the facts of the case and the parties is rarely a worthwhile exercise and usually is a waste of resources of the parties and the court. Nonetheless, the Task Force believes there may be situations, on rare occasion, where a party or lawyer should be excused from attendance or should be allowed to participate by conference phone call.

Rule 305.03 Order for Trial or Continued Pretrial Conference

If the parties are unable to resolve the case, in whole or in part, at the pretrial conference, the court shall issue an order that schedules any remaining discovery and any contemplated motions, identifies the contested issues for trial, and provides for the exchange of witness lists and exhibits to be offered at trial. The order shall identify and describe the resolution of uncontested issues that have been placed on the record.

Cross Reference: Minn. Civ. Trialbook, section 5.

(Amended effective May 1, 2012.)

Task Force Comment - 1991 Adoption

This rule is new. The Task Force believes it is useful to have an order entered to limit the issues and preserve any agreements reached at a pretrial conference. This rule is adapted from a recommendation of the Minnesota State Bar Association's Family Law Section.

Rule 306. Default

Rule 306.01 Scheduling of Final Hearing

Except when proceeding under Rule 302.01(b) by Joint Petition, Agreement and Judgment and Decree, to place a marriage dissolution matter on the default calendar for final hearing or for approval without hearing pursuant to Minnesota Statutes, section 518.13, subdivision 5, the moving party shall submit a Default Scheduling Request form developed by the state court administrator and shall comply with the following, as applicable:

(a) Without Stipulation-No Appearance. In all default proceedings where a stipulation has not been filed, an Affidavit of Default and of Nonmilitary Status of the defaulting party or a waiver by that party of any rights under the Servicemembers Civil Relief Act, as amended, shall be filed with the court.

(b) Without Stipulation-Appearance. Where the defaulting party has appeared by a pleading other than an answer, or personally without a pleading, and has not affirmatively waived notice of the other party's right to a default hearing, the moving party shall notify the defaulting party in writing at least 14 days before the final hearing of the intent to proceed to Judgment. The notice shall state:

> You are hereby notified that an application has been made for a final hearing to be held on _____, 20__, at __:__ _.m. at _____ [a date not sooner than 14 days from the date of this notice]. You are further notified that the court will be requested to grant the relief requested in the petition at the hearing. You should contact the undersigned and the District

Court Administrator immediately if you have any defense to assert to this default judgment and decree.

The default hearing will not be held until the notice has been mailed to the defaulting party at the last known address and an affidavit of service by mail has been filed.

If the case is to proceed administratively without a hearing under Minnesota Statutes, section 518.13, subdivision 5, then the notice shall be sent after the expiration of the 30-day answer period, but at least 14 days before submission of a default scheduling request as required by this rule, and shall state:

You are hereby notified that an application will be made for a final judgment and decree to be entered not sooner than 14 days from the date of this notice. You are further notified that the court will be requested to grant the relief requested in the Petition. You should contact the undersigned and the District Court Administrator immediately if you have any defense to assert to this default judgment and decree.

(c) Default with Stipulation. Whenever a stipulation settling all issues has been executed by the parties, the stipulation shall be filed with an affidavit of nonmilitary status of the defaulting party or a waiver of that party's rights under the Servicemembers Civil Relief Act, as amended, if not included in the stipulation.

In a stipulation where a party appears as a self-represented litigant, the following waiver shall be executed by that party:

I know I have the right to be represented by a lawyer of my choice. I hereby expressly waive that right and I freely and voluntarily sign the foregoing stipulation.

(Amended effective January 1, 1993; amended effective January 1, 2004; amended effective January 1, 2006; amended effective January 1, 2008; amended effective May 1, 2012; amended effective July 1, 2015.)

Family Court Rules Advisory Committee Commentary*

This stipulation should establish that one of the parties may proceed as if by default, without further notice to or appearance by the other party.

The waiver of counsel should be prepared as an addendum following the parties' signatures on the stipulation.

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

Advisory Committee Comment - 1992 Amendment

Subsections (a) and (b) of this rule are derived from existing Rule 5.01 of the Rules of Family Court Procedure.

Subsection (c) of this rule is derived from existing Rule 5.02 of the Rules of Family Court Procedure.

The default scheduling request required by Rule 306.01, as amended in 1992, serves the purpose of permitting the court administrator's office to schedule the case for the right type of hearing. It is not otherwise involved in the merits. The affidavit of default is a substantive document establishing entitlement to relief by default.

Advisory Committee Comment - 2003 Amendment

Rule 306.01 is amended in 2003 to add a new first clause. The purpose of this change is to include in the rules an express exemption of the proceedings from the requirements of the rule when the parties proceed by Joint Petition, Agreement and Judgment and Decree as allowed by new Rule 302.01(b).

Advisory Committee Comment - 2006 Amendment

Rule 306 is amended to clarify the role of the notice required to be given to parties who are in default but who have "appeared" in some way. A party is not entitled to prevent entry of judgment if that party is in default by not serving and filing a timely written answer to the Petition. Nonetheless, the court may, in its discretion, consider some appropriate measures to prevent the case from being decided on a default basis and to obviate a motion for relief from the default judgment and decree. Accordingly, the rule is amended to afford more useful notice as to the request for a default.

The rule does not define how a party might appear either by "a pleading other than an answer," or "personally without a pleading." Both conditions should be limited to some actions that approach responding to the Petition despite the fact they may be insufficient as a matter of law to stand as a response. Sending a letter that responds to a Petition might suffice for the first condition, as might a letter to the court. Appearing at a court hearing despite having not answered would certainly meet the "appeared personally" condition. When in doubt as to other circumstances, the party seeking a default should, to comply with Rule 306.01(b), provide the required notice, with the expectation that many of these responses that fall short of an answer will not prevent entry of judgment.

The Soldiers' and Sailors' Civil Relief Act of 1940 was amended and renamed in 2003, and the rule is amended to use the new name as a matter of convenience. See Servicemembers Civil Relief Act, Pub. L. No. 108-189, section 1, 117 Stat. 2835, 2840-42 (2003) (to be codified at 50 U.S.C. app. section 521). The former rule would still apply, however, because it included the "as amended" extension of the citation.

Advisory Committee Comment - 2012 Amendment

Rule 306 attempts to make clear the role of notice required to be given to parties who are in default but who have "appeared" in some way in marriage dissolution proceedings. A party is not entitled to prevent entry of judgment if that party is in default by not serving and filing a timely written answer to the Petition. Nonetheless, the court may, in its discretion, consider some appropriate measures to prevent the case from being decided on a default basis and to obviate a motion for relief from the default judgment and decree. Accordingly, the rule is amended to afford more useful notice as to the request for a default. Defaults in other types of family proceedings are governed by Rule 55 of the Minnesota Rules of Civil Procedure.

The rule does not define how a party might appear either by "a pleading other than an answer," or "personally without a pleading." Both conditions should be limited to actions that approach responding to the Petition despite the fact they may be insufficient as a matter of law to stand as a response. Sending a letter that responds to a Petition might suffice for the first condition, as might a letter to the court. Appearing at a court hearing despite having not answered would certainly meet the "appeared personally" condition. When in doubt as to other circumstances, the party seeking a default should, to comply with Rule 306.01(b), provide the required notice, with the expectation that many of these responses that fall short of an answer will not prevent entry of judgment.

Rule 306.02 Preparation of Decree [Abrogated]

(Amended effective January 1, 2004; abrogated effective May 1, 2012.)

Task Force Comment - 1991 Adoption

This rule is derived from existing Rule 5.03 of the Rules of Family Court Procedure.

Advisory Committee Comment - 2003 Amendment

Rule 306.02 is amended in 2003 to add a new first clause. The purpose of this change is to include in the rules an express exemption of the proceedings from the requirements of the rule when the parties proceed by Joint Petition, Agreement and Judgment and Decree as allowed by new Rule 302.01(b).

Advisory Committee Comment - 2012 Amendment

Rule 306.02 is abrogated because it sets forth procedures that do not need to be established by rule and in practice individual judges deal with the preparation of a decree in different ways. The court may still require the submission of proposed findings of fact, conclusions of law, order for judgment, and judgment and decree in advance of the hearing.

Rule 307. Final Hearings

(a) Failure to Appear-Sanctions. Failure to appear at the scheduled final hearing may result in the case being stricken from the contested calendar, granting of partial relief to the appearing party, striking of the nonappearing party's pleadings and the hearing of the matter as a default, an award of attorney's fees and costs, and such other relief as the court finds appropriate, without further notice to the defaulting party.

(b) Stipulations Entered in Open Court-Preparation of Findings. Where a stipulation has been entered orally upon the record, the lawyer directed to prepare the decree shall submit it to the court with a copy to each party. Unless a written, fully executed stipulation is filed or unless the decree contains the written approval of the other party or their legal representative, a transcript of the oral stipulation shall be filed by the lawyer directed to prepare the decree. Responsibility for the cost of the transcript shall be determined by the court. Entry of the decree shall be deferred for 14 days to allow for objections unless the decree contains the written approval of the lawyer for each party, or the other party if he or she is self-represented.

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

Task Force Comment - 1991 Adoption

Subsection (a) of this rule is derived from existing Rule 6.01 of the Rules of Family Court Procedure.

Subsection (b) of this rule is derived from existing Rule 6.02 of the Rules of Family Court Procedure.

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, 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.

Rule 309. Contempt

Rule 309.01 Initiation

(a) Moving Documents-Service; Notice. Contempt proceedings shall be initiated by notice of motion and motion or by an order to show cause served upon the person of the alleged contemnor together with motions accompanied by appropriate supporting affidavits. Pursuant to Rule 303.05 an order to show cause may be issued by the court without notice to the alleged contemnor provided the supporting affidavits credibly raise an issue of contempt.

(b) Content of Order to Show Cause or Notice of Motion and Motion. The order to show cause shall direct the alleged contemnor to appear and show cause why he or she should not be held in contempt of court and why the moving party should not be granted the relief requested by the motion. If proceeding by notice of motion and motion, the motion may seek that relief directly.

The notice of motion and motion or order to show cause shall contain at least the following:

(1) a reference to the specific order or judgment of the court alleged to have been violated and the date of entry or filing of the order or judgment;

(2) a quotation of the specific applicable provisions ordered;

(3) the alleged failures to comply;

(4) notice to the alleged contemnor that his or her ability to pay is a crucial issue in the contempt proceeding and that a Parenting/Financial Disclosure Statement form for submitting ability to pay information is available from the state court website, and this form should be served and filed with the court at or before the contempt hearing; and

(5) a date to appear for a Rule 309.02 hearing no later than 60 days after the issuance of the notice of motion or order to show cause.

(c) Affidavits. The supportive affidavit of the moving party shall set forth each alleged violation of the order with particularity. Where the alleged violation is a failure to pay sums of money, the affidavit shall state the kind of payments in default and shall specifically set forth the payment dates and the amounts due, paid and unpaid for each failure.

Any responsive affidavit shall set forth with particularity any defenses the alleged contemnor will present to the court. Where the alleged violation is a failure to pay sums of money, the affidavit shall set forth the nature, dates and amount of payments, if any.

(Amended effective January 1, 2010; amended effective May 1, 2012; amended effective July 1, 2015.)

*Family Court Rules Advisory Committee Commentary**

Service of the order to show cause upon the person provides jurisdiction for the issuance of a writ of attachment or bench warrant, if necessary, and meets the requirement or an opportunity to be heard. See Clausen v. Clausen, 250 Minn. 293, 84 N.W.2d 675 (1976); Hopp v. Hopp, 279 Minn. 170, 156 N.W.2d 212 (1968).

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

Task Force Comment - 1991 Adoption

Subdivision (a) of this rule is derived from existing Rule 8.01 of the Rules of Family Court Procedure.

Subdivision (b) of this rule is derived from existing Rule 8.01 of the Rules of Family Court Procedure. The new language is derived from Second District Local Rule 8.011.

Advisory Committee Comment - 2009 Amendment

Rule 309.01 is amended in 2009 to remove an apparent requirement that any contempt proceeding be commenced by order to show cause. Although an order to show cause is an available mechanism for initiating contempt proceedings, the authorizing statute also recognizes that these proceedings may be commenced by motion accompanied by appropriate notice. See Minnesota Statutes, section 588.04. The amendment to Rule 309.01 is intended simply to recognize that both mechanisms are available. In many situations, proceeding by order to show cause is preferable. Use of an order to show cause, which is court process served with the same formality as a summons, permits the court to impose sanctions directly upon failure to comply. See Minnesota Statutes, section 588.04. It is the preferred means to commence a contempt proceeding if there is significant risk that the alleged contemnor is likely not to appear in response to a notice of motion.

Advisory Committee Comment - 2012 Amendment

Rule 309.01 does not require that contempt proceeding be commenced by an order to show cause, even though that is the most common and most direct means of commencing the proceedings. Although an order to show cause is an available mechanism for initiating contempt proceedings, the authorizing statute also recognizes that these proceedings may be commenced by motion accompanied by appropriate notice. See Minnesota Statutes, section 588.04. The amendment to Rule 309.01 is intended simply to recognize that both mechanisms are available. In many situations, proceeding by order to show cause is preferable. Use of an order to show cause, which is court process served with the same formality as a summons, permits the court to impose sanctions directly upon failure to comply. See Minnesota Statutes, section 588.04. The order to show cause is still the preferred means to commence a contempt proceeding if there is meaningful risk that the alleged contemnor will not to appear in response to a notice of motion. Service of the order to show cause upon the person provides jurisdiction for the issuance of a writ of attachment or bench warrant, if necessary, and meets the requirement for notice of an opportunity to be heard. See Clausen v. Clausen, 250 Minn. 293, 84 N.W.2d 675 (1976); Hopp v. Hopp, 279 Minn. 170, 156 N.W.2d 212 (1968).

The requirement in Rule 309.01(b)(5) that a hearing be held within 60 days of issuance of an order or notice of motion is intended to create the standard rule and to underscore the importance of holding the hearing promptly so that the contempt issues may be resolved. Where exceptional circumstances are found to exist by the court, the hearing may be held later than 60 days from the order or notice, but it should still be heard by the court as promptly as possible.

Rule 309.02 Hearing

The alleged contemnor must appear in person before the court to be afforded the opportunity to respond to the motion for contempt by sworn testimony. The court shall not act upon affidavit alone, absent express waiver by the alleged contemnor of the right to offer sworn testimony.

(Amended effective May 1, 2012.)

Family Court Rules Advisory Committee Commentary*

For the right to counsel in contempt proceedings, see Cox v. Slama, 355 N.W.2d 401 (Minn. 1984).

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

Task Force Comment - 1991 Adoption

This rule is derived from existing Rule 8.02 of the Rules of Family Court Procedure.

Rule 309.03 Sentencing

(a) Default of Conditions for Stay. Where the court has entered an order for contempt with a stay of sentence and there has been a default in the performance of the condition(s) for the stay, before a writ of attachment or a bench warrant will be issued, an affidavit of noncompliance and request for writ of attachment must be served upon the person of the defaulting party, unless the person is shown to be avoiding service.

(b) Writ of Attachment. The writ of attachment shall direct law enforcement officers to bring the defaulting party before the court for a hearing to show cause why the stay of sentence should not be revoked. A proposed order for writ of attachment shall be submitted to the court by the moving party.

Task Force Comment - 1991 Adoption

Subdivision (a) of this rule is derived from existing Rule 8.03 of the Rules of Family Court Procedure.

Subdivision (b) of this rule is derived from existing Rule 8.03 of the Rules of Family Court Procedure, with the new language added from Second District Rule 8.031.

Rule 309.04 Findings

An order finding contempt must be accompanied by appropriate findings of fact.

(Added effective May 1, 2012.)

Advisory Committee Comment - 2012 Amendment

Rule 309.04 requires findings. Findings are required to permit appellate review of a contempt order. In cases where incarceration is a consequence of a contempt finding, due process may require notice to the alleged contemnor of the right to show inability to pay and findings on that issue. See Turner v. Rogers, 564 U.S. ___, 131 S. Ct. 2507, 180 L. Ed. 2d 254 (2011).

Rule 310. Alternative Dispute Resolution

Rule 310.01 Applicability

(a) When ADR Required. All family law matters in district court are subject to Alternative Dispute Resolution (ADR) processes as established in Rule 114, except for:

1. actions enumerated in Minnesota Statutes, chapter 518B (Domestic Abuse Act),

2. contempt actions, and

3. maintenance, support, and parentage actions when the public agency responsible for child support enforcement is a party or is providing services to a party with respect to the action.

(b) ADR When There Is Domestic Abuse. The court shall not require parties to participate in any facilitative process where one of the parties claims to be the victim of domestic abuse by the other party or where the court determines there is probable cause that one of the parties or a child of the parties has been physically abused or threatened with physical abuse by the other party. In circumstances where the court is satisfied that the parties have been advised by counsel and have agreed to an ADR process established in Rule 114 that will not require face-to-face meeting of the parties, the court may direct that the ADR process be used.

The court shall not require parties to attempt ADR if they have previously engaged in an ADR process under Rule 114 with a qualified neutral and reached an impasse.

(Amended effective July 1, 1997; amended effective May 1, 2012.)

Advisory Committee Comment - 1996 Amendment

This rule is changed from a limited rule dealing only with mediation to the main family law rule governing use of ADR. All of the provisions of the existing rule are deleted because their subject matter is now governed by either the amended rule or Minn. Gen. R. Prac. 114.

The committee believes that there are significant and compelling reasons to have all court-annexed ADR governed by a single rule. This will streamline the process and make it more cost-effective for litigants, and will also make the process easier to understand for ADR providers and neutrals, many of whom are not lawyers.

The rule is not intended to discourage settlement efforts in any action. In cases where any party has been, or claims to have been, a victim of domestic violence, however, courts need to be especially cautious. Facilitative processes, particularly mediation, are especially prone to abuse since they place the parties in direct contact and may encourage them to compromise their rights in situations where their independent decision-making capacity is limited. The rule accordingly prohibits their use where those concerns are present.

Rule 310.02 Post-Decree Matters

The court may order ADR under Rule 114 in matters involving post-decree relief. The parties shall discuss the use of ADR as part of the conference required by Rule 303.03(c).

(Amended effective July 1, 1997.)

Advisory Committee Comment - 1996 Amendment

This rule expressly provides for use of ADR in post-decree matters. This is appropriate because such matters constitute a significant portion of the litigation in family law and because these matters are often quite susceptible to successful resolution in ADR.

The committee believes the existing mechanism requiring the parties to confer before filing any motion other than a motion for temporary relief provides a suitable mechanism for considering ADR and Rule 303.03(c) is amended to remind the parties of this obligation.

Rules 310.03-310.09 (Deleted effective July 1, 1997.)

Rule 311. Forms

The forms developed by the state court administrator are sufficient under these rules. Forms are currently maintained on the state court website (www.mncourts.gov). Court Administrators in each Judicial District shall make the forms available to the public at a reasonable cost.

(Amended effective January 1, 2008; amended effective May 1, 2012.)

Task Force Comment - 1991 Adoption

This rule is derived from existing Rule 10.01 of the Rules of Family Court Procedure.

Advisory Committee Comment - 2007 Amendment

The responsibility for forms development and review is being handed off to the state court administrator to permit more effective forms management and review. This process is already followed for the expedited process. Minn. Gen. R. Prac. 379.02.

Advisory Committee Comment - 2012 Amendment

Rule 311 establishes that court-established forms for family matters are deemed sufficient under the rules. These specific forms are not required to be used, but they contain what is required and are therefore appropriate for use.

These rules direct the state court administrator to develop various forms: See Rules 303.02(b) (Parenting/Financial Disclosure Statement); 303.03(c) (Certificate of Settlement Efforts); 304.02 (Initial Case Management Statement); 305.01 (Parenting/Financial Disclosure Statement); and 306.01 (Default Scheduling Request). By maintaining the forms on the courts' website they can be readily updated and distributed to all potential users.

Rule 312. Review of Referee's Findings or Recommendations

Review of decisions of district court referees is controlled by applicable statutes and orders of the supreme court.

(Amended effective May 1, 2012.)

Task Force Comment - 1991 Adoption

This rule is derived from Second District Rules 11.03 and 11.04.

Task Force Comment - 1991 Adoption

This rule is derived from Second District Rule 11.05.

Advisory Committee Comment - 2012 Amendment

Rule 312 is amended to replace the former rule, which established now-obsolete procedures for review of the findings or recommendations of a district court referee in family law matters. Family court referees are now used in limited circumstances in two districts, and the processes followed are established by statute and supreme court orders. Under Minnesota Statutes, section 484.65, subdivision 9, recommended orders and findings of Fourth Judicial District referees are subject to confirmation by a district court judge, and once confirmed by the district court judge the orders and findings may be appealed directly to the court of appeals. Essentially the same is true in the Second Judicial District under a series of orders establishing a pilot project that is still

operating. The history of the pilot project is set forth by the Minnesota Court of Appeals in its Special Term Opinion in Culver v. Culver, 771 N.W.2d 547 (Minn. Ct. App. 2009):

> *The pilot project came into existence in the Second Judicial District in 1996. See Minnesota Laws 1996, chapter 365, section 2 (allowing Second Judicial District to implement pilot project assigning related family matters to single judge or referee); In re Second Judicial Dist. Combined Family, Civil Harassment, Juvenile Probate Jurisdiction Pilot Project, No. CX-89-1863 (Minn. Apr. 10, 1996) (suspending, in light of pilot project, Minn. Gen. R. Pract. 312.01, which recites procedure for district-court review upon filing of petition for review). The suspension is still in effect. See Minnesota Laws 1998, chapter 367, article 11, section 26 (extending pilot-project legislation); Minnesota Laws 2000, chapter 452, section 1 (same); Minnesota Laws 2002, chapter 242 (same); In re Second Judicial Dist. Combined Family, Civil Harassment, Juvenile Probate Jurisdiction Pilot Project, No. CX-89-1863 (Minn. June 17, 1998) (extending suspension); (Minn. May 23, 2000) (same); (Minn. June 3, 2002) (extending suspension until further order of supreme court).*
>
> *Id., n.1.*

Rule 313. Confidential Numbers and Tax Returns

The requirements of Rule 11 of these rules regarding submission of restricted identifiers (such as Social Security numbers, employer identification numbers, financial account numbers) and financial source documents (such as tax returns, wage stubs, credit card statements) apply to all family court matters.

(Amended effective July 1, 2005; amended effective July 1, 2015.)

Rule 314. Parentage Proceedings.

In proceedings to determine parentage, the following additional rules apply:

(a) Parentage proceedings are commenced by a Summons and Complaint.

(b) The parties in parentage proceedings are one or more Petitioners and one or more Respondents, and must be so named in the initial pleadings. After so designating the parties, it is permissible to use descriptive labels as allowed by Rule 302.02(a).

(c) Upon proper demand, the parties to parentage proceedings may obtain a jury trial.

(Added effective May 1, 2012.)

Advisory Committee Comment - 2012 Amendment

Rule 314 is a new rule, included to collect in one place the special procedures followed in parentage (paternity) cases. The rule is not the source of the procedures set forth in the rule; these procedures are either dictated by statute or common law. See, e.g., Minnesota Statutes, sections 257.57, 257.67 (commencement of parentage action and specifying that the proper designation of parties in family court proceedings is as petitioner and respondent). Where a proceeding is commenced jointly, both parties may be designated as co-petitioners or as petitioner and co-petitioner. The rule permits the parties, once properly designated in the appropriate pleadings, to be designated by less formal terms that indicate their relationship. See Rule 302.02(a). Parentage proceedings may be brought by a parent as well as a governmental entity, thus the provision for plural petitioners in Rule 314(b); they are commonly brought against multiple respondents.

Rule 314 provides additional rules applicable to parentage proceedings. As to a wide array of procedural matters not addressed in this rule, other rules govern their use. Rule 301.01; see, e.g., Minn. R. Civ. P. 56 (summary judgment); Minn. R. Civ. P. 55 (default).

PART B. EXPEDITED CHILD SUPPORT PROCESS

I. GENERAL RULES

Rule 351. Scope, Purpose

Rule 351.01 Scope

These rules govern the procedure for all proceedings conducted in the expedited process, regardless of whether the presiding officer is a child support magistrate, family court referee, or district court judge. The Minnesota Rules of Civil Procedure, Minnesota Rules of Evidence, and other provisions of the Minnesota General Rules of Practice for the District Courts shall apply to proceedings in the expedited process unless inconsistent with these rules. These rules do not apply to matters commenced in or referred to district court.

Rule 351.02 Purposes and Goals of the Expedited Child Support Process

Subdivision 1. Purposes. The purposes of these rules are to establish an expedited process that:

(a) is streamlined;

(b) is uniform across the state;

(c) is easily accessible to the parties; and

(d) results in timely and consistent issuance of orders.

Subd. 2. Goals. These rules should be construed to:

(a) be a constitutional system;

(b) be an expedited process;

(c) be family and user friendly;

(d) be fair to the parties;

(e) be a cost-effective system;

(f) address local administration and implementation concerns;

(g) maintain simple administrative procedures and focus on problem cases;

(h) comply with federal and state laws;

(i) maximize federal financial participation;

(j) ensure consistent decisions statewide; and

(k) have adequate financial and personnel resources.

Rule 352. Definitions

Rule 352.01 Definitions

For purposes of these rules, the following terms have the following meanings:

(a) "Answer" means a written document responding to the allegations of a complaint or motion.

(b) "Child support" means basic support; child care support; and medical support. Medical support includes the obligation to carry health care coverage, costs for health care coverage, and unreimbursed / uninsured medical expenses.

(c) "Child support magistrate" means an individual appointed by the chief judge of the judicial district to preside over matters in the expedited process. "Child support magistrate" also means any family court referee or district court judge presiding over matters in the expedited process.

(d) "County agency" means the local public authority responsible for child support enforcement.

(e) "County attorney" means the attorney who represents the county agency, whether that person is employed by the office of the county attorney or under contract with the office of the county attorney.

(f) "Initiating party" means a person or county agency starting the proceeding in the expedited process by serving and filing a complaint or motion.

(g) "IV-D case" means any proceeding where a party has either (1) assigned to the State rights to child support because of the receipt of public assistance as defined in Minnesota Statutes 2006, section 256.741, subdivision 1, paragraph (b), or (2) applied for child support services under Title IV-D of the Social Security Act, 42 U.S.C., section 654(4) (2006). "IV-D case" does not include proceedings where income withholding is the only service applied for or received under Minnesota Statutes 2006, section 518A.53.

(h) "Noninitiating party" means a person or county agency responding to a complaint or motion, including any person who assigned to the State rights to child support because of the receipt of public assistance or applied-for child support services.

(i) "Parentage" means the establishment of the existence or non-existence of the parent-child relationship.

(j) "Parenting time" means the time a parent spends with a child regardless of the custodial designation regarding the child. "Parenting time" previously was known as "visitation."

(k) "Party" means any person or county agency with a legal right to participate in the proceedings.

(l) "Response" means a written answer to the complaint or motion, a "request for hearing" form, or, in a parentage matter, a "request for blood or genetic testing" form.

(m) "Support" means child support, as defined in this rule; expenses for confinement and pregnancy; arrearages; reimbursement; past support; related costs and fees; and interest and penalties. "Support" also means the enforcement of spousal maintenance when combined with basic support, child care support, or medical support.

(Amended effective June 1, 2009.)

Advisory Committee Comment - 2008 Amendment

Rule 352.01 is amended to reflect the recodification, effective on January 1, 2007, of portions of the relevant statutes, that became part of Minnesota Statutes, chapter 518A. Rule 352.01(b) provides a new definition for "child support," replacing the definition of "support" formerly set forth in Rule 352.01(l)

Rule 353. Types of Proceedings

Rule 353.01 Types of Proceedings

Subdivision 1. Mandatory Proceedings. Proceedings to establish, modify, and enforce support shall be conducted in the expedited process if the case is a IV-D case, except as provided in subdivision 2 and Rule 353.02. Proceedings to enforce spousal maintenance, including spousal maintenance cost-of-living adjustment proceedings, shall, if combined with a support issue, be conducted in the expedited process if the case is a IV-D case, except as provided in subdivision 2 and Rule 353.02.

Subd. 2. Permissive Proceedings.

(a) **County Option.** At the option of each county, the following proceedings may be initiated in the expedited process if the case is a IV-D case, except to the extent prohibited by subdivision 3:

(1) parentage actions; and

(2) civil contempt matters.

(b) **Parentage Actions.** Any order issued pursuant to Rule 353.01, subd. 2(b) shall address the financial issues if appropriate, whether or not agreed upon by the parties.

(1) **Complete Order.** Notwithstanding subdivision 3 a child support magistrate has the authority to establish the parent-child relationship, legal and physical custody, parenting time, and the legal name of the child when:

(A) the parties agree or stipulate to all of these particular issues; or

(B) the pleadings specifically address these particular issues and a party fails to serve a response or appear at the hearing.

If all of the otherwise prohibited issues above have been resolved on a permanent basis, the child support magistrate shall issue an order which shall be a final determination of all claims raised in the parentage action.

(2) **Partial Order.**

(A) **Minimal Requirements.** If the parties at least agree to the parent-child relationship and temporary or permanent physical custody, the child support magistrate shall issue an order:

(1) establishing the parent-child relationship; and

(2) establishing temporary or permanent physical custody.

(B) **Further Agreed Upon Issues.** The order of the child support magistrate shall also establish parenting time and the legal name of the child if the parties so agree.

The order is final as to the parent-child relationship. The order is also final as to any agreement concerning permanent legal or physical custody, parenting time, name of the child, and any financial issues decided by the child support magistrate. If there is no agreement concerning permanent legal and/or physical custody, parenting time, or the legal name of the child, those issues shall be referred to the district court. The issues referred to district court are considered pending before the district court and are not final until the district court issues an order deciding those issues. The order of the child support magistrate referring the remaining issues to district court is not appealable pursuant to Rule 378. This rule shall not limit the right to appeal the district court's order. When one or more issues are referred to district court, service of the summons and complaint in the expedited process is sufficient for the matter to proceed in district court.

(3) **Order When Parent-Child Relationship Not Resolved.** In an action to establish parentage, if the parties do not agree to the parent-child relationship and the temporary or permanent physical custody, the child support magistrate shall make findings and issue an order as follows.

(A) **Blood or Genetic Testing Not Completed.** When the issue of the parent-child relationship is not resolved and genetic testing has not been completed, the child support magistrate shall order genetic testing and shall continue the hearing in the expedited process to allow the tests to be completed and the results to be received.

(B) **Blood or Genetic Testing Completed.** When genetic testing has been completed, if the parties still disagree about the parent-child relationship, the child support magistrate shall refer the entire matter to district court for further proceedings. The child support magistrate may set temporary support pursuant to Rule 371.11, subd. 2.

(c) **Change of Venue.** Upon motion by a party for a change of venue, a child support magistrate shall issue the following order:

(1) Upon consent of all parties, or the failure of any party to file a timely objection, a child support magistrate may issue an order changing venue. The court administrator shall forward the court file to the county that has been granted venue.

(2) If any party disputes a motion to change venue, the child support magistrate shall issue an order referring the matter to district court and the court administrator shall schedule the matter for hearing. The court administrator shall transmit notice of the date, time, and location of the hearing to all parties. Notice shall be sent in accordance with Rule 14 to all parties who have agreed to or are required to accept electronic service, and to all other parties in accordance with Rule 13 of these Rules and Rule 77.04 of the Rules of Civil Procedure.

Subd. 3. Prohibited Proceedings and Issues. The following proceedings and issues shall not be conducted or decided in the expedited process:

(a) non-IV-D cases;

(b) establishment, modification, or enforcement of custody or parenting time under Minnesota Statutes 2000, chapter 518, unless authorized in subdivision 2;

(c) establishment or modification of spousal maintenance;

(d) issuance, modification, or enforcement of orders for protection under Minnesota Statutes, chapter 518B;

(e) division of marital property;

(f) determination of parentage, except as permitted by subdivision 2(b);

(g) evidentiary hearings to establish custody, parenting time, or the legal name of the child under Minnesota Statutes 2000, chapter 257;

(h) evidentiary hearings in contempt matters;

(i) matters of criminal contempt;

(j) motions to change venue, except as permitted in subdivision 2;

(k) enforcement proceedings prohibited in Rule 373.01;

(l) matters of criminal non-support;

(m) motions to vacate a recognition of paternity or paternity adjudication; and

(n) the constitutionality of the statutes and rules.

(Amended effective July 1, 2001; amended effective November 1, 2003; amended effective July 1, 2015; amended effective July 1, 2019.)

Advisory Committee Comment - 2019 Amendment

Rule 353.01, subd. 2(c), is amended in 2019 to clarify that unopposed motions for change of venue do not need to be referred for hearing before a district court judge but may be granted by the child support magistrate.

Rule 353.02 Procedure When Prohibited Issues

Subdivision 1. Generally. These rules do not prevent a party, upon timely notice to all parties and to the county agency, from commencing a proceeding or bringing a motion in district court if the proceeding or motion involves one or more issues identified in Rule 353.01, subd. 1, and one or more issues identified in Rule 353.01, subd. 3.

Subd. 2. Multiple Issues in District Court. If a proceeding is commenced in district court, the district court judge shall decide all issues before the court. If the district court judge cannot decide the support issues without an additional hearing, the district court judge shall determine whether it is in the best interests of the parties to retain the support issues or refer them to the expedited process for decision by a magistrate. If the district court judge refers the support issues to the magistrate, the referral shall include a clear statement of the issues referred and a description of the additional information needed, and shall provide the date, time, and location of the continued hearing. If possible at the time of the referral, the district court judge shall decide temporary support. A matter referred to district court pursuant to subdivision 3 shall be decided in its entirety by the district court judge and shall not be referred back to the expedited process. After the district court judge has issued a final order in the matter, subsequent review or motions may be heard in the expedited process.

Subd. 3. Prohibited Issues in Expedited Child Support Process. If a proceeding is commenced in the expedited process and the complaint, motion, answer, responsive motion, or counter motion raises one or more issues identified in Rule 353.01, subd. 3, all parties, including the county agency, may agree in writing to refer the entire matter to district court without first appearing before the child support magistrate. Notice of the agreement must be filed with the court at least 7 days before the scheduled hearing in the expedited process. The child support magistrate shall issue an order referring the entire matter to district court. Absent an agreement by all parties and upon motion of a party or upon the child support magistrate's own initiative, the child support magistrate assigned to the matter shall, either before or at the time of the hearing, decide whether to:

(a) refer the entire matter to district court; or

(b) determine the temporary support amount and refer all issues to district court. The district court judge shall issue an order addressing all issues and, with respect to support, may adopt and incorporate by reference the findings and order of the child support magistrate. If the district court judge does not adopt the findings and order of the child support magistrate, the judge shall make the necessary findings and order regarding permanent support. In the alternative, the order for temporary support shall become permanent upon the dismissal or withdrawal of the prohibited issue referred to district court. If the district court order fails to address the issue of permanent support, the order for temporary support shall become permanent and shall be deemed incorporated upon issuance of the district court order. If the district court judge fails to issue an order, on the 180th day after service of the notice of filing of the order for temporary support, the order for temporary support shall become permanent.

When a matter is referred to district court, service of the summons and complaint or notice of motion and motion in the expedited process is sufficient for the matter to proceed in district court. A child support magistrate's order that refers a matter to the district court calendar shall provide the date, time, and location of the continued hearing.

(Amended effective July 1, 2001; amended effective November 1, 2003; amended effective January 1, 2020.)

Rule 354. Computation of Time

Rule 354.01 Generally

The following rules apply in computing any time period specified in these rules, in any local rule or court order, or in any statute that does not specify a method of computing time.

(a) Period Stated in Days or a Longer Unit of Time. When the period is stated in days or a longer unit of time:

(1) exclude the day of the event that triggers the period;

(2) count every day, including intermediate Saturdays, Sundays, and legal holidays; and

(3) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(b) Periods Shorter than 7 Days. Only if expressly so provided by any other rule or statute, a time period that is less than 7 days may exclude intermediate Saturdays, Sundays, and legal holidays. Otherwise, all time period include Saturdays, Sundays, and legal holidays.

(c) Period Stated in Hours. When the period is stated in hours:

(1) begin counting immediately on the occurrence of the event that triggers the period;

(2) count every hour, including hours occurring during intermediate Saturdays, Sundays, and legal holidays; and

(3) if the period would end on a Saturday, Sunday, or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

(d) Inaccessibility of the Court Administrator's Office. Unless the court orders otherwise, if the court administrator's office is inaccessible:

(1) on the last day for filing or service under Rule 354.01(a) and (b), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or

(2) during the last hour for filing under Rule 354.01(b) and (c), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.

(e) "Last Day" Defined. Unless a different time is set by a statute, local rule, or court order, the last day ends:

(1) for electronic filing, at 11:59 p.m. local Minnesota time; and

(2) for filing by other means, when the Court Administrator's office is scheduled to close.

(f) "Next Day" Defined. The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

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

Rule 354.02 Definition of a Legal Holiday

As used in these rules, "legal holiday" includes any holiday designated in Minnesota Statutes, section 645.44, subdivision 5, as a holiday for the state or any state-wide branch of government and any day that the United States Mail does not operate.

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

Rule 354.03 Additional Time After Service by Mail or Service Late in Day

Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other document upon the party, and the notice or document is served upon the party by United States Mail, 3 days shall be added to the prescribed period.

If service is made by any means other than United States Mail and accomplished after 5:00 p.m. local Minnesota time on the day of service, 1 additional day shall be added to the prescribed period.

(Amended effective June 1, 2009; amended effective July 1, 2015; amended effective January 1, 2020.)

Advisory Committee Comment

State-Level Judicial-Branch Holidays. *The legal holidays listed in Rule 354.03 are based upon Minnesota Statutes 2000, section 645.44, subdivision 5, which defines state-level judicial-branch holidays. The statute further provides that when New Year's Day (January 1), Independence Day (July 4), Veteran's Day (November 11), or Christmas Day (December 25) falls on a Sunday, the following day (Monday) shall be a holiday, and that when New Year's Day, Independence Day, Veteran's Day, or Christmas Day falls on a Saturday, the preceding day (Friday) shall be a holiday. Minnesota Statutes, section 645.44, subdivision 5, also authorizes the judicial branch to designate certain other days as holidays. The Judicial Branch Personnel Plan designates the Friday after Thanksgiving as a holiday.*

County Holidays. *Counties are authorized to close county offices on certain days under Minnesota Statutes 2000, section 373.052. Thus, if a county closes its offices under Minnesota Statutes, section 373.052, on a day that is not a state-level judicial-branch holiday, such as Christopher Columbus Day (the second Monday in October), the court in that county would nevertheless include that day as a holiday for the purpose of computing time under Rule 354.03.*

See Mittelstadt v. Breider, 286 Minn. 211, 212, 175 N.W.2d 191, 192 (1970) (applying Minnesota Statutes, section 373.052, to filing of notice of election contest with district court). If a county does not close its offices on a day that is a state-level judicial-branch holiday, such as the Friday after Thanksgiving, the court in that county must still include that day as a holiday for the purpose of computing time under Rule 354.03.

Advisory Committee Comment - 2008 Amendment

In 2006 the Minnesota Supreme Court addressed the ambiguity in the rules and the ambiguity between the rules and statutes over how Columbus Day should be treated. Columbus Day is only optionally a state holiday (by statute the different branches can elect to treat it as a holiday) but is uniformly a federal and U.S. mail holiday. Because the rules generally allow service by mail, the Court in Commandeur LLC v. Howard Hartry, Inc., 724 N.W.2d 508 (Minn. 2006), ruled that where the last day of a time period occurred on Columbus Day, service by mail permitted by the rules was timely if mailed on the following day on which mail service was available. The amendment to Rule 354.03 makes it clear that Columbus Day is a "legal holiday" for all purposes in these rules, even if that is not necessarily so by the statutory definition. Minnesota Statutes 2008, section 645.44, subdivision 5.

Advisory Committee Comment - 2019 Amendments

This amended Rule 354 is drawn directly to Rule 6.01 as amended as part of the extensive revamping of the timing rules for all civil matters. These amendments implement the adoption of a standard "day" for counting deadlines under the rules - counting all days regardless of the length of the period and standardizing the time periods, where practicable, to a 7-, 14-, 21-, or 28-day schedule. The most important establishes "a day is a day" - all days during a period under the rules, regardless of length, are included, including weekends and legal holidays. This change mirrors a set of changes made in the Federal Rules of Civil Procedure, and is intended to create substantial similarity between "state days" and "federal days." The amended rule also adopts the same definition of "legal holidays" as used in Minn. R. Civ. P. 6.

Rule 354.01(f) is an important provision that will affect many deadlines. It establishes an explicit rule for how days are counted when counting "backwards" from a deadline. The rule requires that, when counting backwards from an event, and the last day falls on a weekend or holiday, the counting continues to the next earlier date that is not a weekend or holiday. This rule is modeled on its federal counterpart and is intended to create greater uniformity in timing between all state and federal court matters.

Rule 355. Methods of Service; Filing

Rule 355.01 Generally

Subdivision 1. Service Required. Except for ex parte motions allowed by statute or these rules, every document filed with the court shall be served on all parties and the county agency.

Subd. 2. Service Upon Attorney for Party. If a party, other than the county agency, is represented by an attorney as shown by a certificate of representation in the court file, service shall be made upon the party's attorney, unless personal service upon the represented party is required under these rules. Except where personal service upon the county agency is required under these rules, service upon the county agency shall be accomplished by serving the county attorney.

(Amended effective July 1, 2015.)

Rule 355.02 Types of Service

Subdivision 1. Personal Service.

(a) Upon Whom.

(1) Upon an Individual. Personal service upon an individual in the state shall be accomplished by delivering a copy of the summons and complaint, notice, motion, or other document to the individual personally or by leaving a copy at the individual's house or usual place of residence with some person of suitable age and discretion who presently lives at that location. If the individual has, pursuant to statute, consented to any other method of service or appointed an agent to receive service, or if a statute designates a state official to receive service, service may be made in the manner provided by such statute. If the individual is confined to a state institution, personal service shall be accomplished by also serving a copy of the document upon the chief executive officer at the institution. Personal service upon an individual outside the state shall be accomplished according to the provisions of Minnesota Statutes 2000, chapter 518C, and Minnesota Statutes 2000, section 543.19. Personal service may not be made on a legal holiday or election day.

(2) Upon the County Agency. Personal service upon the county agency shall be accomplished by serving the director of the county human services department or the director's designee.

(b) By Whom Served. Unless otherwise ordered by the child support magistrate, personal service shall be made only by the sheriff or by any other person who is at least 18 years of age who is not a party to the proceeding. Pursuant to Minnesota Statutes 2006, section 518A.46, subdivision 2, paragraph (c), clause (4), an employee of the county agency may serve documents on parties.

(c) Alternative Personal Service.

(1) Admission or Acknowledgment or Waiver of Service. Service may be accomplished when the party to be served signs an admission or waives service as provided in Minn. R. Civ. P. 4.05.

(2) Service by Publication.

(A) Service. Service by publication means the publication of the entire summons or notice in the regular issue of a qualified newspaper, once each week for 3 weeks. Service by publication shall be permitted only upon order of a child support magistrate. The child support magistrate may order service by publication upon the filing of an affidavit by the serving party or the serving party's attorney stating that the person to be served is not a resident of the state or cannot be found within the state, the efforts that have been made to locate the other party, and either that the serving party has mailed a copy of the summons or notice to the other party's place of residence or that such residence is not known to the serving party. When the person to be served is not a resident of the state, statutory requirements regarding long-arm jurisdiction shall be met.

(B) Defense by Noninitiating Party. If the summons or notice is served by publication and the noninitiating party receives no actual notification of the proceeding, either before judgment or within one year of entry of judgment the noninitiating party may seek relief pursuant to Minn. R. Civ. P. 4.043.

Subd. 2. Service by U.S. Mail. Service by U.S. mail means mailing a copy of the document by first-class mail, postage prepaid, addressed to the person to be served at the person's last known address. Service by mail shall be made only by the sheriff or by any other person who is at least 18 years of age who is not a party to the proceeding. Pursuant to Minnesota Statutes 2006, section

518A.46, subdivision 2, paragraph (c), clause (4), an employee of the county agency may serve documents on the parties.

Subd. 3. Service by Electronic Means. Unless these rules require personal service, any document may be served by electronic means under Rule 14 upon any party who has agreed to or is required to accept service by electronic means.

(Amended effective January 1, 2006; amended effective June 1, 2009; amended effective July 1, 2015; amended effective July 1, 2019.)

Advisory Committee Comment - 2008 Amendment

Rule 355.02, subdivisions 1 and 2, are amended to reflect the recodification, effective on January 1, 2007, of portions of the relevant statutes, that became part of Minnesota Statutes, chapter 518A.

Advisory Committee Comment - 2019 Amendment

Rule 355, subdivision (c)(1), is amended to reflect the amendment of Rule 4.05 of the Rules of Civil Procedure, effective July 1, 2018, to create a new means of obtaining consent to service under the rule. The former rule's reference to "service by mail" is potentially misleading, as the procedure set forth in the rule only accomplished service if the party to be served returned the acknowledgement of service.

Rule 355.03 Completion of Service

Personal service is complete upon delivery of the document. Service by U.S. mail is complete upon mailing. Service by publication is complete 21 days after the first publication. Completion of service by electronic means under Rule 14 is governed by Rule 14 of these rules.

(Amended effective July 1, 2015.)

Rule 355.04 Proof of Service

Subdivision 1. Parties. All documents filed with the court shall be accompanied by an affidavit of service, an acknowledgment of service by the party or party's attorney if served by alternative service, or, if served by publication, by the affidavit of the printer or the printer's designee. An affidavit of service shall describe what was served, state how the document was served, upon whom it was served, and the date, time, and place of service. When a document has been served through the E-Filing System in accordance with Rule 14, the record of service on the E-Filing System shall constitute proof of service.

Subd. 2. Court Administrator. If the court administrator is required or permitted under these rules to serve a document, service may be proved by filing an affidavit of service, by filing a copy of the written notice, or by making a notation in the court's computerized records that service was made.

(Amended effective July 1, 2015.)

Advisory Committee Comment - 2015 Amendments

Rule 355.03 is amended to provide a cross-reference to Rule 14, governing electronic service generally. Additionally, the former provision relating to the time of completion of service by facsimile is deleted because that subject is now governed by Rule 14. The E-Filing System provides proof of service for any service made with it; if a document is served by other means, such as personally, by mail, or other agreed-upon means, separate proof of service must be prepared and filed.

Rule 356. Fees

Rule 356.01 Collection of Fees

The court administrator shall charge and collect fees pursuant to Minnesota Statutes.

Advisory Committee Comment

Minnesota Statutes 2000, section 357.021, subdivision 2, establishes the various fees that must be charged and collected by court administrators. Specifically included is a filing fee, which is to be charged and collected from a party upon the filing of that party's first paper in the proceeding. Also included is a modification fee, which is to be paid upon the filing of a motion to modify support and upon the filing of a response to such a motion.

Rule 356.02 Waiver of Fees

If a party indicates an inability to pay any fee required under Rule 356.01, the court administrator shall explain that the party may apply for permission to proceed without payment of the fee. Upon request, the court administrator shall provide to such a party an application to proceed in forma pauperis. If a party signs and submits to the court administrator an application to proceed without payment of the fee, and such a request to waive the fee is approved by a child support magistrate, the court administrator shall not charge and collect the fee.

Advisory Committee Comment

Minnesota Statutes 2000, section 563.01, subdivision 3, provides that "the court shall allow the person to proceed in forma pauperis" if the court makes certain findings. Under this statute, only judicial officers, and not court administrators, are authorized to issue orders granting in forma pauperis status.

Rule 357. Legal Representation and Appointment of Guardian Ad Litem

Rule 357.01 Right to Representation

Each party appearing in the expedited process has a right to be represented by an attorney. A party, however, does not necessarily have the right to appointment of an attorney at public expense as provided in Rule 357.03.

(Amended effective January 1, 2005.)

Rule 357.02 Certificate of Representation

An attorney representing a party in the expedited process, other than a public defender or county attorney, shall on or before the attorney's first appearance file with the court a certificate of representation.

(Amended effective January 1, 2005.)

Rule 357.03 Appointment of Attorney at Public Expense

Unless a party voluntarily waives the right to counsel, the child support magistrate shall appoint an attorney at public expense for a party who requests an attorney and who cannot afford to retain an attorney when the case involves:

(a) establishment of parentage; or

(b) contempt proceedings in which incarceration of the party is a possible outcome of the proceeding.

Pursuant to Minnesota Statutes 2018, section 257.69, a court-appointed attorney shall represent a party only with respect to issues necessary for the initial establishment of parentage.

(Amended effective January 1, 2005; amended effective July 1, 2019.)

Advisory Committee Comment

Parentage. *The Minnesota Parentage Act, codified as Minnesota Statutes 2000, sections 257.51 to 257.74, provides that "the court shall appoint counsel for a party who is unable to pay timely for counsel in proceedings under sections 257.51 to 257.74." Minnesota Statutes 2000, section 257.69, subdivision 1. A party has a right to appointed counsel for all matters brought under the Parentage Act. See M.T.L. v. Dempsey, 504 N.W.2d 529, 531 (Minn. App. 1993).*

Contempt. *In Cox v. Slama, 355 N.W.2d 401, 403 (Minn. 1984), the court established the right to counsel for persons facing civil contempt for failure to pay child support when incarceration is a real possibility.*

Advisory Committee Comment - 2019 Amendment

Rule 357.03 is amended to reflect the 2012 amendment of Minnesota Statutes, section 257.69, to limit appointments of counsel to the initial establishment of parentage. Custody, parenting time, and name of child, to the extent agreed upon or defaulted, can be included in the initial establishment of parentage. Otherwise, under Rule 353.01, subd. 3(g), evidentiary hearings to establish custody, parenting time, or name of the child under Minnesota Statutes, chapter 257, must be held outside the expedited process.

Rule 357.04 Appointment of Guardian Ad Litem

A child support magistrate may appoint a guardian ad litem for a child or minor parent who is a party in any proceeding commenced in the expedited child support process solely for purposes of having the guardian ad litem serve as a representative of that person as authorized under Rule 17.02 of the Minnesota Rules of Civil Procedure. The appointment shall be made pursuant to Rule 17.02 of the Minnesota Rules of Civil Procedure.

(Amended effective for guardians ad litem appointed in Minnesota's juvenile and family courts after 12 o'clock midnight January 1, 2005; amended effective January 1, 2007.)

Rule 358. Court Interpreters

Rule 358.01 Appointment Mandatory

The child support magistrate shall appoint a qualified interpreter in any proceeding conducted in the expedited process in which a person handicapped in communication is a party or witness. Such appointment shall be made according to the provisions of Minn. Gen. R. Prac. 8.

Rule 358.02 "Person Handicapped in Communication" Defined

For the purpose of Rule 358.01, a "person handicapped in communication" is one who, because of a hearing, speech, or other communication disorder, or because of difficulty in speaking or comprehending the English language, is unable to fully understand the proceedings in which the person is required to participate, or when named as a party to a legal proceeding is unable by reason of the handicap to obtain due process of law.

Advisory Committee Comment

Rules 358.01 and 358.02 are based upon the provisions of Minnesota Statutes 2000, sections 546.42 and 546.43, which set forth the types of proceedings in which qualified interpreters must be appointed.

Rule 359. Telephone and Interactive Video

Rule 359.01 Telephone and Interactive Video Permitted

A child support magistrate may on the magistrate's own initiative conduct a hearing by telephone or, where available, interactive video. Any party may make a written or oral request to the court administrator or the court administrator's designee to appear at a scheduled hearing by telephone or, where available, interactive video. In the event the request is for interactive video, the request shall be made at least 7 days before the date of the scheduled hearing. A child support magistrate may deny any request to appear at a hearing by telephone or interactive video.

(Amended effective January 1, 2020.)

Advisory Committee Comment

The Advisory Committee encourages the use of telephone and, where available, interactive video, to conduct proceedings in the expedited process.

Rule 359.02 Procedure

The court administrator or court administrator's designee shall arrange for any telephone or interactive video hearing approved by the child support magistrate. When conducting a proceeding by telephone or interactive video and a party or witness resides out of state, the child support magistrate shall ensure that the requirements of Minnesota Statutes 2000, section 518C.316, are met. The child support magistrate shall make adequate provision for a record of any proceeding conducted by telephone or interactive video. No recording may be made of any proceeding conducted by telephone or interactive video, except the recording made as the official court record.

Rule 359.03 In-Court Appearance Not Precluded

Rule 359.01 does not preclude any party or the county attorney from being present in person before the child support magistrate at any motion or hearing.

Rule 360. Intervention

Rule 360.01 County Agency

Subdivision 1. Intervention as a Matter of Right. To the extent allowed by law, the county agency may, as a matter of right, intervene as a party in any matter conducted in the expedited process. Intervention is accomplished by serving upon all parties a notice of intervention by U.S. mail, or by electronic service under Rule 14 upon parties who have agreed to or are required to accept electronic service under Rule 14. The notice of intervention and affidavit of service shall be filed with the court. No affidavit of service is required for electronic service upon parties who have agreed to accept electronic service under Rule 14.

Subd. 2. Effective Date. Intervention by the county agency is effective when the last person is served with the notice of intervention.

(Amended effective July 1, 2015.)

Rule 360.02 Other Individuals

Subdivision 1. Permissive Intervention. Any person may be permitted to intervene as a party at any point in the proceeding if the child support magistrate finds that the person's legal rights, duties, or privileges will be determined or affected by the case.

Subd. 2. Procedure. A person seeking permissive intervention under subdivision 1 shall file with the court and serve upon all parties a motion to intervene. The motion shall state:

(a) how the person's legal rights, duties, or privileges will be determined or affected by the case;

(b) how the person will be directly affected by the outcome of the case;

(c) the purpose for which intervention is sought; and

(d) any statutory grounds authorizing the person to intervene.

Subd. 3. Objection to Permissive Intervention. Any existing party may file with the court and serve upon all parties and the intervenor a written objection within 14 days of service of the motion to intervene.

Subd. 4. Effective Date; Hearing. If a written objection is not timely served and filed and the requesting party meets the requirements of subdivisions 1 and 2, the child support magistrate may grant the motion to intervene after considering the factors set forth in subdivision 2. If written objection is timely served and filed, the child support magistrate may hold a hearing on the matter or may decide the issue without a hearing. Intervention is effective as of the date granted.

(Amended effective January 1, 2020.)

Rule 360.03 Effect of Intervention

The child support magistrate may conduct hearings, make findings, and issue orders at any time prior to intervention being accomplished or denied. Prior proceedings and decisions of the child support magistrate are not affected by intervention. Upon effective intervention the caption of the case shall be amended to include the name of the intervening party, which shall appear after the initial parties' names.

Rule 361. Discovery

Rule 361.01 Witnesses

Any party may call witnesses to testify at any hearing. Any party intending to call a witness other than an employee of the county agency or any party to the proceeding shall, at least 7 days before the hearing, provide to the other parties and the county agency written notice of the name and address of each witness.

(Amended effective January 1, 2020.)

Rule 361.02 Exchange of Documents

Subdivision 1. Documents Required to be Provided Upon Request. If a complaint or motion has been served and filed in the expedited process, a party may request any of the documents listed below. The request must be in writing and served upon the appropriate party. The request may be served along with the pleadings. A party shall provide the following documents to the requesting party no later than 14 days from the date of service of the written request.

(a) Verification of income, costs and availability of dependent health care coverage, child care costs, and expenses.

(b) Copies of last three months of pay stubs.

(c) A copy of last two years' State and Federal income tax returns with all schedules and attachments, including Schedule Cs, W-2s and/or 1099s.

(d) Written verification of any voluntary payments made for support of a joint child.

(e) Written verification of any other court-ordered child support obligation for a nonjoint child.

(f) Written verification of any court-ordered spousal maintenance obligation.

Subd. 2. Remedies for Non-compliance. If a party does not provide the documents, the party shall be prepared to explain the reason for the failure to the child support magistrate. If the magistrate determines that the documents should have been provided, the magistrate may impose the remedies available in Rule 361.04.

Subd. 3. Financial Statement. If a complaint or motion has been served, any party may request in writing that a financial statement be completed by a party, other than a county agency, and submitted 7 days before a hearing, or if no hearing is scheduled, within 14 days after the request being served. Failure to comply is subject to remedies under Rule 361.04. Where a financial statement requests supporting documentation, it shall be attached.

Subd. 4. Treatment of Confidential Information. To retain privacy, restricted identifiers as defined in Rule 11 (such as Social Security numbers, employer identification numbers, financial account numbers) must be removed from any documents provided under this rule and may only be submitted on a separate Confidential Information Form as required in Rule 11. In addition, financial source documents as defined in Rule 11 (such as tax returns, wage stubs, credit card statements) must be submitted under a cover sheet entitled "Confidential Financial Source Documents" as required in Rule 11.

(Amended effective November 1, 2003; amended effective July 1, 2005; amended effective January 1, 2006; amended effective June 1, 2009; amended effective July 1, 2015; amended effective September 1, 2018; amended effective January 1, 2020.)

Rule 361.03 Other Discovery

Subdivision 1. Motion for Discovery. Any additional means of discovery available under the Minnesota Rules of Civil Procedure may be allowed only by order of the child support magistrate. The party seeking discovery shall serve and file a motion before the child support magistrate for an order permitting additional means of discovery. The motion shall include the reason for the request and shall notify the other parties of the opportunity to respond within 7 days. The party seeking discovery has the burden of showing that the discovery is needed for the party's case, is not for purposes of delay or harassment, and that the issues or amounts in dispute justify the requested discovery. The motion shall be decided without a hearing unless the child support magistrate determines that a hearing is necessary. The child support magistrate shall issue an order granting or denying the discovery motion. If the discovery motion is granted, the requesting party must serve the approved discovery requests upon the responding party and the discovery responses are due 14 days following service of the discovery request, unless otherwise ordered.

Subd. 2. Objections to Discovery. If a party objects to discovery that party may serve and file a motion within 7 days of service of discovery. The motion may be decided without a hearing unless the child support magistrate determines that a hearing is necessary.

(Amended effective November 1, 2003; amended effective January 1, 2020.)

Rule 361.04 Discovery Remedies

Subdivision 1. Motions to Compel. If a party fails to comply with an approved request for discovery or a request for documents under Rule 361.02, the party requesting the discovery may serve and file a motion for an order compelling an answer or compliance with the discovery request. The motion shall notify the other parties of the opportunity to respond within 7 days. The motion shall be decided without a hearing unless the child support magistrate determines that a hearing is necessary.

Subd. 2. Options Available to the Child Support Magistrate. When deciding a discovery related motion or issue, or in the event a party fails to provide documents requested under Rule 361.02, the child support magistrate may:

(a) order the parties to exchange specified documents or information;

(b) deny the discovery request;

(c) affirm, modify, or quash the subpoena;

(d) issue a protective order;

(e) set or continue the hearing;

(f) conduct a hearing and keep the record open to allow for further exchange of information or response to the information provided at the hearing; or

(g) order other discovery allowable under the Minnesota Rules of Civil Procedure, if appropriate.

Subd. 3. Failure to Comply with Discovery. If a party fails to comply with an order issued pursuant to Rule 361.03, subd. 2, or Rule 361.04, the child support magistrate may:

(a) find that the subject matter of the order for discovery or any other relevant facts shall be taken as established for the purposes of the case in accordance with the claim of the party requesting the order;

(b) prohibit the non-compliant party from supporting or opposing designated claims or defenses, or prohibiting that party from introducing designated matters in evidence; or

(c) issue any other order that is appropriate in the interests of justice, including attorney fees or other sanctions.

(Amended effective November 1, 2003; amended effective January 1, 2020.)

Rule 361.05 Filing of Discovery Requests and Responses Precluded

Copies of a party's request for discovery and any responses to those requests shall not be filed with the court unless:

(a) ordered by the child support magistrate;

(b) filed in support of any motion;

(c) introduced as evidence in a hearing; or

(d) relied upon by the magistrate when approving a stipulated or default order.

To retain privacy, restricted identifiers as defined in Rule 11 (such as Social Security numbers, employer identification numbers, financial account numbers) must be removed from any documents provided under this rule and may only be submitted on a separate Confidential Information Form as required in Rule 11. In addition, financial source documents as defined in Rule 11 (such as tax returns, wage stubs, credit card statements) must be submitted under a cover sheet entitled "Confidential Financial Source Documents" as required in Rule 11.

(Amended effective November 1, 2003; amended effective July 1, 2005; amended effective July 1, 2015; amended effective September 1, 2018.)

Rule 361.06 Subpoenas

Subdivision 1. Written Request. Requests for subpoenas for the attendance of witnesses or for the production of documents shall be in writing and shall be submitted to the court administrator. The request shall specifically identify any documents requested, include the full name and home or business address of all persons to be subpoenaed, and specify the date, time, and place for responding to the subpoena. The court administrator shall issue a subpoena in accordance with Minn. R. Civ. P. 45. The party requesting the subpoena shall fill out the subpoena before having it served. An attorney as officer of the court may also issue and sign a subpoena on behalf of the court where the action is pending.

Subd. 2. Service of Subpoenas shall be by Personal Service. All subpoenas shall be personally served by the sheriff or by any other person who is at least 18 years of age who is not a party to the action. Employees of the county agency may personally serve subpoenas. The person being served shall, at the time of service, be given the fees and mileage allowed by Minnesota Statutes 2000, section 357.22. When the subpoena is requested by the county agency, fees and mileage need not be paid. The cost of service, fees, and expenses of any witnesses who have been served subpoenas shall be paid by the party at whose request the witness appears. The person serving the subpoena shall provide proof of service by filing the original subpoena with the court, along with an affidavit of personal service.

Subd. 3. Objection to Subpoena. Any person served with a subpoena who objects to the request shall serve upon the parties and file with the court an objection to subpoena. The party objecting shall state on the objection to subpoena why the request is unreasonable or oppressive. The objection to subpoena shall be filed promptly and no later than the time specified in the subpoena for compliance. A child support magistrate shall cancel or modify the subpoena if it is unreasonable or oppressive, taking into account the issues or amounts in controversy, the costs or other burdens of compliance when compared with the value of the testimony or evidence requested, and whether there are alternative methods of obtaining the desired testimony or evidence. Modification may include requiring the party requesting the subpoena to pay reasonable costs of producing documents, books, papers, or other tangible things.

(Amended effective January 1, 2006.)

Advisory Committee Comment - 2006 Amendment

Rule 361.06 is amended, effective January 1, 2006, to conform the subpoena provisions to the parallel procedures of Minn. R. Civ. P. 45, which is amended at the same time.

Rule 362. Settlement

Rule 362.01 Procedure

The parties may settle the case at any time before a hearing or, if no hearing is scheduled, before an order is issued. Alternative dispute resolution, as provided in Minn. Gen R. Prac. 310, and settlement efforts, as provided in Minn. Gen. R. Prac. 303, do not apply to cases brought in the expedited process.

Rule 362.02 Signing of Order

Subdivision 1. Preparation and Signing. If the parties reach an agreement resolving all issues, one of the parties shall prepare an order setting forth the terms of the agreement. If the parties are self-represented litigants and the county agency is a party, the county agency shall prepare the order. All parties to the agreement, including the county agency, shall sign the original order. The order shall state that the parties have:

(a) waived the right to a hearing;

(b) waived the right to counsel where a party is a self-represented litigant; and

(c) received and reviewed all documents used to prepare the order.

Subd. 2. Filing. The original order signed by all parties shall be filed with the court, who shall submit it to the child support magistrate for review and signature.

(Amended effective July 1, 2015.)

Rule 362.03 Order Accepted

The child support magistrate may sign an order filed pursuant to Rule 362.02 if it is supported by law, and is reasonable and fair.

Rule 362.04 Order Not Accepted

The child support magistrate may reject an order filed pursuant to Rule 362.02 if the child support magistrate finds that it is contrary to law, or is unreasonable and unfair. If the child support magistrate rejects the order, the child support magistrate shall prepare a notice of deficiency, stating the reason(s) why the order cannot be signed. The notice of deficiency shall inform the parties of the following options:

(a) to file and serve any missing documents;

(b) to file and serve a revised order;

(c) to file and serve a revised order and attach any missing or additional documents;

(d) to appear at a hearing, notice of which shall be issued by the court administrator;

(e) to appear at the previously scheduled hearing; or

(f) to withdraw the matter without prejudice.

The court administrator shall transmit the notice of deficiency to the parties. The parties shall either correct the deficiency or set the case on for a hearing and serve notice of the date, time, and location of the hearing pursuant to Rule 364. In matters that are pending before the court, if the parties fail to comply with the notice of deficiency within 45 days of the date the notice was transmitted, the child support magistrate shall dismiss the matter without prejudice.

A stipulation or agreement shall be rejected where no underlying file exists. Neither the parties nor the child support magistrate may schedule a hearing without a party first serving and filing a summons and complaint or notice of motion and motion.

(Amended effective July 1, 2015.)

Advisory Committee Comment

After an order or a judgment and decree is issued, at a later date parties sometimes amicably agree to modify the order. These agreements are often reached without the serving and filing of any papers. Under such circumstances, the parties are required to reduce the agreement to writing in the form of a stipulation and order which a child support magistrate may accept or reject. If the stipulation and order is rejected, and there is no underlying file, the matter may not be set for hearing until such time as a complaint is filed thus giving the court jurisdiction over the parties.

Rule 363. Default

Rule 363.01 Scope

The default procedure set forth in this rule applies to actions to establish support under Minnesota Statutes 2000, section 256.87 (Rule 370), and proceedings to modify support or set support (Rule 372).

Rule 363.02 Procedure

The initiating party may proceed by default if:

(a) all noninitiating parties have been properly served with the summons or notice of motion;

(b) the summons or notice of motion did not contain a hearing date; and

(c) there has been no written answer or return of the request for hearing form from any party within 21 days from the date the last party was served.

The initiating party shall file an order with the court within 45 days from the date the last noninitiating party was served with the summons and complaint or notice of motion and motion. The initiating party shall also file with the court a current affidavit of default and a current affidavit of non-military status. If an order is not filed with the court within 45 days, the court administrator shall mail a notice to all parties that the matter shall be scheduled for hearing unless the initiating party files an order along with all necessary documents within 14 days from the date notice was mailed. If the initiating party fails to file the necessary documents within the allotted 14 days, the court administrator shall set the matter on for hearing and serve upon all parties and the county agency by U.S. mail at least 14 days before the scheduled hearing, notice of the date, time, and location of the hearing. The notices shall be sent by electronic means in accordance with Rule 14 to any party who has agreed to or is required to accept electronic service under Rule 14.

(Amended effective July 1, 2015; amended effective July 1, 2019.)

Advisory Committee Comment - 2019 Amendment

Rules 372.05 and 363.02 and .03 are amended in 2019 to harmonize the rules and create a uniform 21-day period for responding to motions for child support.

Rule 363.03 Order Accepted

The child support magistrate may sign an order filed pursuant to Rule 363.02 if the child support magistrate finds that it is supported by law, is reasonable and fair, and that each noninitiating party:

(a) was properly served with the summons and complaint or notice of motion and motion;

(b) was notified of the requirement to either serve and file a written answer or return the request for hearing form within 21 days of service of the summons and complaint or notice of motion and motion; and

(c) failed to serve and file a written answer or return the request for hearing form within 21 days from the date of service.

(Amended effective July 1, 2019.)

Advisory Committee Comment - 2019 Amendment

Rules 372.05 and 363.02 and .03 are amended in 2019 to harmonize the rules and create a uniform 21-day period for responding to motions for child support.

Rule 363.04 Order Not Accepted

The child support magistrate may reject an order filed pursuant to Rule 363.02 if the child support magistrate finds the order contrary to law, or unreasonable and unfair. If the child support magistrate rejects the order, the child support magistrate shall prepare a notice of deficiency, stating the reason(s) why the order cannot be signed. The notice of deficiency shall inform the initiating party of the following options:

(a) to file and serve any missing documents;

(b) to file a revised order;

(c) to file a revised order and attach any missing or additional documents;

(d) to appear at a hearing, notice of which shall be issued by the court administrator to all parties;

(e) to appear at any previously scheduled hearing; or

(f) to withdraw the matter without prejudice.

The court administrator shall transmit the notice of deficiency to the initiating party. The initiating party shall either correct the deficiency or set the case on for a hearing and serve notice of the date, time, and location of the hearing upon all parties pursuant to Rule 364. If the initiating party submits a revised order that raises new issues beyond the scope of the complaint or motion, amended pleadings shall be served on all parties and filed within 14 days from the date the notice of deficiency was transmitted. If the noninitiating party chooses to respond to the amended pleadings, the response must be served and filed within 14 days from service of the amended pleadings. If the initiating party fails to schedule a hearing or comply with the notice of deficiency within 30 days of the date the notice was transmitted, the child support magistrate shall dismiss the matter without prejudice.

(Amended effective June 1, 2009; amended effective July 1, 2015; amended effective January 1, 2020.)

Advisory Committee Comment - 2008 Amendment

Rule 363.04 is amended to create specific time limits for setting a case on for hearing following receipt of a notice of deficiency in an order proposed by an initiating agency or to serve amended pleadings. The amendment also establishes a specific time limit for responding to an amended pleading that may be served.

Rule 364. Hearing Process

Rule 364.01 Right to Hearing

Any party has a right to a hearing unless otherwise stated in these rules.

Rule 364.02 Scheduling of Hearing

The initiating party shall schedule a hearing if a written answer or a request for hearing form is received. The initiating party shall contact the court administrator or the court administrator's designee to obtain a hearing date and shall serve upon all parties and the county agency by U.S. mail at least 14 days before the scheduled hearing, notice of the date, time, and location of the hearing. If the initiating party has agreed to or is required to accept electronic service under Rule 14, then the notice shall be served electronically upon all other parties who have agreed to or are required to accept electronic service under Rule 14.

(Amended effective July 1, 2015.)

Rule 364.03 Timing of Hearing

In the event the parties are unable to resolve the matter, a hearing shall be held no sooner than 21 days after service of the summons and complaint or notice of motion and motion, unless the time period is waived by the parties. Every effort shall be made to conduct the hearing no later than 60 days after service of the summons and complaint or notice of motion and motion on the last person served or, in an establishment of parentage case, no later than 60 days after receipt of the genetic test results. If conducted later than 60 days, the court administrator shall report that fact to the chief judge of the judicial district. Conducting a hearing later than 60 days after service or receipt of blood or genetic test results does not deprive the child support magistrate of jurisdiction.

(Amended effective January 1, 2020.)

Advisory Committee Comment

Federal law requires 75% of cases commenced in the Expedited Process to be completed within six (6) months from the date of service of process and 90% of the cases to be completed within twelve (12) months from the date of service of process. 45 C.F.R. section 303.101 (2000). If the hearing is initially scheduled within sixty (60) days under Rule 364.03 and is later continued to beyond sixty (60) days, that fact must be reported to the chief judge of the judicial district.

Rule 364.04 Notice of Hearing

A notice of the hearing shall:

(a) state the name of the court;

(b) state the names of the parties;

(c) state the date, time, and location of the hearing;

(d) state that the parties shall appear at the hearing, unless otherwise provided in these rules;

(e) inform the parties of the requirement to bring to the hearing sufficient copies of all documents the parties intend to offer; and

(f) if possible, include the name of the child support magistrate assigned to the case.

Rule 364.05 Continuance of Hearing

Upon agreement of the parties or a showing of good cause, the child support magistrate may grant a request for continuance of a hearing. An order granting a continuance may be stated orally on the record or may be in writing. Unless time does not permit, a request for continuance shall be made in writing, and shall be filed with the court and served upon all parties at least 7 days before the hearing. In determining whether good cause exists, due regard shall be given to the ability of the party requesting a continuance to effectively proceed without a continuance.

(Amended effective January 1, 2020.)

Advisory Committee Comment

Rule 364.05 provides that a continuance may be granted for good cause. Examples of good cause include: death or incapacitating illness of a party or attorney of a party; lack of proper notice of the hearing; a substitution of the attorney of a party; a change in the parties or pleadings requiring postponement; an agreement for a continuance by all parties provided that it is shown that more time is clearly necessary. Good cause does not include: intentional delay; unavailability of counsel due to engagement in another judicial or administrative proceeding unless all other members of the attorney's firm familiar with the case are similarly engaged, or if the notice of the other proceeding was received prior to the notice of the hearing for which the continuance is sought; unavailability of a witness if the witness' testimony can be taken by deposition; and failure of the attorney to properly utilize the statutory notice period to prepare for the hearing.

Rule 364.06 Explanation of Hearing Purpose and Procedure

At the beginning of each hearing the child support magistrate shall explain the purpose of the hearing and the process and procedures to be used during the hearing.

Rule 364.07 Hearings Open to Public

All hearings are open to the public, except as otherwise provided in these rules or by statute. For good cause shown, a child support magistrate may exclude members of the public from attending a hearing.

Advisory Committee Comment

Under Minnesota Statutes 2000, section 257.70, hearings regarding the establishment of parentage are closed to the public. Other proceedings identified in Rule 353.01 are generally open to the public.

Rule 364.08 Record of Hearing

Each child support magistrate shall ensure that an accurate record is made of each hearing over which the magistrate presides.

Advisory Committee Comment

Under Minnesota Statutes 2000, section 484.72, subdivisions 1 and 6, records of hearings and other proceedings in the expedited process may be made either by competent stenographers or by use of electronic recording equipment. (Minnesota Laws 1996, chapter 196, article 1, section 3.) If electronic recording equipment is used, it must meet the minimum standards promulgated by the state court administrator and must be operated and monitored by a person who meets the minimum qualifications promulgated by the state court administrator. The minimum standards are set forth in Minnesota State Court System Administrative Policy, dated June 29, 1999.

Rule 364.09 Right to Present Evidence

Subdivision 1. Generally. Each party may present evidence, rebuttal testimony, and argument with respect to the issues.

Subd. 2. Testimony and Documents Permitted. Evidence may be presented through documents and testimony of the parties or other witnesses. Testimony may be given in narrative fashion by witnesses or by question and answer. Any party may be a witness and may present witnesses. All oral testimony shall be under oath or affirmation. The child support magistrate may exclude witnesses from the hearing room so that they cannot hear the testimony of other witnesses. In any proceeding, a sworn written affidavit of any party or witness may be offered in lieu of oral testimony.

Subd. 3. Necessary Preparation Required. The parties shall exchange copies of documents 7 days before the hearing. If the exchange is not completed within the required time frame each party shall bring to the hearing all evidence, both oral and written, the party intends to present. Each party must have enough copies of each exhibit the party intends to offer so that a copy can be provided to all other parties and the child support magistrate at the time of the hearing. The child support magistrate shall have the discretion in determining whether evidence that was not timely exchanged before the hearing should or should not be admitted into evidence.

(Amended effective July 1, 2001; amended effective November 1, 2003; amended effective January 1, 2020.)

Rule 364.10 Evidence

Subdivision 1. Type of Evidence Admissible. The child support magistrate may admit any evidence that possesses probative value, including hearsay, if it is the type of evidence on which reasonable, prudent persons are accustomed to rely in the conduct of their serious affairs. The child support magistrate shall give effect to the rules of privilege recognized by law. Evidence that is not related to the issue of support, is unimportant to the issue before the magistrate, or that repeats evidence that has already been provided shall not be allowed.

Subd. 2. Evidence Part of Record. All pleadings and supporting documentation previously served upon the parties and filed with the court, unless objected to, may be considered by the magistrate. Only evidence that is offered and received during the hearing or submitted following the hearing with the permission of the child support magistrate may be considered in rendering a decision, including, but not limited to, testimony, affidavits, exhibits, and financial information.

Subd. 3. Documents. Ordinarily, copies or excerpts of documents instead of originals may be received or incorporated by reference. The child support magistrate may require the original or the complete document if the copy is not legible, there is a genuine question of accuracy or authenticity, or if it would be unfair to admit the copy instead of the original. Any financial documents prepared by the employee of the county agency are admissible without requiring foundation testimony or appearance of the employee of the county agency.

Subd. 4. Notice of Facts. The child support magistrate may take judicial notice of facts not subject to reasonable dispute, but shall do so on the record and with the opportunity for any party to contest the facts so noticed.

Rule 364.11 Burden of Proof

The party proposing that certain action be taken shall prove the facts at issue by a preponderance of the evidence, unless the substantive law provides a different burden or standard. A party asserting an affirmative defense has the burden of proving the existence of the defense by a preponderance of the evidence.

Rule 364.12 Examination of Adverse Party

A party may call an adverse party or any witness for an adverse party, and may ask leading questions, cross-examine, and impeach that adverse party or witness.

Rule 364.13 Role of Child Support Magistrate

A child support magistrate may ask questions of witnesses when needed to ensure sufficient evidence to make the required findings.

Rule 364.14 Discretion to Leave Record Open

At the conclusion of a hearing, the child support magistrate may leave the record open and request or permit submission of additional documentation. Unless otherwise ordered by the child support magistrate, such additional documentation shall be submitted to the court within 14 days after the conclusion of the hearing. Documents submitted after the due date or without permission of the child support magistrate shall be returned to the sender and shall not be considered by the child support magistrate when deciding the case.

(Amended effective January 1, 2020.)

Rule 364.15 Close of Record

The record shall be considered closed either at the conclusion of the hearing or upon the expiration date for submission by the parties of any additional documentation authorized or requested by the child support magistrate, whichever is later. At the close of the record, the child support magistrate shall issue a decision and order pursuant to Rule 365.

Rule 365. Decision and Order of Child Support Magistrate

Rule 365.01 Failure to Attend Hearing

If a party fails to appear at a hearing for which notice was properly served, the child support magistrate may:

(a) decide all issues and issue an order without further notice or hearing;

(b) dismiss the matter without prejudice; or

(c) continue the hearing.

Rule 365.02 Timing

Within 30 days of the close of the record the child support magistrate shall file with the court a decision and order. The child support magistrate may serve the order upon the parties at the hearing.

(Amended effective January 1, 2020.)

Rule 365.03 Effective Date; Final Order

Except as otherwise provided in these rules, the decision and order of the child support magistrate is effective and final when signed by the child support magistrate.

Rule 365.04 Notice of Filing of Order or Notice of Entry of Judgment

Subdivision 1. Service by Court Administrator. Within 7 days of receipt of the decision and order of the child support magistrate the court administrator shall serve a notice of filing of order or notice of entry of judgment upon each party by U.S. mail, together with a copy of the order or

judgment if a copy of the order was not served at the hearing. The court administrator shall use the notice of filing form prepared by the state court administrator which shall set forth the information required in subdivision 2. The notices shall be sent by electronic means in accordance with Rule 14 to any party who has agreed to or is required to accept electronic service under Rule 14.

Subd. 2. Content of Notice. The notice required in subdivision 1 shall include information regarding the:

(a) right to bring a motion to correct clerical mistakes pursuant to Rule 375;

(b) right to bring a motion for review of the decision and order of the child support magistrate pursuant to Rule 376;

(c) right to appeal a final order or judgment of the child support magistrate directly to the court of appeals pursuant to Rule 378;

(d) right of other parties to respond to motions to correct clerical mistakes, motions for review, and appeals pursuant to Rules 377 and 378; and

(e) authority of the child support magistrate to award costs and fees if the magistrate determines that a motion to correct clerical mistakes or a motion for review is not made in good faith or is brought for purposes of delay or harassment pursuant to Rule 377.09, subd. 6.

Subd. 3. Court Administrator Computes Dates. The court administrator shall compute, and set forth in the notice required in subdivision 1, the last day for bringing a motion for review and the last day for bringing any response to such motion.

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

Advisory Committee Comment

Timing and Procedure for Bringing Motions. *The timing for bringing a motion for review differs from the timing for bringing an appeal to the Court of Appeals. Under Rule 377.02, the time within which to bring a motion for review is twenty (20) days, which begins to run on the date the court administrator serves the notice of filing of order or notice of entry of judgment.*

Timing and Procedure for Bringing an Appeal to Court of Appeals. *Rule 104.01 of the Minnesota Rules of Civil Appellate Procedure provides that the time within which to bring an appeal to the Court of Appeals is sixty (60) days which begins to run on the date of service by any party upon any other party of written notice of the filing of the order or entry of the judgment. The Advisory Committee intends that Rule 378.01 supersede Minn. R. Civ. App. P. 104.01 to provide that the sixty (60) days begins to run on the date the court administrator serves the written notice of filing of the order or notice of entry of judgment.*

Options for Review and Appeal. *A party may choose to bring a motion to correct clerical mistakes, a motion for review, or a combined motion, or may choose to appeal directly to the Court of Appeals thus bypassing the first two options. However, if a party chooses the option of appealing directly to the Court of Appeals without first bringing a motion for review, such an appeal will be limited to determining whether the evidence sustains the findings of fact (to which the "clearly erroneous" standard of review applies) and whether the findings support the conclusions of law and the judgment. Kahn v. Tronnier, 547 N.W.2d 425, 428 (Minn. App.), rev. denied (Minn. July 10, 1996). Thus, although a motion for review is very important to obtaining the broadest possible appellate review, it is not an absolute prerequisite to appeal; a litigant can choose to file a direct appeal from the order of the child support magistrate, but the appeal will be limited to issues within that narrower scope of review.*

Rule 366. Transcript

Rule 366.01 Ordering of Transcript

Subdivision 1. Informational Request. Any person may request a transcript of any proceeding held before a child support magistrate, except as prohibited by statute or rule, by filing a request for transcript form with the court. The person requesting the transcript must make satisfactory arrangements for payment with the transcriber within 28 days after ordering the transcript or the request for the transcript shall be deemed cancelled. The person requesting the transcript may withdraw the request any time before the time transcription has begun. The transcriber shall file the original with the court and serve a copy upon the requesting person. The transcriber shall also file with the court an affidavit of service verifying that service has been made upon the requesting person.

Subd. 2. Clerical or Review Requests. If a party chooses to request a transcript for purposes of bringing or responding to a motion to correct clerical mistakes, a motion for review, or a combined motion, a request for transcript form shall be filed with the court within the time required under Rule 377.02 and Rule 377.04. The party requesting the transcript must make satisfactory arrangements for payment with the transcriber within 28 days of ordering the transcript or the request for the transcript shall be deemed cancelled. The requesting party may withdraw that party's request for a transcript any time before transcription has begun. The transcriber shall file the original with the court and serve each party, including the county agency if a party, with a copy. The transcriber shall also file with the court an affidavit of service verifying that service has been made upon all parties. Ordering and filing of a transcript does not delay the due dates for the submissions described in Rule 377.02 and Rule 377.04. Filing of the transcript with the court closes the record for purposes of Rule 377.09, subd. 1.

Subd. 3. Appellate Request. If the transcript request is for appellate review, the transcriber shall comply with all appellate rules.

(Amended effective January 1, 2020.)

Rule 367. Administration of Expedited Child Support Process; Child Support Magistrates

Rule 367.01 Administration of Expedited Process

The chief judge of each judicial district shall determine whether the district will administer the expedited process within the judicial district in whole or in part, or request that the state court administrator administer the expedited process in whole or in part for the district.

Advisory Committee Comment

Rule 367.01 does not permit a judicial district to opt out of the expedited process. Rather, Rule 367.01 simply indicates that the chief judge of the district must decide who will be responsible for administering the expedited process within each judicial district.

Rule 367.02 Use and Appointment of Child Support Magistrates

The chief judge of each judicial district shall determine whether the district will use child support magistrates, family court referees, district court judges, or a combination of these individuals to preside over proceedings in the expedited process. The chief judge of each judicial district, with the advice and consent of the judges of the district, shall appoint each child support magistrate, except family court referees and district court judges, subject to confirmation by the Supreme Court. Each child support magistrate serves at the pleasure of the judges of the judicial district. Child support magistrates may be appointed on a full-time, part-time, or contract basis.

Advisory Committee Comment

Nothing in these rules precludes a family court referee or district court judge from serving in the capacity of a child support magistrate.

Rule 367.03 Powers and Authority

Child support magistrates shall have the powers and authority necessary to perform their duties in the expedited process pursuant to statute and rule.

Advisory Committee Comment

It is the intent of the Committee that child support magistrates have the authority to decide all issues permitted in the expedited process, including, but not limited to, awarding and modifying tax dependency exemptions, awarding costs and attorneys fees, and issuing orders to show cause.

Rule 367.04 Conflict of Interest

Subdivision 1. Generally. A child support magistrate shall not serve as:

(a) an attorney in any family law matter within any county in which the person serves as a child support magistrate; or

(b) a guardian ad litem in any family law matter in any district in which the person serves as a child support magistrate.

Subd. 2. Disqualification. The disqualifications listed in subdivision 1 shall not be imputed to other members of a child support magistrate's law firm.

(Amended effective for guardians ad litem appointed in Minnesota's juvenile and family courts after 12 o'clock midnight January 1, 2005.)

Rule 367.05 Code of Judicial Conduct

Each child support magistrate is bound by the Minnesota Code of Judicial Conduct. The exceptions set forth in the Application of the Minnesota Code of Judicial Conduct relating to part-time judges apply to child support magistrates appointed on a part-time or contract basis.

Advisory Committee Comment

A comment to the Application Section of the Minnesota Code of Judicial Conduct provides that "anyone, whether or not a lawyer, who is an officer of a judicial system and who performs judicial functions, including an officer such as a referee, special master or magistrate" is a judge within the meaning of the Minnesota Code of Judicial Conduct.

Rule 367.06 Impartiality

Each child support magistrate shall conduct each hearing in an impartial manner and shall serve only in those matters in which the magistrate can remain impartial and evenhanded. If at any time a child support magistrate is unable to conduct any proceeding in an impartial manner, the magistrate shall withdraw.

Rule 368. Removal of a Particular Child Support Magistrate

Rule 368.01 Automatic Right to Remove Precluded

No party has an automatic right to remove a child support magistrate, family court referee, or district court judge presiding over matters in the expedited process, including motions to correct clerical mistakes under Rule 375 and motions for review under Rule 376.

Rule 368.02 Removal for Cause

Subdivision 1. Procedure. To effect removal, a party shall serve upon the other parties and file with the court a request to remove the child support magistrate for cause within ten (10) days of service of notice of the name of the magistrate assigned to hear the matter or within ten (10) days of discovery of prejudice. If assignment of a child support magistrate is made less than ten (10) days before the hearing, the request to remove shall be made as soon as practicable after notice of assignment is given.

Subd. 2. Grounds to Remove. Removal of a child support magistrate requires an affirmative showing of prejudice. A showing that the child support magistrate might be excluded for bias from acting as a juror in the matter constitutes an affirmative showing of prejudice.

Subd. 3. Review of Denial of Removal. If the child support magistrate denies the request to remove, upon written request filed with the Court Administrator in that district, a district judge assigned to or chambered in the district shall determine whether cause exists. If that judge is the child support magistrate, the request for removal for cause shall be heard by a different judge in that district.

(Amended effective June 1, 2009.)

Advisory Committee Comment - 2008 Amendment

Rule 368.02, subdivision 1, is amended to clarify the procedure for removal of an assigned child support magistrate from hearing a matter. Subdivision 3 is a new provision, designed to provide a more streamlined mechanism for review of a magistrate's decision not to order removal. The review of that decision is to be heard by a district judge who either had chambers in the county where the expedited child support case is pending or to a judge assigned to that county. This procedure obviates submission of the matter to the Chief Judge, recognizing that the Chief Judge may be far removed from the county where the case is pending.

Rule 369. Role of County Attorney and Employees of the County Agency

Rule 369.01 Role of County Attorney

Subdivision 1. Approval as to Form and Content. The county attorney shall review and approve as to form and content all legal documents prepared by employees of the county agency for use in the expedited process or in district court.

Subd. 2. Attendance at Hearings. The county agency shall appear through counsel. However, the county attorney may authorize an employee of the county agency to appear on behalf of the county attorney to present an agreement or stipulation reached by all the parties. An employee of the county agency shall not advocate a position on behalf of any party. The county attorney is not required to be present at any hearing to which the county agency is not a party.

Rule 369.02 Role of Employees of County Agency

Subdivision 1. County Attorney Direction. Under the direction of, and in consultation with, the county attorney, and consistent with Rules 5.3 and 5.5 of the Minnesota Rules of Professional Conduct, employees of the county agency may perform the following duties:

(a) meet and confer with parties by mail, telephone, electronic, or other means regarding legal issues;

(b) explain to parties the purpose, procedure, and function of the expedited child support process and the role and authority of nonattorney employees of the county agency regarding legal issues;

(c) prepare pleadings, including, but not limited to, summonses and complaints, notices, motions, subpoenas, orders to show cause, proposed orders, administrative orders, and stipulations and agreements;

(d) issue administrative subpoenas;

(e) prepare judicial notices;

(f) negotiate settlement agreements;

(g) attend and participate as witnesses in hearings and other proceedings, and if requested by the child support magistrate, present evidence, agreements and stipulations of the parties, and any other information deemed appropriate by the magistrate;

(h) participate in such other activities and perform such other duties as delegated by the county attorney; and

(i) exercise other powers and perform other duties as permitted by statute or these rules.

Employees of the county agency shall not represent the county agency at hearings conducted in the expedited process.

Subd. 2. Support Recommendations Precluded. Employees of the county agency may not offer recommendations regarding support at the hearing unless called as a witness at the hearing. Computation and presentation of support calculations are not considered recommendations as to support.

Subd. 3. County Attorney Direction Not Required. Without direction from the county attorney, employees of the county agency may perform the duties listed under Minnesota Statutes 2006, section 518A.46, subdivision 2, paragraph (c). In addition, employees of the county agency may testify at hearings at the request of a party or the child support magistrate.

Subd. 4. Performance of Duties Not Practice of Law. Performance of the duties identified in Rule 369.02 by employees of the county agency does not constitute the unauthorized practice of law for purposes of these rules or Minnesota Statutes 2000, section 481.02.

(Amended effective June 1, 2009.)

Advisory Committee Comment - 2008 Amendment

Rule 369.02, subdivision 3, is amended to update the statutory references to reflect the recodification, effective on January 1, 2007, of portions of the relevant statutes, that became part of Minnesota Statutes, chapter 518A.

II. PROCEEDINGS

Rule 370. Establishment of Support Proceedings

Rule 370.01 Commencement

An initial proceeding to establish support shall be commenced in the expedited process by service of a summons and complaint pursuant to Rule 370.03. If the summons does not contain a hearing date, a request for hearing form and a supporting affidavit shall be attached to the summons

and complaint. In addition to service of the summons and complaint, an order to show cause may be issued pursuant to Minn. Gen. R. Prac. 303.05. Service shall be made at least 21 days before any scheduled hearing.

(Amended effective January 1, 2020.)

Rule 370.02 Content of Summons, Complaint, Supporting Affidavit, and Request for Hearing Form

Subdivision 1. Content of Summons. A summons shall:

(a) state the name of the court;

(b) state the names of the parties;

(c) state an address where the initiating party may be served;

(d) state that the purpose of the action is to establish support;

(e) either set a hearing date or attach a request for hearing form;

(f) provide information about serving and filing a written response pursuant to Rule 370.04 and Rule 370.05;

(g) state that all parties shall appear at the hearing if one is scheduled, and state that if any party fails to appear at the hearing the child support magistrate shall proceed pursuant to Rule 365.01;

(h) state that the child support magistrate may sign a default order pursuant to Rule 363.03;

(i) state that a party has the right to representation pursuant to Rule 357;

(j) state that the case may be settled informally by contacting the initiating party, and include the name, address, and telephone number of the person to contact to discuss settlement; and

(k) be signed by the initiating party or that party's attorney.

If there is reason to believe that domestic violence exists or if an order for protection has been issued, the party may provide an alternative address and telephone number. Pursuant to Minnesota Statutes 2000, section 518.005, subdivision 5, in all actions in which public assistance is assigned or the county agency is providing services to a party or parties to the action, information regarding the location of one party may not be released by the county agency to any other party if the county agency has knowledge that a protective order with respect to the other party has been entered or has reason to believe that the release of the information may result in physical or emotional harm to the other party.

Subd. 2. Content of Complaint. A complaint shall:

(a) state the relief the initiating party wants the child support magistrate to order;

(b) state the facts and grounds supporting the request for relief;

(c) set forth the acknowledgment required under Rule 379.04; and

(d) be signed by the initiating party or that party's attorney.

Subd. 3. Content of Supporting Affidavit. A supporting affidavit is required when the summons does not contain a hearing date. The supporting affidavit shall:

(a) state detailed facts supporting the request for relief;

(b) provide all information required by Minnesota Statutes 2006, section 518A.46, subdivision 3, paragraph (a), if known; and

(c) be either:

(1) signed and sworn to under oath; or

(2) signed under penalty of perjury pursuant to Minnesota Statutes, section 358.116, provided that the signature is affixed immediately below a declaration using substantially the following language: "I declare under penalty of perjury that everything I have stated in this document is true and correct." In addition to the signature, the date of signing and the county and state where the document was signed shall be noted on the document.

Subd. 4. Content of Request for Hearing Form. A request for hearing form shall contain the name and address of the initiating party and a short, concise statement that a noninitiating party requests a hearing.

(Amended effective June 1, 2009; amended effective July 1, 2015.)

Advisory Committee Comment - 2008 Amendment

Rule 370.02, subdivision 3, is amended to update the statutory reference to reflect the recodification, effective on January 1, 2007, of portions of the relevant statutes, that became part of Minnesota Statutes, chapter 518A. Pursuant to Minnesota Statutes, section 518A.46, subdivision 3, paragraph (b), for all cases involving establishment or modification of support, the pleadings are to contain specific information. At times, it may be necessary to attach additional supporting documents. Each county should establish its own local policy regarding the attachment of supporting documents.

Rule 370.03 Service of Summons and Complaint

Subdivision 1. Who is Served. All parties, and the county agency even if not a party, shall be served pursuant to subdivision 2.

Subd. 2. How Served. The summons and complaint, and if required the supporting affidavit and request for hearing form, shall be served upon the parties by personal service, or alternative personal service, pursuant to Rule 355.02, unless personal service has been waived in writing. Where the county agency is the initiating party, a nonparent who is receiving assistance from the county or who has applied for child support services from the county may be served by any means permitted under Rule 355.02.

(Amended effective June 1, 2009.)

Rule 370.04 Filing Requirements

Subdivision 1. Initiating Party. No later than 7 days before any scheduled hearing or, if no hearing is scheduled, within 14 days after the last party was served, the initiating party shall file the following with the court:

(a) the original summons;

(b) the original complaint;

(c) the original supporting affidavit, if served;

(d) the request for hearing form, if returned to the initiating party; and

(e) proof of service upon each party pursuant to Rule 355.04.

Subd. 2. Responding Party. If a noninitiating party responds with a written answer pursuant to Rule 370.05, the following shall be filed with the court no later than 7 days before any scheduled hearing or, if no hearing is scheduled, within 14 days after the last party was served:

(a) the original written answer;

(b) a financial affidavit pursuant to Minnesota Statutes 2006, section 518A.28; and

(c) proof of service upon each party pursuant to Rule 355.04.

Subd. 3. Electronic Filing. Where authorized or required by Rule 14 of these rules, documents may, and where required shall, be filed by electronic means by following the procedures of Rule 14.

Subd. 4. Treatment of Confidential Information. To retain privacy, restricted identifiers as defined in Rule 11 (such as Social Security numbers, employer identification numbers, financial account numbers) must be removed from any documents provided under this rule and may only be submitted on a separate Confidential Information Form as required in Rule 11. In addition, financial source documents as defined in Rule 11 (such as tax returns, wage stubs, credit card statements) must be submitted under a cover sheet entitled "Confidential Financial Source Documents" as required in Rule 11.

(Amended effective January 1, 2006; amended effective June 1, 2009; amended effective July 1, 2015; amended effective May 23, 2016; amended effective January 1, 2020.)

Rule 370.05 Response

Subdivision 1. Hearing Date in Summons. Inclusion of a hearing date does not preclude a noninitiating party from serving and filing a written answer. Within 21 days from service of the summons and complaint, a noninitiating party may serve upon all parties a written answer to the complaint. The service and filing of a written answer or the failure of a noninitiating party to appear at a hearing does not preclude the hearing from going forward, and the child support magistrate may issue an order based upon the information in the file or evidence presented at the hearing.

Subd. 2. Hearing Date Not in Summons. If the summons does not contain a hearing date, within 21 days from service of the summons and complaint, a noninitiating party shall either:

(a) request a hearing by returning the request for hearing form to the initiating party; or

(b) serve upon all other parties and file with the court a written answer to the complaint.

The initiating party shall schedule a hearing upon receipt of the request for hearing form or the service of a written answer.

(Amended effective January 1, 2020.)

Rule 370.06 Amended Pleadings

Subdivision 1. Service. At any time up to 14 days before a scheduled hearing, the initiating party may serve and file amended pleadings. If no hearing date has been scheduled, the initiating party may serve and file amended pleadings within the time remaining for response.

Subd. 2. Response. If the noninitiating party chooses to respond to amended pleadings, the response must be made within the time remaining for response to the original pleading or within

14 days after service of the amended pleadings, whichever period is longer, unless the court otherwise orders.

(Amended effective January 1, 2020.)

Rule 370.07 Fees

A filing fee shall be paid pursuant to Rule 356 upon the filing of:

(a) the summons and complaint; and

(b) the written answer, if any.

Rule 370.08 Settlement Procedure

The parties may settle the case at any time pursuant to Rule 362.

Rule 370.09 Default Procedure

An action to establish support may proceed by default pursuant to Rule 363.

Rule 370.10 Hearing Procedure

Any hearing shall proceed pursuant to Rule 364. If the summons contains a hearing date, all parties shall appear at the hearing. If a party fails to appear at a hearing for which notice was properly served, the child support magistrate shall proceed pursuant to Rule 365.01.

Rule 370.11 Decision and Order

The decision and order of the court shall be issued pursuant to Rule 365.

Rule 370.12 Review and Appeal

Motions to correct clerical mistakes, if any, shall proceed pursuant to Rule 375. Review, if any, shall proceed pursuant to Rule 376. Appeal, if any, shall proceed pursuant to Rule 378.

Rule 371. Parentage Actions

Rule 371.01 Commencement

A proceeding to establish parentage shall be commenced in the expedited process by service of a summons and complaint pursuant to Rule 371.03. A supporting affidavit may also be served. Unless blood or genetic testing has already been completed, a request for blood or genetic testing shall be served with the summons and complaint. In addition to service of the summons and complaint, an order to show cause may be issued pursuant to Minn. Gen. R. Prac. 303.05. Service shall be completed at least 21 days before any scheduled hearing.

(Amended effective January 1, 2020.)

Rule 371.02 Content of Summons, Complaint, and Supporting Affidavit

Subdivision 1. Content of Summons. A summons shall:

(a) state the name of the court;

(b) state the names of the parties;

(c) state an address where the initiating party may be served;

(d) state that the purpose of the action is to establish parentage;

(e) state the date, time, and location of the hearing;

(f) provide information about serving and filing a written response pursuant to Rule 371.04 and Rule 371.05;

(g) state that all parties shall appear at the hearing, and if any party fails to appear at the hearing the child support magistrate shall proceed pursuant to Rule 365.01;

(h) state that a party has the right to representation pursuant to Rule 357;

(i) state that the case may be settled informally by contacting the initiating party and include the name, address, and telephone number of the person to contact to discuss settlement; and

(j) be signed by the initiating party or that party's attorney.

If there is reason to believe that domestic violence exists or if an order for protection has been issued, a party may provide an alternative address and telephone number. Pursuant to Minnesota Statutes 2000, section 257.70, paragraph (b), in all actions in which public assistance is assigned or the county agency is providing services to a party or parties to the action, information regarding the location of one party may not be released by the county agency to any other party if the county agency has knowledge that a protective order with respect to the other party has been entered or has reason to believe that the release of the information may result in physical or emotional harm to the other party.

Subd. 2. Content of Complaint. A complaint shall:

(a) state the relief the initiating party wants the child support magistrate to order;

(b) state the facts and grounds supporting the request for relief;

(c) set forth the acknowledgement required under Rule 379.04; and

(d) be signed by the initiating party or that party's attorney.

Subd. 3. Content of Supporting Affidavit. A supporting affidavit shall:

(a) state detailed facts supporting the request for relief, including the facts establishing parentage;

(b) provide all information required by Minnesota Statutes 2006, section 518A.46, subdivision 3, paragraph (a), if known; and

(c) be either:

(1) signed and sworn to under oath; or

(2) signed under penalty of perjury pursuant to Minnesota Statutes, section 358.116, provided that the signature is affixed immediately below a declaration using substantially the following language: "I declare under penalty of perjury that everything I have stated in this document is true and correct." In addition to the signature, the date of the signing and the county and state where the document was signed shall be noted on the document.

(Amended effective June 1, 2009; amended effective July 1, 2015.)

Advisory Committee Comment - 2008 Amendment

Pursuant to Minnesota Statutes 2006, section 518A.46, subdivision 3, paragraph (a), for all cases involving establishment or modification of support, the pleadings are to contain specific information. At times, it may be necessary to attach additional supporting documents. Each county should establish its own local policy regarding the attachment of supporting documents.

Rule 371.03 Service of Summons and Complaint

Subdivision 1. Who is Served. The biological mother, each man presumed to be the father under Minnesota Statutes 2000, section 257.55, each man alleged to be the biological father, and the county agency even if not a party, shall be served pursuant to subdivision 2.

Subd. 2. How Served. The summons and complaint, any supporting affidavit, and if required, a request for blood or genetic testing, shall be served upon the parties by personal service, or alternative personal service, pursuant to Rule 355.02, unless personal service has been waived in writing.

(Amended effective November 1, 2003.)

Rule 371.04 Filing Requirements

Subdivision 1. Initiating Party. No later than 7 days before any scheduled hearing, the initiating party shall file the following with the court:

(a) the original summons;

(b) the original complaint;

(c) the original supporting affidavit, if served; and

(d) proof of service upon each party pursuant to Rule 355.04.

Subd. 2. Responding Party. If a noninitiating party responds with a written response pursuant to Rule 371.05, the following, if served, shall be filed with the court no later than 7 days before any scheduled hearing:

(a) the original written answer along with a financial affidavit pursuant to Minnesota Statutes 2006, section 518A.28; or

(b) a request for blood or genetic testing; and

(c) proof of service upon each party pursuant to Rule 355.04.

Subd. 3. Electronic Filing. Where authorized or required by Rule 14 of these rules, documents may, and where required shall, be filed by electronic means by following the procedures of Rule 14.

Subd. 4. Treatment of Confidential Information. To retain privacy, restricted identifiers as defined in Rule 11 (such as Social Security numbers, employer identification numbers, financial account numbers) must be removed from any documents provided under this rule and may only be submitted on a separate Confidential Information Form as required in Rule 11. In addition, financial source documents as defined in Rule 11 (such as tax returns, wage stubs, credit card statements) must be submitted under a cover sheet entitled "Confidential Financial Source Documents" as required in Rule 11.

(Amended effective January 1, 2006; amended effective June 1, 2009; amended effective July 1, 2015; amended effective May 23, 2016; amended effective January 1, 2020.)

Rule 371.05 Response

Subdivision 1. Response Options. In addition to appearing at the hearing as required under Rule 371.10, subd. 1, a noninitiating party may do one or more of the following:

(a) contact the initiating party to discuss settlement; or

(b) within 21 days of service of the summons and complaint, serve upon all parties one or more of the written responses pursuant to subdivision 2.

Subd. 2. Types of Written Response.

(a) Request for Blood or Genetic Test. A noninitiating party may serve and file a request for blood or genetic testing either alleging or denying paternity. Filing of a request for blood or genetic testing shall, with the consent of the parties, extend the time for filing and serving a written answer until the blood or genetic test results have been mailed to the parties. In this event, the alleged parent shall have 14 days from the day the test results are mailed to the alleged parent in which to file and serve a written answer to the complaint.

(b) Written Answer. A noninitiating party may serve and file a written answer responding to all allegations set forth in the complaint. The matter shall proceed pursuant to Rule 353.02, subd. 3, if the written answer raises one or more of the following issues: parentage, custody, parenting time, or the legal name of the child.

(Amended effective June 1, 2009; amended effective January 1, 2020.)

Rule 371.06 Blood or Genetic Testing Requested Before Hearing

When a request for blood or genetic testing is made prior to the hearing pursuant to Rule 371.05, the child support magistrate shall issue an order for blood or genetic testing and shall continue the hearing to allow the tests to be completed and the results to be received.

Rule 371.07 Amended Pleadings

Subdivision 1. Service. At any time up to 14 days before a scheduled hearing, the initiating party may serve and file amended pleadings.

Subd. 2. Response. If the noninitiating party chooses to respond to amended pleadings, the response must be made within the time remaining for response to the original pleading or within 14 days after service of the amended pleadings, whichever period is longer, unless the court otherwise orders.

(Amended effective January 1, 2020.)

Rule 371.08 Fees

A filing fee shall be paid pursuant to Rule 356 upon the filing of:

(a) the summons and complaint; and

(b) the written answer or the request for blood or genetic testing, if any.

Rule 371.09 Settlement Procedure

The parties may settle the case at any time pursuant to Rule 362.

Rule 371.10 Hearing Procedure

Subdivision 1. Hearing Mandatory. A hearing shall be held to determine parentage, except as provided in subdivision 2. All parties shall appear at the hearing. If a party fails to appear at a hearing for which notice was properly served, the child support magistrate shall either refer the matter to district court or proceed pursuant to Rule 365.01. The hearing shall proceed pursuant to Rule 364, except that paternity hearings from commencement through adjudication shall be closed to the public. All hearings following entry of the order determining the parent and child relationship are open to the public.

Subd. 2. Exception. If all parties, including the county agency, sign an agreement that contains all statutory requirements for a parentage adjudication, including a statement that the parties waive their right to a hearing, the hearing may be stricken. The matter shall not be stricken from the court calendar until after the child support magistrate reviews and signs the agreement. The court administrator shall strike the hearing upon receipt of the agreement signed by the child support magistrate.

Rule 371.11 Procedure When Blood or Genetic Testing Requested

Subdivision 1. Blood or Genetic Testing Requested at Hearing. When blood or genetic testing is requested at the hearing, the child support magistrate shall issue an order for blood or genetic testing and shall continue the hearing to allow the tests to be completed and the results to be received.

Subd. 2. Blood or Genetic Testing Requested and Conducted Prior to Hearing. When blood or genetic testing is completed prior to the hearing and parentage is contested, the child support magistrate may upon motion set temporary child support pursuant to Minnesota Statutes 2000, section 257.62, subdivision 5, and shall refer the matter to district court pursuant to Rule 353.02, subd. 3.

Rule 371.12 Procedure When Written Answer Filed

Subdivision 1. Objections under the Parentage Act. The matter shall proceed pursuant to Rule 353.02, subd. 3, if the written answer contains an objection to one or more of the following issues: parentage, custody, parenting time, or the legal name of the child.

Subd. 2. Genetic Tests Received. When blood or genetic test results have been received and the results indicate a likelihood of paternity of ninety-two (92) percent or greater and a motion to set temporary support has been served and filed, the issue of temporary support shall be decided by the child support magistrate and the matter shall be referred to district court for further proceedings. Failure of a party to appear at the hearing shall not preclude the child support magistrate from issuing an order for temporary support.

Subd. 3. Objection to Support. A written answer objecting to any issue other than parentage, custody, parenting time, or the legal name of the child shall not prevent the hearing from proceeding. Failure of a party to appear at the hearing shall not preclude the child support magistrate from determining paternity and issuing an order for support.

Rule 371.13 Procedure When Written Answer Not Filed

If a written answer has not been served and filed by a noninitiating party and that party fails to appear at the hearing, the matter shall be heard and an order shall be issued by the child support magistrate. When the complaint, motion, or supporting affidavit contains specific requests for relief on the issue of custody, parenting time, or the legal name of the child, and proper service has been made upon all parties, the child support magistrate may grant such relief when a noninitiating party fails to appear at the hearing.

Advisory Committee Comment

Minnesota Statutes 2000, section 257.651, provides that if the alleged father fails to appear at a hearing after service duly made and proved, the court may issue an order. The Committee also intends that the court may issue an order if the mother fails to appear after service duly made and proved.

Rule 371.14 Decision and Order

The decision and order of the court shall be issued pursuant to Rule 365.

Rule 371.15 Review and Appeal

Motions to correct clerical mistakes, if any, shall proceed pursuant to Rule 375. Review, if any, shall proceed pursuant to Rule 376. Appeal, if any, shall proceed pursuant to Rule 378.

Rule 372. Motions to Modify, Motions to Set Support, and Other Matters

Rule 372.01 Commencement

Subdivision 1. Motions to Modify and Motions to Set Support. A proceeding to modify an existing support order shall be commenced in the expedited process by service of a notice of motion, motion, and supporting affidavit pursuant to Rule 372.03. A proceeding to set support where a prior order reserved support may be commenced in the expedited process by service of a notice of motion and motion and supporting affidavit pursuant to Rule 372.03. If the notice of motion does not contain a hearing date, a request for hearing form shall be attached to the notice of motion. In addition to service of the notice of motion and motion, an order to show cause may be issued pursuant to Minn. Gen. R. Prac. 303.05. Service shall be made at least 21 days before any scheduled hearing.

Subd. 2. Other Motions. Except as otherwise provided in these rules, all proceedings shall be commenced in the expedited process by service of a notice of motion, motion, and supporting affidavit. Service shall be made at least 14 days before the scheduled hearing.

(Amended effective June 1, 2009; amended effective January 1, 2020.)

Rule 372.02 Content of Notice of Motion, Motion, Supporting Affidavit, and Request for Hearing Form

Subdivision 1. Content of Notice. A notice of motion shall:

(a) state the name of the court;

(b) state the names of the parties as set forth in the summons and complaint, or summons and petition, unless amended by order of the court;

(c) state an address where the initiating party may be served;

(d) state the purpose of the action;

(e) for motions brought pursuant to Rule 372.01, subd. 2, state the date, time, and location of the hearing;

(f) for motions brought pursuant to Rule 372.01, subd. 1, either state the date, time, and location of the hearing if one is scheduled or, if no hearing is scheduled, state that any party has a right to a hearing and attach a request for hearing form;

(g) provide information about serving and filing a written response pursuant to Rule 372.04 and Rule 372.05;

(h) state that all parties shall appear at the hearing if one is scheduled, and if any party fails to appear at the hearing, the child support magistrate shall proceed pursuant to Rule 365.01;

(i) state that a party has a right to representation pursuant to Rule 357;

(j) state that the case may be settled informally by contacting the initiating party and include the name, address, and telephone number of the person to contact to discuss settlement; and

(k) be signed by the initiating party or that party's attorney.

If there is reason to believe that domestic violence exists or if an order for protection has been issued, the party may provide an alternative address and telephone number. Pursuant to Minnesota Statutes, section 518.005, subdivision 5, in all actions in which public assistance is assigned or the county agency is providing services to a party or parties to the action, information regarding the location of one party may not be released by the county agency to the other party if the county agency has knowledge that a protective order with respect to the other party has been entered or has reason to believe that the release of the information may result in physical or emotional harm to the other party.

Subd. 2. Content of Motion. A motion shall:

(a) state the relief the initiating party wants the child support magistrate to order;

(b) state the specific support that the initiating party wants the child support magistrate to order if the notice of motion does not contain a hearing date;

(c) state the facts and grounds supporting the request for relief;

(d) set forth the acknowledgement under Rule 379.04; and

(e) be signed by the initiating party or that party's attorney.

Subd. 3. Content of Supporting Affidavit. A supporting affidavit shall:

(a) state detailed facts supporting the request for relief;

(b) for motions to modify support and motions to set support, provide all information required by Minnesota Statutes 2006, section 518A.46, subdivision 3, paragraph (a), if known; and

(c) be either:

(1) signed and sworn to under oath; or

(2) signed under penalty of perjury pursuant to Minnesota Statutes, section 358.116, provided that the signature is affixed immediately below a declaration using substantially the following language: "I declare under penalty of perjury that everything I have stated in this document is true and correct." In addition to the signature, the date of signing and the county and state where the document was signed shall be noted on the document.

Subd. 4. Content of Request for Hearing Form. A request for hearing form shall contain the name and address of the initiating party, and a short and concise statement that a noninitiating party requests a hearing.

(Amended effective June 1, 2009; amended effective July 1, 2015.)

Advisory Committee Comment - 2008 Amendment

Pursuant to Minnesota Statutes 2006, section 518A.46, subdivision 3, paragraph (a), for all cases involving establishment or modification of support, the pleadings are to contain specific information. At times, it may be necessary to attach additional supporting documents. Each county should establish its own local policy regarding the attachment of supporting documents.

Rule 372.03 Service of Notice of Motion and Motion

Subdivision 1. Who is Served. All parties, and the county agency even if not a party, shall be served pursuant to subdivision 2.

Subd. 2. How Served. The notice of motion, motion, supporting affidavit, and if required, the request for hearing form, may be served by electronic means upon parties who have agreed to or are required to accept service by electronic means under Rule 14 of these rules, by U.S. mail, or by personal service pursuant to Rule 355.02.

(Amended effective July 1, 2015.)

Rule 372.04 Filing Requirements

Subdivision 1. Initiating Party. No later than 7 days before any scheduled hearing or, if no hearing is scheduled, within 14 days after the last party was served, the initiating party shall file the following with the court:

(a) the original notice of motion;

(b) the original motion;

(c) the original supporting affidavit;

(d) the request for hearing form, if returned to the initiating party; and

(e) proof of service upon each party pursuant to Rule 355.04.

Subd. 2. Responding Party. If a noninitiating party responds with a responsive motion or counter motion pursuant to Rule 372.05, the following shall be filed with the court no later than 7 days before any scheduled hearing or, if no hearing is scheduled, within 21 days after the last party was served:

(a) the original responsive motion or counter motion; and

(b) proof of service upon each party pursuant to Rule 355.04.

Subd. 3. Electronic Filing. Where authorized or required by Rule 14 of these rules, documents may, and where required shall, be filed by electronic means by following the procedures of Rule 14.

Subd. 4. Treatment of Confidential Information. To retain privacy, restricted identifiers as defined in Rule 11 (such as Social Security numbers, employer identification numbers, financial account numbers) must be removed from any documents provided under this rule and may only be submitted on a separate Confidential Information Form as required in Rule 11. In addition, financial source documents as defined in Rule 11 (such as tax returns, wage stubs, credit card statements) must be submitted under a cover sheet entitled "Confidential Financial Source Documents" as required in Rule 11.

(Amended effective January 1, 2006; amended effective July 1, 2015; amended effective May 23, 2016; amended effective January 1, 2020.)

Rule 372.05 Response

Subdivision 1. Hearing Date Included in the Notice of Motions to Modify and Motions to Set Support. Inclusion of a hearing date does not preclude a noninitiating party from serving and filing a responsive motion or counter motion. A noninitiating party may serve upon all parties a responsive motion or counter motion along with a supporting affidavit at least 14 days before the

hearing. The service and filing of a responsive motion or counter motion does not preclude the hearing from going forward and the child support magistrate may issue an order based upon the information in the file or evidence presented at the hearing if a noninitiating party fails to appear at the hearing.

Subd. 2. Hearing Date Not Included in the Notice of Motions to Modify and Motions to Set Support. If the notice of motion does not contain a hearing date, within 21 days from service of the motion, a noninitiating party shall either:

(a) request a hearing by returning the request for hearing form to the initiating party; or

(b) serve upon all other parties a responsive motion or counter motion.

The initiating party shall schedule a hearing upon receipt of a request for hearing form, a responsive motion, or counter motion. Failure of the noninitiating party to request a hearing, to serve a responsive motion, or to appear at a scheduled hearing shall not preclude the matter from going forward, and the child support magistrate may issue an order based upon the information in the file or the evidence presented at the hearing.

Subd. 3. Other Motions. Except as otherwise provided in these rules, all responsive motions shall be served upon all parties at least 7 days before the hearing. A responsive motion raising new issues shall be served upon all parties at least 14 days before the hearing.

(Amended effective June 1, 2009; amended effective July 1, 2019.)

Advisory Committee Comment - 2008 Amendment

Rule 372.05, subdivision 2, is amended to apply the 14-day deadline for responding to a motion to either of the permitted responses; to request a hearing or to file a responsive motion or counter-motion. Rule 372.05, subdivision 3, is added to clarify the deadlines for submitting responsive motions.

Advisory Committee Comment - 2019 Amendment

Rules 372.05 and 363.02 and .03 are amended in 2019 to harmonize the rules and create a uniform 21-day period for responding to motions for child support.

Rule 372.06 Amended Motions

Subdivision 1. Service. At any time up to 14 days before a scheduled hearing, the initiating party may serve and file an amended motion. If no hearing date has been scheduled, the initiating party may serve and file an amended motion within the time remaining for response.

Subd. 2. Response. If the noninitiating party chooses to respond to an amended motion, the response must be made within the time remaining for response to the original motion or within 14 days after service of the amended motion, whichever period is longer, unless the court otherwise orders.

(Amended effective January 1, 2020.)

Rule 372.07 Fees

Subdivision 1. Filing Fee. A filing fee shall be paid pursuant to Rule 356 upon the filing of:

(a) the notice of motion and motion; and

(b) the responsive motion or counter motion.

Subd. 2. Modification Fee. Pursuant to Minnesota Statutes, section 357.021, subdivision 2, paragraph (13), a separate fee shall also be collected upon the filing of the motion to modify and a responsive motion or counter motion.

(Amended effective January 1, 2006.)

Advisory Committee Comment - 2006 Amendment

Rule 372.07, subd. 2, is amended to correct the statutory reference. In 2005, the legislature set the modification fee to be collected under Rule 372.07 at $55.00. Act of June 3, 2005, chapter 164, section 2, 2005 Minnesota Laws 1878, 1879-80 (to be codified at Minnesota Statutes, section 357.021). Litigants are advised to review the statute or contact the court administrator for current fee amounts.

Rule 372.08 Settlement Procedure

The parties may settle the case at any time pursuant to Rule 362.

Rule 372.09 Default Procedure

An action to modify or set support may proceed by default pursuant to Rule 363.

Rule 372.10 Hearing Procedure

Any hearing shall proceed pursuant to Rule 364. If the notice of motion contains a hearing date, all parties shall appear at the hearing. If a party fails to appear at a hearing for which notice was properly served, the child support magistrate shall proceed pursuant to Rule 365.01.

Rule 372.11 Decision and Order

The decision and order of the court shall be issued pursuant to Rule 365.

Rule 372.12 Review and Appeal

Motions to correct clerical mistakes, if any, shall proceed pursuant to Rule 375. Review, if any, shall proceed pursuant to Rule 376. Appeal, if any, shall proceed pursuant to Rule 378.

Rule 373. Enforcement Proceedings

Rule 373.01 Types of Proceedings

All proceedings seeking statutory remedies shall be heard in the expedited process except as prohibited by statute or as follows:

(a) evidentiary hearings for contempt;

(b) matters of criminal non-support;

(c) motions to vacate a recognition of paternity or paternity adjudication; and

(d) matters of criminal contempt.

Civil contempt proceedings are permitted pursuant to Rule 353.01, subd. 2.

Rule 373.02 Commencement

Subdivision 1. Procedure Provided. When an enforcement proceeding is initiated pursuant to procedures set forth in statute, and a hearing is requested as permitted by statute, the matter shall be commenced in the expedited process by service of a notice of hearing. The hearing shall proceed pursuant to Rule 364.

Subd. 2. Procedure Not Provided. Any enforcement proceeding where the statute does not provide a procedure to obtain a hearing shall be commenced in the expedited process pursuant to Rule 372.

Subd. 3. Civil Contempt. Civil contempt proceedings shall be commenced pursuant to Rule 374.

Rule 374. Civil Contempt

Rule 374.01 Initiation

Civil contempt proceedings initiated in the expedited process shall be brought according to the procedure set forth in Minn. Gen. R. Prac. 309.

Rule 374.02 Resolution of Contempt Matter

If the parties reach agreement at the initial appearance, the agreement may be stated orally on the record or the county attorney may prepare an order that shall be signed by all parties and submitted to the child support magistrate for approval. If approved, the order shall be forwarded to the court administrator for signing by a district court judge. The order is effective upon signing by a district court judge.

Rule 374.03 Evidentiary Hearing

If the parties do not reach agreement at the initial appearance, the child support magistrate shall refer the matter to the court administrator to schedule an evidentiary hearing before a district court judge or a family court referee. A child support magistrate shall not consider or decide a contempt matter, except as provided in Rule 353.01, subd. 2.

Rule 374.04 Failure to Appear

If the alleged contemnor fails to appear at the initial appearance, the child support magistrate may certify to a district court judge that the alleged contemnor failed to appear and may recommend issuance of a warrant for the person's arrest. Only a district court judge may issue arrest warrants.

III. REVIEW AND APPEAL

Rule 375. Motion to Correct Clerical Mistakes

Rule 375.01 Initiation

Clerical mistakes, typographical errors, and errors in mathematical calculations in orders, including orders for temporary support, arising from oversight or omission may be corrected by the child support magistrate at any time upon the magistrate's own initiative or upon motion of any party after notice to all parties.

Rule 375.02 Procedure

A motion to correct clerical mistakes shall be brought pursuant to Rule 377 and shall be made in good faith and not for purposes of delay or harassment.

Rule 375.03 Decision

A motion to correct clerical mistakes shall be decided by the child support magistrate who issued the decision and order. If the child support magistrate who issued the order is unavailable, the motion to correct clerical mistakes may be assigned by the court administrator to another child support magistrate in the judicial district. If an appeal has been made to the court of appeals pursuant

to Rule 378, a child support magistrate may correct clerical mistakes, typographical errors, and errors in mathematical calculations only upon order of the appellate court.

Rule 375.04 Combined Motions

A motion to correct clerical mistakes may be combined with a motion for review. If a party intends to bring both a motion to correct clerical mistakes under this rule and a motion for review under Rule 376.01, the combined motion shall be brought within the time prescribed by Rule 377.02. A combined motion may be decided either by the child support magistrate who issued the decision and order or, at the request of any party, by a district court judge.

Rule 376. Motion for Review

Rule 376.01 Initiation

Any party may bring a motion for review of the decision and order or judgment of the child support magistrate. An order for temporary support is not subject to a motion for review.

Advisory Committee Comment

A party may make a motion for review regarding an order, regardless of whether it was issued as a result of default, based upon a stipulation or agreement of the parties, or issued following a hearing.

Rule 376.02 Procedure

A motion for review or a combined motion shall be brought pursuant to Rule 377 and shall be made in good faith and not for purposes of delay or harassment.

Rule 376.03 Decision

A motion for review may be decided either by the child support magistrate who issued the decision and order or, at the request of any party, a district court judge. If the child support magistrate who issued the order is unavailable, the motion for review may be assigned by the court administrator to another child support magistrate in the judicial district. If a district court judge issued the order in question, that judge shall also decide the motion for review. If an appeal has been made to the Court of Appeals pursuant to Rule 378, a child support magistrate may decide a motion for review or a combined motion only upon order of the appellate court.

Rule 377. Procedure on a Motion to Correct Clerical Mistakes, Motion for Review, or Combined Motion

Rule 377.01 Other Motions Precluded

Except for motions to correct clerical mistakes, motions for review, or motions alleging fraud, all other motions for post-decision relief are precluded, including those under Minn. R. Civ. P. 59 and 60 and Minnesota Statutes 2000, section 518.145.

Rule 377.02 Timing of Motion

To bring a motion to correct clerical mistakes, the aggrieved party shall perform items (a) through (e) as soon as practicable after discovery of the error. To bring a motion for review or a combined motion, the aggrieved party shall perform items (a) through (f) within 21 days of the date the court administrator served that party with the notice form as required by Rule 365.04.

(a) Complete the motion to correct clerical mistakes form, motion for review form, or combined motion form.

(b) Serve the completed motion for clerical mistakes form, motion for review form, or combined motion form upon all other parties and the county agency. Service may be made by personal service or by U.S. mail pursuant to Rule 355.02. If the moving party has agreed to or is required to accept electronic service under Rule 14, service must be made by electronic means upon any other parties that have agreed to or are required to accept electronic service under Rule 14.

(c) File the original motion with the court. If the filing is accomplished by mail, the motion shall be postmarked on or before the due date set forth in the notice of filing.

(d) File the affidavit of service with the court. The affidavit of service shall be filed at the time the original motion is filed.

(e) Order a transcript of the hearing under Rule 366, if the party desires to submit a transcript.

(f) For a motion for review or combined motion, pay to the court administrator the filing fee required by Rule 356.01, if the party has not already done so. The court administrator may reject the motion documents if the appropriate fee does not accompany the documents at the time of filing.

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

Rule 377.03 Content of Motion

Subdivision 1. Motion to Correct Clerical Mistakes. A motion to correct clerical mistakes shall:

(a) identify by page and paragraph the clerical mistake(s) and state the correct language;

(b) include the acknowledgment as required pursuant to Rule 379.04; and

(c) be signed by the party or that party's attorney.

Subd. 2. Motion for Review or Combined Motion. A motion for review or combined motion shall:

(a) state the reason(s) the review is requested;

(b) state the specific change(s) requested;

(c) specify the evidence or law that supports the requested change(s);

(d) state whether the party is requesting that the review be by the child support magistrate that issued the order being reviewed or by a district court judge;

(e) state whether the party is requesting an order authorizing the party to submit new evidence;

(f) state whether the party requests an order granting a new hearing;

(g) include the acknowledgement as required pursuant to Rule 379.04; and

(h) be signed by the initiating party or that party's attorney.

Rule 377.04 Response to Motion

Subdivision 1. Timing of Response to Motion. A party may respond to a motion to correct clerical mistakes or a motion for review. Any response shall state why the relief requested in the motion should or should not be granted. If a responding party wishes to raise other issues, the responding party must set forth those issues as a counter motion in the response. To respond to a motion to correct clerical mistakes the party shall perform items (a) through (e) within 14 days after

the party was served with the motion. To respond to a motion for review or a combined motion the party shall perform (a) through (f) within 28 days after the party was served with the notice under Rule 365.04. To respond to a counter motion, the party shall perform items (a) through (f) within 40 days after the party was served with the notice under Rule 365.04.

(a) Complete the response to motion to correct clerical mistakes form, response to motion for review form, or response to combined motion form.

(b) Serve the completed response to motion for clerical mistakes form, response to motion for review form, or response to combined motion form upon all other parties and the county agency. Service may be made by personal service or by U.S. mail pursuant to Rule 355.02.

(c) File the original response to motion with the court. If the filing is accomplished by mail, the response to motion shall be postmarked on or before the due date set forth in the notice of filing.

(d) File the affidavit of service with the court. The affidavit of service shall be filed at the time the original response to motion is filed.

(e) Order a transcript of the hearing under Rule 366, if the party desires to submit a transcript.

(f) For a responsive motion for review or combined motion, pay to the court administrator the filing fee required by Rule 356.01, if the party has not already done so. The court administrator may reject the responsive documents if the appropriate fee does not accompany the documents at the time of filing.

Subd. 2. Content of Response to Motion

(a) Content of Response to Motion to Correct Clerical Mistakes. A response to a motion to correct clerical mistakes shall:

(1) identify by page and paragraph the clerical mistake(s) alleged by the moving party and state whether responding party agrees or opposes the corrections;

(2) include an acknowledgment as required pursuant to Rule 379.04; and

(3) be signed by the responding party or that party's attorney.

(b) Content of Response to Motion for Review, Combined Motion, or Counter Motion. A response to a motion for review, combined motion, or counter motion shall:

(1) state why the relief requested should or should not be granted;

(2) if new issues are raised, state the specific change(s) requested;

(3) if new issues are raised, specify the evidence or law that supports the requested change(s);

(4) state whether the party is requesting that the review be by the child support magistrate who issued the order being reviewed or by a district court judge;

(5) state whether the party is requesting an order authorizing the party to submit new evidence;

(6) state whether the party requests an order granting a new hearing;

(7) include an acknowledgement as required pursuant to Rule 379.04; and

(8) be signed by the responding party or that party's attorney.

(Amended effective November 1, 2003; amended effective July 1, 2015; amended effective January 1, 2020.)

Rule 377.05 Calculation of Time

Subdivision 1. Timing for Response to Motion to Correct Clerical Mistakes. To calculate the time to respond to a motion to correct clerical mistakes, three (3) days shall be added to the 14 days for a total of 17 days within which to respond when the motion is served by mail.

Subd. 2. Timing for Service of Motion for Review or Combined Motion. To calculate the time to serve a motion for review or combined motion, three (3) days shall be added to the 21 days for a total of 24 days within which to serve a motion when the notice form as required by Rule 365.04 is served by mail.

Subd. 3. Timing for Response to Motion for Review or Combined Motion. To calculate the time to serve a response to a motion for review or combined motion, three (3) days shall be added to the 28 days for a total of 31 days within which to respond when the notice form as required under Rule 365.04 is served by mail. If the motion for review or combined motion is served by mail, an additional three (3) days shall be added to the 31 days for a total of 34 days within which to respond.

Subd. 4. Timing for Response to Counter Motion. To calculate the time to serve a response to a counter motion, three (3) days shall be added to the forty (40) days for a total of forty-three (43) days within which to respond when the notice form as required under Rule 365.04 is served by mail. If the counter motion to the motion for review or combined motion is served by mail, an additional three (3) days shall be added to the forty-three (43) days for a total of forty-six (46) days within which to respond.

(Amended effective January 1, 2020.)

Rule 377.06 Review When Multiple Motions Filed - Motion for Review

If in a motion for review a party requests review by the child support magistrate and any other party requests review by a district court judge, all motions shall be assigned to a district court judge who shall either decide all issues or remand one or more issues to the child support magistrate with instructions.

Rule 377.07 Notice of Assignment of District Court Judge - Motion for Review

If a party requests that a motion for review be decided by a district court judge, upon the filing of a motion containing such a request the court administrator shall as soon as practicable notify the parties of the name of the judge to whom the motion has been assigned.

Rule 377.08 Decision and Order Not Stayed

The decision and order of the child support magistrate or district court judge remains in full force and effect and is not stayed pending a motion to correct clerical mistakes, a motion for review, or a combined motion.

Rule 377.09 Basis of Decision and Order

Subdivision 1. Timing. Within 30 days of the close of the record, the child support magistrate or district court judge shall file with the court an order deciding the motion. In the event a notice to remove is granted pursuant to Rule 368, the 30 days begins on the date the substitute child support

magistrate or district court judge is assigned. The record shall be deemed closed upon occurrence of one of the following, whichever occurs later:

(a) filing of a response pursuant to Rule 377.04;

(b) filing of a transcript pursuant to Rule 366;

(c) withdrawal or cancellation of a request for transcript pursuant to Rule 366; or

(d) submission of new evidence under subdivision 4.

If none of the above events occur, the record on a motion for review or combined motion shall be deemed closed forty-six (46) days after service of the notice of filing as required by Rule 365.04, despite the requirements of Rule 354.03. For a motion to correct clerical mistakes and none of the above events occur, the record shall be deemed closed upon expiration of the time to respond to the motion to correct clerical mistakes.

Subd. 2. Decision.

(a) Motion to Correct Clerical Mistakes. The child support magistrate or district court judge may issue an order denying the motion to correct clerical mistakes or may issue an order making such corrections as deemed appropriate. If the motion is denied, the child support magistrate or district court judge shall specifically state in the order that the findings, decision, and order are affirmed.

(b) Motion for Review. The child support magistrate or district court judge shall make an independent review of any findings or other provisions of the underlying decision and order for which specific changes are requested in the motion. The child support magistrate or district court judge may affirm the order without making additional findings. If the court determines that the findings and order are not supported by the record or the decision is contrary to law, the child support magistrate or district court judge may issue an order:

(1) denying in whole or in part the motion for review;

(2) approving, modifying, or vacating in whole or in part, the decision and order of the child support magistrate; or

(3) scheduling the matter for hearing and directing the court administrator to serve notice of the date, time, and location of the hearing upon the parties.

In addition, the district court judge may remand one or more issues back to the child support magistrate with instructions. If the child support magistrate who issued the order is unavailable, the motion may be assigned by the court administrator to another child support magistrate serving in the judicial district. If any findings or other provisions of the child support magistrate's or district court judge's decision and order are approved without change, the child support magistrate or district court judge shall specifically state in the order that those findings and other provisions are affirmed but need not make specific findings or conclusions as to each point raised in the motion. If any findings or other provisions of the child support magistrate's or district court judge's decision and order are modified, the child support magistrate or district court judge need only make specific findings or conclusions with respect to the provisions that are modified.

Subd. 3. Record on Review. The review by the child support magistrate or district court judge shall be based upon the decision of the child support magistrate or district court judge and any exhibits and affidavits filed, and, where a transcript has not been filed, may be based upon all or part of the audio or video recording of the hearing.

Subd. 4. Additional Evidence Discretionary. When bringing or responding to a motion to correct clerical mistakes, a motion for review, or a combined motion, the parties shall not submit any new evidence unless the child support magistrate or district court judge, upon written or oral notice to all parties, requests additional evidence.

Subd. 5. No Right to Hearing. A hearing shall not be held unless ordered by the child support magistrate or district court judge. The child support magistrate or district court judge may order a hearing upon motion of a party or on the court's own initiative. A party's motion shall be granted only upon a showing of good cause. In the event the child support magistrate or district court judge decides to conduct a hearing, the child support magistrate or the district court judge shall direct the court administrator to schedule a hearing date and to serve notice of the date, time, and location of the hearing upon all parties and the county agency.

Subd. 6. Costs and Fees. The child support magistrate or district court judge may award costs and fees incurred in responding to a motion to correct clerical mistakes, motion for review, or combined motion if the child support magistrate or district court judge determines that the motion is not made in good faith or is brought for purposes of delay or harassment.

(Amended effective June 1, 2009; amended effective January 1, 2020; amended effective September 1, 2020.)

Advisory Committee Comment - 2008 Amendment

Rule 377.09, subdivision 2(b), is amended to correct language of the existing Rule that could be interpreted to have a mandatory meaning not intended by the Drafters. The revised rule allows the child support magistrate to affirm an order without findings, but does not require that. The rule is intended to adopt expressly a de novo standard of review. The reviewing court need not make findings if the decision is to affirm. De novo review is consistent with the reported decisions construing the former rule. See, e.g. Kilpatrick v. Kilpatrick, 673 N.W.2d 528, 530 n.2 (Minn. Ct. App. 2004); Davis v. Davis, 631 N.W.2d 822, 825 (Minn. Ct. App. 2001); Blonigen v. Blonigen, 621 N.W.2d 276, 280 (Minn. Ct. App. 2001), review denied (Minn. Mar. 13, 2001).

Rule 377.10 Notice of Order or Judgment

Within 7 days of receipt of an order issued as a result of a motion to correct clerical mistakes, a motion for review, or a combined motion, the court administrator shall serve a notice of filing of order or notice of entry of judgment upon each party by United States Mail, along with a copy of the order or judgment. The notice shall state that the parties have a right to appeal to the Court of Appeals under Rule 378. If the order was issued by a district court judge, the court administrator shall provide a copy of the order to the child support magistrate.

(Amended effective January 1, 2020.)

Rule 377.11 Effective Date; Final Order

The order issued following a motion to correct clerical mistakes, a motion for review, or a combined motion is effective and final when signed by the child support magistrate or district court judge.

Rule 378. Appeal to Court of Appeals

Rule 378.01 Generally

An appeal may be taken to the court of appeals from a final order or judgment of a child support magistrate or from a final order deciding a motion for review under Rule 376. Such an appeal shall be taken in accordance with the procedures set forth in the Minnesota Rules of Civil Appellate

Procedure within 60 days of the date the court administrator serves upon the parties the notice of filing of order or notice of entry of judgment. If any party brings a timely motion to correct clerical mistakes under Rule 375 or a timely motion for review under Rule 376, the time for appeal is extended for all parties while that motion is pending. Once the last such pending motion is decided by the child support magistrate or district court judge, the 60 days to appeal from the final order or judgment of a child support magistrate or from a final order deciding a motion to correct clerical mistakes or a motion for review runs for all parties from the date the court administrator serves upon the parties the notice of filing of order or notice of entry of judgment disposing of that motion. A notice of appeal filed before the disposition of a timely motion to correct clerical mistakes or for review is premature and of no effect, and it does not divest the child support magistrate of jurisdiction to dispose of the motion. Except as otherwise provided in these rules, the Minnesota Rules of Civil Appellate Procedure shall govern the taking and processing of such appeals.

(Amended effective January 1, 2020.)

Advisory Committee Comment

Timing. *Under Minn. R. Civ. App. P. 104.01, the sixty (60) days in which to bring an appeal to the court of appeals begins to run on the date of service by any party of written notice of filing of an appealable order or on the date on which an appealable judgment is entered. The Advisory Committee intends that Rule 378 supersede the appellate rule to provide that the sixty (60) days to appeal begins to run from the time the court administrator serves the written notice of filing of order or notice of entry of judgment.*

Scope of Review. *A party may choose to bring a motion to correct clerical mistakes, or a motion for review, or to appeal directly to the court of appeals thus bypassing the first two options. However, if a party chooses the option of appealing directly to the court of appeals without first bringing a motion for review, such an appeal will be limited to determining whether the evidence sustains the findings of fact (to which the "clearly erroneous" standard of review applies) and whether the findings support the conclusions of law and the judgment. Kahn v. Tronnier, 547 N.W.2d at 428, rev. denied (Minn. July 10, 1996). Thus, although a motion for review is very important to obtaining the broadest possible appellate review, it is not an absolute prerequisite to appeal -- a litigant can choose to file a direct appeal from the order of the child support magistrate, but the appeal will be limited to issues within that narrower scope of review.*

IV. FORMS

Rule 379. Forms

Rule 379.01 Court Administrator to Provide Forms

Whenever a court administrator is required to provide forms under these rules, those forms shall be provided to the parties in the most accessible method for the parties, including fax, electronic mail, in person, by U.S. mail, or in alternate formats.

Rule 379.02 Substantial Compliance

The forms developed by the state court administrator and by the Department of Human Services for use in the expedited process, or forms substantially in compliance with such forms, are sufficient for purposes of these rules.

Advisory Committee Comment

The Advisory Committee encourages use of the standardized forms developed by the state court administrator and Department of Human Services. However, regardless of such standardized forms,

attorneys representing the parties and the county attorney representing the interests of the county agency retain professional responsibility for the form and content of pleadings and other legal documents used in the expedited process.

Rule 379.03 Modification of Forms

Except as otherwise provided in these rules, a party has discretion to modify the standardized forms to address the factual and legal issues that cannot be adequately covered by standardized forms.

Rule 379.04 Acknowledgment

Subdivision 1. Generally. Each complaint or motion served and filed in the expedited process shall set forth an acknowledgment by the party or the party's attorney. By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other document, an attorney or self-represented litigant is certifying that to the best of the person's knowledge, information, and belief:

(a) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(b) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(c) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery;

(d) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief; and

(e) the court may impose an appropriate sanction upon the attorneys, law firms, or parties that violate the above stated representations to the court, or are responsible for the violation.

Subd. 2. Motions to Correct Clerical Mistakes and Motions for Review. In motions to correct clerical mistakes, motions for review, or combined motions, the acknowledgment shall also include the following:

(a) a statement that the existing order remains in full force and effect and the parties must continue to comply with that order until a new order is issued; and

(b) a statement that the party understands that the child support magistrate or judge will decide whether the party may submit new information or whether the party may have a hearing, and that the parties will be notified if the party's request is granted.

(Amended effective July 1, 2015; amended effective September 1, 2018.)

Rule 379.05 [Deleted effective June 1, 2009.]

APPENDIX OF FORMS

All forms previously contained in Title IV have been deleted from the rules. Family Court Action forms are currently maintained on the state court website (http://www.mncourts.gov).

TITLE V. PROBATE RULES

Rule 401. Applicability of Rules

Rules 401 through 416 apply to all Probate proceedings.

Task Force Comment - 1991 Adoption

Rules 401 through 416 are the Minnesota Probate Rules recodified, but not otherwise significantly changed. Rule 401 is a new rule intended to make it clear what actions are governed by these rules.

Rule 402. Definitions

(a) Formal Proceedings. A formal proceeding is a hearing conducted before the court with notice to interested persons. Formal proceedings seek a judicial determination.

(b) Informal Proceedings. An informal proceeding is conducted by the judge, the registrar, or the person or persons designated by the judge for probate of a will or appointment of a personal representative. Informal proceedings seek an administrative determination and not a judicial determination and are granted without prior notice and hearing.

(c) Supervised Administration. Supervised administration is a single, continuous, in rem proceeding commenced by a formal proceeding.

(d) Code. The code is the Uniform Probate Code as adopted by the State of Minnesota.

Rule 403. Documents

(a) Preparation of Original Documents. It shall be the responsibility of lawyers and others appearing before the court or registrar to prepare for review and execution appropriate orders, decrees, statements, applications, petitions, notices and related documents, complete and properly drafted, to address the subject matter and relief requested.

(b) Official Forms. The official forms adopted by the Minnesota District Judges' Association or promulgated by the commissioner of commerce shall be used.

(c) Documents and Files. The court shall make its files and records available for inspection and copying.

No file, or any part thereof, shall be taken from the custody of the court, except the original court order required to be displayed to an individual or entity when the order is served. A document or exhibit which has been filed or submitted in any proceeding can thereafter be withdrawn only with the permission of the court. Any document which is written in a language other than English shall be accompanied by a verified translation into the English language.

(d) Verification of Filed Documents. Every document filed with the court must be verified as required by the code, except a written statement of claim filed with the court administrator by a creditor or a pleading signed by the lawyer for a party in accordance with the Minnesota Rules of Civil Procedure.

(e) Original Will Deposit. Where a will or codicil is to be filed with the court in any probate proceeding under these rules, the party with possession of the original will or codicil shall promptly deposit the original with the court. Alternatively, an authenticated copy of a will probated in another jurisdiction may be deposited with the court.

(Amended effective September 1, 2018.)

Probate Committee Comment*

The court will accept photocopies of forms if the copies are made by a process that is permanent, on hard stock paper, are free of smudges and otherwise clearly legible and have been reproduced in the same length as the original form and prescribed type size. In using photocopies of forms in courts that are not utilizing a flat file system, the case heading and nomenclature must appear on the outside of the form when folded appropriately for permanent filing.

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

Task Force Comment - 1991 Adoption

The change in this rule is made to reflect the new title of the office formerly known as Commissioner of Securities. See Minnesota Statutes 1990, section 80A.14, subdivision 5.

Advisory Committee Comment - 2018 Amendments

Rule 403(e) is new in 2018 and appears to reflect near statewide practice designed to preserve what often becomes a central piece of evidence in probate cases. Statutes also appear to direct the submission of the original paper document. Minnesota Statutes, sections 524.3-301, (informal probate); 524.3-402 (formal probate); and 524.2-516 (upon request).

Rule 404. Notice in Formal Proceedings

(a) General Notice Requirements. In all formal proceedings notice of a hearing on any petition shall be given as provided in the code after the court issues the order for hearing. Where mailed notice is required, proof of mailing the notice of hearing shall be filed with the court administrator before any formal order will issue. Mailed notice shall be given to any interested person as defined by the code or to the person's lawyer. Where notice by personal service or publication is required by the code, proof of personal service or publication shall be filed with the court administrator before the formal order will issue.

(b) Notice of Proceedings for Determination of Testacy and Appointment of Personal Representative. In proceedings which adjudicate testacy, notice of the hearing on the petition shall be given after the court administrator issues the order for hearing. Proof of publication of the order for hearing, in accordance with the code, shall be filed with the court administrator before the order will issue. In proceedings for the formal appointment of a personal representative, the same notice requirements shall pertain except notice by publication shall not be required if testacy has been previously determined. Where creditors' claims are to be barred, the published notice shall include notice to creditors.

Mailed notice shall be given to all known heirs-at-law, all devisees under any will submitted for formal probate and all interested persons as defined by the code or ordered by the court and shall include in appropriate cases the attorney general, foreign counsel and lawyers representing the interested persons.

Mailed notice shall be given to the surviving spouse of the following rights:

(1) The right to receive the decedent's wearing apparel, furniture and household goods and other personal property as provided in the code or by law.

(2) The right to receive maintenance payments during administration of the estate as provided in the code or by law.

(3) The right to take an elective share equal to the value of the elective-share percentage of the augmented estate, determined by the length of the marriage, as provided in the code and the homestead as provided in the code or by law.

(c) Waiver of Notice in Formal Proceedings. Except in proceedings governed by subdivision (b) of this rule, an interested person may waive notice of any formal proceeding in accordance with the code. The written waiver shall evidence the person's consent to the order sought in the proceeding.

(Amended effective July 1, 2015.)

Probate Committee Comment*

Publication required by this notice must be completed prior to the hearing date.

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

Rule 405. Interim Orders

(a) Interim Orders Available From Court Only. The court has no power to intervene in any unsupervised administration unless a formal petition invoking the court's authority is filed by an interested person.

The court or registrar does not have authority to issue ex parte interim orders in unsupervised proceedings except that the registrar may issue the certificate of discharge provided for in the code.

In supervised administration, the court may issue ex parte orders only for strong and compelling reasons.

Probate Committee Comment*

Determinations by the registrar are informal and do not bring the estate or interested persons under the supervisory authority of the court. A personal representative appointed in informal proceedings may petition the court for a formal determination as to any matter within the jurisdiction of the court. It may also be necessary to seek the formal determination of the court as to the admissibility of a will, determination of heirship, or other matters as a condition precedent to obtaining the requested relief.

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

Rule 406. Uncontested Formal Proceedings

(a) Uncontested Formal Proceedings; Hearings and Proof. The court shall call the calendar in open court for all hearings set for a designated time. If a petition in a formal proceeding is unopposed, the court will enter in the record the fact that there was no appearance in opposition to the petition and that no objection has been filed with the court. Thereupon, the court shall:

(1) Make its determination after conducting a hearing in open court, requiring appearance of petitioner and testimony or other proof of the matters necessary to support the order sought; or

(2) Make its determination on the strength of the pleadings without requiring the appearance of petitioner or of petitioner's lawyer and without requiring testimony or proof other than the verified pleadings; or

(3) Make its determination based on such combination of (1) and (2) above as the court in its discretion deems proper.

In any uncontested formal proceeding, the court shall determine that (i) the time required for any notice has expired; (ii) any required notice has been given; (iii) the court has jurisdiction of the subject matter; (iv) venue is proper; and (v) the proceeding was commenced within the time limitations prescribed by the code as a prerequisite to determining other issues presented to the court for determination in the proceeding. The court shall be satisfied that the pleadings and any other proof presented support the order sought in any uncontested formal proceeding.

Rule 407. Appointment

(a) Nomination and Renunciation. When two or more persons have equal or higher priority to appointment as personal representative, those who do not renounce must concur in writing in nominating another to act for them, or in applying for appointment. In formal appointment proceedings, concurrence by persons who have equal or higher priority is presumed after notice has been given unless a written objection is filed.

(b) Nonresident Personal Representatives. The court or registrar may appoint a nonresident personal representative.

Rule 408. Informal Proceedings

(a) Contents of the Application. Application for informal probate or appointment proceedings shall contain information required by the code and the approximate value of the following categories of assets:

Probate Assets	
Homestead	$_____
Other Real Estate	$_____
Cash	$_____
Securities	$_____
Other	$_____
Non-Probate Assets	
Joint Tenancy	$_____
Insurance	$_____
Other	$_____
Approximate Indebtedness	$_____

In all estate proceedings, whether testate or intestate, the application must contain a statement that specifically eliminates all heirs or devisees other than those listed in the application.

Probate Committee Comment* - 2015 Amendments

Examples (These are not intended to be exhaustive)

The statements will necessarily vary, depending upon who survives the decedent, and must close out any class affected:

(1) Where only the spouse survives, the application should state "That decedent left no surviving descendants (including adopted descendants); and was not in the process of adopting an individual at the time of the decedent's death."

(2) Where only children survive, the application should state "That the decedent left surviving no spouse; no children (including adopted children) other than herein named; and no descendents of any deceased children."

(3) Where the spouse and children survive, the application should state "That the decedent left surviving no children (including adopted children) other than herein named and no descendants of any deceased children; and was not in the process of adopting an individual at the time of the decedent's death."

(4) Where only brothers or sisters of decedent survive, the application should state "That the decedent left surviving no spouse; descendants; parents; brothers or sisters other than herein named; and no descendants of deceased brothers or sisters."

(5) Where only first cousins survive, the application should state "That the decedent left surviving no spouse; descendants; parents; brothers or sisters or descendants thereof; grandparents; aunts or uncles; and no first cousins other than herein named."

(6) In all cases, the application should state either:

(a) That all the heirs-at-law survived the decedent for 120 hours or more; or

(b) that all the heirs-at-law survived the decedent for 120 hours or more except the following: (name or names).

(7) In all cases where a spouse and children survive, the application should state either:

(a) That all of the descendants of the decedent are also descendants of the surviving spouse; or

(b) That one or more of the descendants of the decedent are not also descendants of the surviving spouse.

(b) Will Testimony. The registrar shall not require any affidavit or testimony with respect to execution of a will prior to informal probate if it is a self-proved will or appears to have been validly executed.

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

Probate Committee Comment*

Applicants for informal probate of a will which is not self-proved are encouraged to preserve evidence concerning the execution of the will if a formal testacy proceeding may later be required or desired.

(c) Appearances. The applicant is required to appear before the registrar unless represented by counsel. The registrar may also waive appearance by counsel.

(d) Informal Proceedings: Notice of Informal Probate of Will and Informal Appointment of Personal Representative. In informal proceedings, notice of appointment of a personal representative shall be given after the registrar issues the order appointing the personal representative. Proof of placement for publication shall be filed with the court administrator before letters will issue. Where mailed notice is required, an affidavit of mailing of the order appointing the personal representative shall be filed with the court administrator before letters will issue. If the informal proceedings include the informal probate of a will, the notice shall include notice of the issuance of the statement of informal probate of the will. Where creditors' claims are to be barred, the published notice shall include notice to creditors.

Mailed notice shall be given to all known heirs-at-law, all devisees under any will submitted for informal probate and all interested persons as defined by the code and shall include in appropriate cases the attorney general, foreign consul and lawyers representing interested persons.

Mailed notice shall be given to the surviving spouse of the following rights:

(1) The right to receive the decedent's wearing apparel, furniture and household goods and other personal property as provided in the code or by law.

(2) The right to receive maintenance payments during administration of the estate as provided in the code or by law.

(3) The right to take an elective share equal to the value of the elective-share percentage of the augmented estate, determined by the length of the marriage, as provided in the code and the homestead as provided in the code or by law.

(Amended effective July 1, 2015.)

Rule 409. Formal Testacy and Appointment Proceedings

(a) Contents of Petition. A petition in formal testacy and appointment proceedings shall contain the information required by the code and the information concerning the approximate value of assets required by Minn. Gen. R. Prac. 408(a). In all estate proceedings, whether testate or intestate, the petition must contain an allegation that specifically eliminates all heirs or devisees other than as listed in the petition.

(b) Conversion to Supervised Administration. Any estate which has been commenced as an informal proceeding or as an unsupervised formal proceeding may be converted at any time to a supervised administration upon petition. The court shall enter an order for hearing on said petition. Notice of hearing shall be given in accordance with Minn. Gen. R. Prac. 404(a). If testacy has not been adjudicated in a prior formal proceeding, notice of hearing must meet the specific notice requirements for formal testacy proceedings provided by Minn. Gen. R. Prac. 404(b) including notice by publication.

Rule 410. Transfer of Real Estate

(a) Transfers of Real Estate in Supervised and Unsupervised Administration; Transfer by Personal Representative of Real Property for Value; Documents Required. A personal representative shall provide a transferee of real property for value with the following documents:

(1) A certified copy of unrestricted letters (28 days must have elapsed since date of issuance of letters to an informally appointed personal representative);

(2) A certified copy of the will; and

(3) A personal representative's deed or other instrument transferring any interest in real property which shall contain the marital status of the decedent and the consent of spouse, if any.

(b) Distribution of Real Property; Documents Required. A personal representative shall provide a distributee of real property with the following documents:

(1) When distribution is made by decree, a certified copy of the decree of distribution assigning any interest in real property to the distributee.

(2) When distribution is made by deed from a personal representative in unsupervised administration:

(i) A certified copy of unrestricted letters (28 days must have elapsed since date of issuance of letters to an informally appointed personal representative);

(ii) A certified copy of the will; and

(iii) A personal representative's deed of distribution of any interest in real property to the distributee which shall contain the marital status of the decedent and consent of spouse, if any.

(3) When distribution is made by deed from the personal representative in supervised administration:

(i) A certified copy of unrestricted letters;

(ii) A certified copy of an order of distribution which authorizes the distribution of any interest in real property to the distributee;

(iii) A certified copy of the will; and

(iv) A personal representative's deed of distribution of any interest in real property to the distributee.

(Amended effective January 1, 2020.)

Rule 411. Closing Estates

(a) Notice of Formal Proceedings for Complete Settlement Under Minnesota Statutes, section 524.3-1001. If testacy has been adjudicated in a prior formal proceeding, notice of hearing on a petition for complete settlement under Minnesota Statutes, section 524.3-1001 must meet the requirements of Minn. Gen. R. Prac. 404(a), but notice by publication specifically provided for in Minnesota Statutes, section 524.3-403 is not required. If testacy has not been adjudicated in a prior formal proceeding, notice of hearing on a petition for complete settlement under Minnesota Statutes, section 524.3-1001, must meet the specific notice requirements for formal testacy proceedings provided in Minnesota Statutes, section 524.3-403, including notice by publication.

(b) Notice of Formal Proceedings for Settlement of Estate Under Minnesota Statutes, section 524.3-1002. If an estate is administered under an informally probated will and there has been no adjudication of testacy in a prior formal proceeding, the court may make a final determination of rights between the devisees under the will and against the personal representative under Minnesota Statutes, section 524.3-1002, if no part of the estate is intestate. The court will not adjudicate the testacy status of the decedent. Notice of hearing on a petition must meet the requirements of Minnesota Statutes, section 524.1-401. Notice by publication specifically provided for in Minnesota Statutes, section 524.3-403 is not required.

Rule 412. Fees, Vouchers, and Tax Returns

(a) Fees. The court may require documentation or it may appoint counsel to determine the reasonableness of the fees charged by the lawyer and the personal representative. The court may order the fees of the appointed counsel to be paid out of the estate.

(b) Vouchers. Unless otherwise ordered by the court, vouchers for final and interim accounts need not be filed.

(c) Tax Returns. Unless ordered by the court, copies of the United States Estate Tax closing letter and the Minnesota notification of audit results need not be filed.

Rule 413. Subsequent Proceedings

(a) Authority of Personal Representative During One Year Period After Filing Closing Statement. For one year from the date of filing the closing statement authorized by the code, the personal representative shall have full and complete authority to execute further transfers of property; to complete transactions; to complete distributions; to correct misdescriptions or improper identification of assets; or to transfer or distribute omitted property. During this period, the personal representative shall ascertain any matters of unfinished administration which must be completed prior to the termination of the representative's authority.

(b) Authority of Personal Representative to Transfer or Distribute Omitted Property During One Year Period After Filing Closing Statement. In the case of omitted property discovered after the filing of the closing statement authorized by the code, but before termination of the personal representative's authority, the personal representative must, as required by the code, file a supplementary inventory with the court and mail a copy to any surviving spouse, other distributees, and other interested persons, including creditors whose claims are unpaid and not barred. Proof of service by mail must be filed with the court prior to any transfer of the omitted property by the personal representative.

(c) Notice of Proceedings for Subsequent Administration After Termination of Personal Representative's Authority. The court, upon petition, or the registrar, upon application of any interested person, may appoint the same or a successor personal representative to administer the subsequent estate. If testacy has been adjudicated in a formal proceeding, notice of hearing must meet the requirements of Minn. Gen. R. Prac. 404(a), but the notice by publication specifically provided for in Minnesota Statutes, section 524.3-403 is not required. If testacy has not been adjudicated previously and only appointment of a personal representative is sought, notice of hearing must meet the specific notice requirements for formal testacy proceedings provided in Minnesota Statutes, section 524.3-403, but notice by publication is not required. In the case of subsequent administration involving omitted property, the personal representative must comply with the inventory, mailing and filing requirements of Minn. Gen. R. Prac. 413(b).

(d) Proof Required for Formal Settlement or Distribution in Subsequent Administration. During a subsequent administration, when an order of settlement of the estate and decree or order of distribution is sought, the court must be satisfied with the pleadings and any other proof (including accounting for all assets, disbursements, and distributions made during the prior administration) before issuing its order.

(Amended effective July 1, 2015.)

Rule 414. Fiduciaries

If the lawyer for the estate, or a partner, associate or employee of the lawyer for the estate, is also appointed as the individual personal representative of the estate, except where one of them is a family member of the decedent, the administration shall be supervised. In such a case, both the lawyer for the estate and the personal representative must keep separate time records and differentiate the charges for their duties in each capacity. The lawyer should only serve as fiduciary at the unsolicited suggestion of the client and the lawyer must realize that there are legal, ethical and practical problems that must be overcome in order to perform the duties of a fiduciary and lawyer. Supervised administration shall not be required solely because the personal representative of the estate is a lawyer, whether or not the personal representative is related to the decedent, so long as

the personal representative, or a partner, associate or employee of the personal representative, is not also retained as the lawyer for the estate.

(Amended effective July 1, 2015.)

Task Force Comment - 1991 Adoption

This recommended change is made to permit family members, who happen to be lawyers, to serve as fiduciaries without automatically subjecting the estate to the burdens of supervised administration. Although supervised administration may be appropriate in individual cases, the Task Force believes that it should not be uniformly imposed on the families of lawyers.

Rule 415. Registrar

(a) Authority. The functions of the registrar may be performed either by a judge of the court or by a person designated by the court in a written order filed and recorded in the office of the court, subject to the following:

(1) Each judge of the court may at any time perform the functions of registrar regardless of whether the court has designated other persons to perform those functions.

(2) The functions and powers of the registrar are limited to the acts and orders specified by the code and these rules.

(3) Any person designated registrar by the court shall be subject to the authority granted by and the continuing direction of the court.

(4) The registrar is not empowered to intervene or issue orders resolving conflicts related to the administration of the estate.

(b) Registrar Has No Continuing Authority. The registrar does not have any continuing authority over an estate after the informal probate is granted or denied and shall not require the filing of any additional documents other than are required by the code (law) and these rules.

Rule 416. Guardianships and Conservatorships

(a) Responsibility of Lawyer. Upon the appointment of a conservator or guardian of the estate, the appointee shall nominate a lawyer of record for that conservatorship or guardianship, or shall advise the court that he or she shall act pro se. The named lawyer shall be the lawyer of record until terminated by the conservator or guardian, or, with the consent of the court, by withdrawal of the lawyer. If the lawyer is terminated by the conservator or guardian, written notice of substitution or pro se representation shall be given to the court (by the conservator or guardian, or by the lawyer who has received oral or written notice of termination), and until such notice, the former lawyer shall be recognized.

(b) Visitors in Guardianship and Conservatorship Proceedings. A visitor, as defined by law, may be appointed in every general guardianship or conservatorship proceeding.

Every visitor shall have training and experience in law, health care or social work, as the case may be, depending upon the circumstances of the proposed ward or conservatee.

The visitor shall be an officer of the court and shall be disinterested in the guardianship or conservatorship proceedings. If the court at any time determines that the visitor, or the firm or agency by which he or she is employed, has or had, at the time of the hearing, a conflict of interest, the court shall immediately appoint a new visitor and may, if necessary, require a hearing de novo.

The visitor shall, (a) without outside interferences, meet with the proposed ward or conservatee, either once or more than once as the visitor deems necessary, (b) observe his or her appearance, lucidity and surroundings, (c) serve, read aloud, if requested, and explain the petition and notice of hearing, (d) assist, if requested, in obtaining a private or court appointed lawyer, (e) advise the proposed ward or conservatee that a report will be filed at least 7 days before the hearing and that the report is available to the proposed ward or conservatee or the ward's or conservatee's lawyer, (f) prepare a written report to the court setting forth all matters the visitor deems relevant in determining the need for a guardian or conservator, including recommendations concerning appointment and limitation of powers, (g) file the original report with the court and, (h) serve a copy upon the petitioner or petitioner's lawyer at least 7 days before the hearing, (i) appear, testify and submit to cross examination at the hearing concerning his or her observations and recommendations, unless such appearance is excused by the court.

(c) Voluntary Petition. If an adult voluntarily petitions or consents to the appointment of a guardian or conservator of the estate as set forth in the law, then it is not necessary for such adult to be an "incapacitated person" as defined by the law.

(d) Amount of Bond. The court may, at any time, require the filing of a bond in such amount as the court deems necessary and the court, either on request of an interested party, or on its own motion, may increase or decrease the amount of the bond. The court, in requiring a bond, if any, or in determining the amount thereof, shall take into account not only the nature and value of the assets, but also the qualifications of the guardian or conservator.

(e) E-Filing Annual Accounts and Inventories; Effect of Allowance of Accounts. Conservators appointed by the court must electronically file their annual accounts and inventories using a computer process designated by the state court administrator. Directions for reporting shall be posted on the judicial branch website (www.mncourts.gov). The filing, examination and acceptance of an annual account, without notice of hearing, shall not constitute a determination or adjudication on the merits of the account, nor does it constitute the court's approval of the account.

(f) Required Periodic Settlement of Accounts. No order settling and allowing an annual or final account shall be issued by the court except on a hearing with notice to interested parties. A hearing for the settlement and allowance of an annual or final account may be ordered upon the request of the court or any interested party. A hearing shall be held for such purpose in each guardianship or conservatorship of the estate at least once every five years upon notice as set forth in the law, and the rules pursuant thereto. However, in estates of the value of $20,000 or less, the five-year hearing requirement may be waived by the court in its discretion. Such five-year hearings shall be held within 150 days after the end of the accounting period of each fifth annual unallowed account and the court administrator shall notify such guardian or conservator, the guardian's or conservator's lawyer and the court if the hearing is not held within the 150-day period.

(g) Notice of Hearing on Account. Notice of time and place for hearing on the petition for final settlement and allowance of any account shall be given to the ward or conservatee, to the guardian or conservator if such person was not the petitioner for settlement of the accounts, to the spouse, adult children and such other interested persons as the court may direct. Whenever any funds have been received by the estate from the Veterans Administration during the period of accounting, notice by mail shall be given to the regional office. The notice may be served in person or by depositing a copy in the U.S. mail to the last known address of the person or entity being served. Service shall be sent by electronic means in accordance with Rule 14 to any party that has agreed to or is required to accept electronic service under Rule 14. When a ward or conservatee is restored to capacity, that person is the only interested person. When a ward or conservatee dies, the personal representative of the estate is the only interested person.

(h) Appearance on Petition for Adjudication of Accounts. When a verified annual or final account is filed in accord with the law and an adjudication is sought, and notice given as required by the law or waived as provided below, and the court determines that the account should be allowed, the account may be allowed upon the pleadings without appearance of the guardian or conservator. If the ward, conservatee or any interested person shall object to the account, or demand the appearance of the guardian or conservator for hearing on the account, at any time up to and including the date set for the hearing, the court will continue the hearing, if necessary, to a later date and require the appearance of the guardian/conservator for examination. Notice of hearing may be waived with the consent of all interested persons.

(i) Successor Guardian; Notice to Ward or Conservatee. The notice required by law shall include the right of the ward or conservatee to nominate and instruct the successor.

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

Rule 417. Trustees-Accounting-Petition For Appointment

Rule 417.01 Petition for Confirmation of Trustee

Except in those cases in which a trust company or national banking association having trust powers is the trustee or one of the trustees, the petition for confirmation of the appointment of the trustee or trustees shall include an inventory, including a description of the assets of the trust known to the petitioners and an estimate by them of the market value of such assets at the date of the petition. The petition shall also set forth the relationship, if any, of the trustee or trustees to the beneficiaries of the trust.

Rule 417.02 Annual Account

Every trustee subject to the continuing supervision of the district court shall file an annual account, duly verified, of the trusteeship with the court administrator within 60 days after the end of each accounting year. Such accounts may be submitted on form 417.02 appended to these rules, and shall contain the following:

(a) Statements of the total inventory or carrying value and of the total fair market value of the assets of the trust principal as of the beginning of the accounting period. In cases where a previous account has been rendered, the totals used in these statements shall be the same as those used for the end of the last preceding accounting period.

(b) A complete itemized inventory of the assets of the trust principal as of the end of the accounting period, showing both the inventory or carrying value of each asset and also the fair market value thereof as of such end of the accounting period, unless, because such value is not readily ascertainable or for other sufficient reason, this provision cannot reasonably be complied with. Where the fair market value of any item at the end of the accounting period is not used, a notation of such fact and the reason therefor shall be indicated on the account.

(c) An itemized statement of all income transactions during the period of such account.

(d) A summary statement of all income transactions during the period of such account, including the totals of distributions of income to beneficiaries and the totals of trustees' fees and attorneys' fees charged to income.

(e) An itemized statement of all principal transactions during the period of such account.

(f) A reconciliation of all principal transactions during the period of such account, including the totals of distributions of principal to beneficiaries and the totals of trustees' fees and attorneys' fees charged to principal as well as the totals of liquidations and reinvestments of principal cash.

(Amended effective January 1, 1996; amended effective May 23, 2016.)

Rule 417.03 Taxes

Final accounts shall also disclose the state of the property of the trust estate as to unpaid or delinquent taxes and such taxes shall be paid by the trustee to the extent that the funds in the trust permit, over and beyond the cost and expenses of the trust administration, except where a special showing is made by the trustee that it is in the best interests of the trust and is lawful for the unpaid or delinquent taxes not to be paid.

Rule 417.04 Service on Beneficiaries

There shall also be filed with the court administrator proof of mailing of such account to the last addresses known to the trustee of, or of the service of such account upon, such of the following beneficiaries or their natural or legal guardians as are known to, or reasonably ascertainable by, the trustee:

(a) Beneficiaries entitled to receive income or principal at the date of the accounting; and

(b) Beneficiaries who, were the trust terminated at the date of the accounting, would be entitled to share in distributions of income or principal.

Service shall be sent by electronic means in accordance with Rule 14 to any party that has agreed to or is required to accept electronic service under Rule 14.

(Amended effective July 1, 2015.)

Rule 417.05 Court Administrator Records; Notice

The court administrator shall keep a list of trusteeships and notify each trustee and the court when any such annual account has not been filed within 120 days from the end of the accounting year.

Rule 417.06 Hearing

Hearings upon annual accounts may be ordered upon the request of any interested party. A hearing shall be held on such annual accounts at least once every five years and notice shall be provided in accordance with Minnesota Statutes, section 501B.18, or its successor. In trusts of the value of $50,000 or less, the five year hearing requirement may be waived by the court in its discretion. Any hearing on an account may be ex parte if each party in interest then in being shall execute waiver of notice in writing which shall be filed with the court administrator. Such five year hearings shall be held within 150 days after the end of the accounting period of each fifth annual unallowed account, and the court administrator shall notify each trustee and the Court if the hearing is not held within such 150 day period.

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

Advisory Committee Comment - 1995 Amendment

Rule 417.02, as amended, refers to trustees subject to the continuing supervision of the district courts. The rule is intended to apply to all trusts subject to the continuing supervision of the district courts pursuant to Minnesota Statutes 1994, section 501B.23, and the earlier reference to jurisdiction is deleted to avoid confusion, since all Minnesota trusts are subject to the district court's jurisdiction.

Advisory Committee Comment - 2015 Amendments

This rule was derived from Rule 28 of the Code of Rules for the District Courts. The rule is recodified with the probate court rules because it relates to actions brought in the now-unified district court.

Rule 417.06 is amended to incorporate the specific statutory notice required by Minnesota Statutes, section 501B.18, or its successor.

Advisory Committee Comment - 2016 Amendments

The amendment to Rule 417.02 and its related modification of Form 417.02 serve a single purpose - to remove the requirement that annual accounts include a list of assets that realized a net income of less than one percent of value. This requirement has not proven valuable to courts in reviewing annual accounts and it is difficult to make the calculations required by the rule so it is appropriate to abrogate the requirement for providing this information. The amendment does not prevent the court from inquiring about the investment choices and yields of the trust; it just removes the requirement for inclusion of the information in every annual account.

FORM 417.02 TRUSTEE'S ACCOUNTING

State of Minnesota **District Court**

COUNTY	JUDICIAL DISTRICT COURT FILE NO.

Case Type: _____

In the Matter of the Trust Created under Article
_____ of the Last Will of_____.

ALTERNATIVE FOR INTER VIVOS TRUSTS:
In the Matter of the Trust Created under
Agreement By and Between _____,
Settlor, and _____ and _____,
Trustees, dated _____ .

TRUSTEE'S ANNUAL ACCOUNT

	Principal	Income
Assets on Hand as of _____ (Schedule 1)	$	$
Increases to Assets:		
Interest (Schedule 2)	$ 0.00	$
Dividends (Schedule 3)	$ 0.00	$
Capital gains distributions (Schedule 4)	$	$ 0.00
Gains on sales and other dispositions (Schedule 5)	$	$ 0.00
Return on capital (Schedule 6)	$	$ 0.00
Other increases (Schedule 7)	$	$
Decreases to Assets:		
Losses on sales and other dispositions (Schedule 8)	($)	($ .00)
Administration expenses (Schedule 9)	($)	($)
Taxes (Schedule 10)	($)	($)
Trustee fees	($)	($)
Attorney fees	($)	($)
Other decreases (Schedule 11)	($)	($)
Balance Before Distributions	$	$

Distributions to Beneficiaries (Schedule 12)	($)	($)
Principal and Income Balances	$ 0.00	$ 0.00
Total Assets on Hand as of _____ (Income plus principal) (Schedule 13)		$ _____

[NAME OF TRUST]

ASSETS ON HAND

[Beginning DATE]

Schedule 1

	Market Value as of [DATE]	Values at Cost or Basis Principal	Values at Cost or Basis Income
Cash or Cash Equivalents			
Checking account	$	$	$
Savings account	$	$	$
Money market account	$	$	$
Stocks and Bonds			
Stocks	$	$	$ 0.00
Corporate bonds	$	$	$ 0.00
Municipal bonds	$	$	$ 0.00
Real Estate	$	$	$ 0.00
Other Assets			$
Life insurance policies (cash value)	$	$	$
Other assets	$	$	$
Total Assets on Hand as of [Date] _____ .	$ 0.00	$ 0.00	$ 0.00

Note: This schedule reflects assets on hand at the beginning of the period. Identify each asset thoroughly. Provide the name of the bank and account number for each account holding cash or cash equivalents. Under Minn. Gen. R. Prac. 11, financial account numbers must be submitted on a separate Form 11.1 Confidential Information Form that is not accessible to the public. Provide the number of shares or par value of each security. Provide the address of each parcel of real estate.

[NAME OF TRUST]

INTEREST

Schedule 2

		Income
Checking account(s)		
1.	$	
2.	$	
Savings account(s)		
1.	$	
2.	$	
Corporate bonds		
1.	$	
2.	$	
3.	$	
Municipal bonds		
1.	$	
2.	$	
3.	$	
Other interest		
1.	$	
2.	$	
3.	$	
Total Interest	$	0.00

Identify each interest-producing asset. List each bank account by name and account number. Under Minn. Gen. R. Prac. 11, financial account numbers must be submitted on a separate Form 11.1 Confidential Information Form that is not accessible to the public. Identify each bond or other asset that pays interest.

[NAME OF TRUST]

DIVIDENDS

Schedule 3

Income

Stocks		
1	$	
2	$	
3	$	
4	$	
5	$	
6	$	
7	$	
8	$	
9	$	
10	$	
11	$	
12	$	
13	$	
14	$	
15	$	
Total Dividends	$	0.00

Identify each security that paid dividends.

[NAME OF TRUST]

CAPITAL GAINS DISTRIBUTIONS

Schedule 4

	Principal
Capital gains distributions:	
1	$
2	$
3	$
4	$
5	$
6	$
7	$
8	$
9	$

10	$	
11	$	
12	$	
13	$	
14	$	
Total Capital Gains Distributions	$	0.00

Identify each security that paid dividends.

[NAME OF TRUST]

GAINS ON SALES AND OTHER DISPOSITIONS

Schedule 5

		Principal
Sale of _____ shares of _____ :		
Proceeds received	$	
Less cost or basis	($)	$ 0.00
Sale of _____ shares of _____ :		
Proceeds received	$	
Less cost or basis	($)	$ 0.00
Sale of _____ shares of _____ :		
Proceeds received	$	
Less cost or basis	($)	$ 0.00
Sale of _____ shares of _____ :		
Proceeds received	$	
Less cost or basis	($)	$ 0.00
Sale of _____ shares of _____ :		
Proceeds received	$	
Less cost or basis	($)	$ 0.00
Sale of _____ shares of _____ :		
Proceeds received	$	
Less cost or basis	($)	$ 0.00

Sale of _____ shares of _____:			
Proceeds received	$		
Less cost or basis	($)	$	0.00
Sale of _____ shares of _____:			
Proceeds received	$		
Less cost or basis	($)	$	0.00
Sale of _____ shares of _____:			
Proceeds received	$		
Less cost or basis	($)	$	0.00
Total Gains		$	0.00

[NAME OF TRUST]

RETURN OF CAPITAL

Schedule 6

	Principal
Return of capital:	
1.	$
2.	$
3.	$
4.	$
5.	$
6.	$
7.	$
8.	$
9.	$
10.	$
11.	$
12.	$
13.	$

14.	$	
Total Return of Capital	$	0.00

Identify each security that paid a return of capital.

[NAME OF TRUST]

OTHER INCREASES

Schedule 7

	Principal	Income
Securities added to trust by Settlor		$ 0.00
1	$	$
2	$	$
3	$	$
4	$	$
5	$	$
6	$	$
7	$	$
8	$	$
9	$	$
Income transferred to principal	$	$ 0.00
Other increases:		
1	$	$
2	$	$
3	$	$
4	$	$
5	$	$
6	$	$
7	$	$
8	$	$
9	$	$
Total Other Increases	$ 0.00	$ 0.00

[NAME OF TRUST]

LOSSES ON SALES AND OTHER DISPOSITIONS

Schedule 8

		Principal
Sale of _____ shares of _____:		
Proceeds received	$	
Less cost or basis	($)	$ 0.00
Sale of _____ shares of _____:		
Proceeds received	$	
Less cost or basis	($)	$ 0.00
Sale of _____ shares of _____:		
Proceeds received	$	
Less cost or basis	($)	$ 0.00
Sale of _____ shares of _____:		
Proceeds received	$	
Less cost or basis	($)	$ 0.00
Sale of _____ shares of _____:		
Proceeds received	$	
Less cost or basis	($)	$ 0.00
Sale of _____ shares of _____:		
Proceeds received	$	
Less cost or basis	($)	$ 0.00
Sale of _____ shares of _____:		
Proceeds received	$	
Less cost or basis	($)	$ 0.00
Sale of _____ shares of _____:		
Proceeds received	$	
Less cost or basis	($)	$ 0.00

Sale of _____ shares of _____:		
Proceeds received	$	
Less cost or basis	($)	$ 0.00
Total Losses		$ 0.00

[NAME OF TRUST]

ADMINISTRATIVE EXPENSES

Schedule 9

	Principal	Income
Bank account fees	$	$
Check charges	$	$
Broker annual fees	$	$
Photocopies	$	$
Postage	$	$
Maintenance of real estate (schedule attached)	$	$
Other (schedule attached)	$	$
Total Administrative Expenses	$ 0.00	$ 0.00

[NAME OF TRUST]

TAXES

Schedule 10

	Principal	Income
Foreign dividend tax	$ 0.00	$
U.S. fiduciary income tax	$	$
Minnesota fiduciary income tax	$	$
Total Taxes	$ 0.00	$ 0.00

Note: The portion of fiduciary income tax allocated to capital gains is charged against principal. The portion of foreign dividend tax is allocated to income.

[NAME OF TRUST]

OTHER DECREASES

Schedule 11

	Principal	Income
Income transferred to principal	$	$ 0.00
Other decreases:		
1.	$	$
2.	$	$
3.	$	$
4.	$	$
5.	$	$
6.	$	$
7.	$	$
8.	$	$
9.	$	$
10.	$	$
Total Other decreases	$ 0.00	$ 0.00

[NAME OF TRUST]

DISTRIBUTIONS TO BENEFICIARIES

Schedule 12

	Principal	Income
Name of each beneficiary and date and description of distribution:		
1.	$	$
2.	$	$
3.	$	$
4.	$	$
5.	$	$
6.	$	$
7.	$	$
8.	$	$
9.	$	$

10.	$	$
11.	$	$
12.	$	$
13.	$	$
14.	$	$
15.	$	$
Total Distributions to Beneficiaries	$ 0.00	$ 0.00

[NAME OF TRUST]

ASSETS ON HAND

[ending DATE]

Schedule 13

	Market Value as of [DATE]	Values at Cost or Basis Principal	Values at Cost or Basis Income
Cash or Cash Equivalents			
Checking account	$	$	$
Savings account	$	$	$
Money market account	$	$	$
Stocks and Bonds			
Stocks	$	$	$ 0.00
Corporate bonds	$	$	$ 0.00
Municipal bonds	$	$	$ 0.00
Real Estate	$	$	$ 0.00
Other Assets			
Life insurance policies (cash value)	$	$	$
Other assets	$	$	$
Total Assets on Hand as of [Date] _____.	$ 0.00	$ 0.00	$ 0.00

Note: This schedule reflects assets on hand at the end of the accounting period. Identify each asset thoroughly. Provide the name of the bank and account number for each account holding cash or cash equivalents. Under Minn. Gen. R. Prac. 11, financial account numbers must be submitted on

a separate Form 11.1 Confidential Information Form that is not accessible to the public. Provide the number of shares or par value of each security. Provide the address of each parcel of real estate.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minnesota Statutes, section 358.116.

Signed at: _____County,_____

_____State.

On_____, 20____.

Signature

_____

Name_____

Agency or Business Name, if applicable:_____

Address_____

City/State/Zip_____

Telephone (_____)_____

Notarial Stamp or Seal (or Other Title or Rank)	Signed and sworn to (or affirmed) before me on (date) _____ by _____ and _____ , Trustees. _____ Signature of Notary Public or Other Official

(Amended effective July 1, 2015; amended effective May 23, 2016.)

Rule 418. Deposit of Wills

(a) Deposit by Testator. Any testator may deposit his or her will with the court administrator in any county subject to the following rules. Wills shall be placed in a sealed envelope with the name, address, and birth date of the testator placed on the outside. The administrator shall give a receipt to the person depositing the will.

(b) Withdrawal by Testator or Agent. Any will may be withdrawn by the testator in person upon presentation of identification and signing an appropriate receipt. A testator's attorney or other agent may withdraw the will by presenting a written authorization signed by the testator and two witnesses with the testator's signature notarized.

(c) Examination by Guardian or Conservator. A guardian or conservator of the testator may review the will upon presentation of identification bearing the photograph of the person seeking

review and a copy of valid letters of guardianship or conservatorship. If the guardianship or conservatorship proceedings are venued in a county other than that where the will is filed, the required copy of the letters shall be certified by the issuing court within 28 days of the request to review the will. The will may only be examined by the guardian or conservator in the presence of the court administrator or deputy administrator, who shall reseal it after the review is completed and shall endorse on the resealed envelope the date it was opened, by whom it was opened and that the original was placed back in the envelope.

(d) Copies. No copies of the original will shall be made during the testator's lifetime.

(Added effective January 1, 1997; amended effective January 1, 2020.)

Advisory Committee Comment - 1996 Amendment

This rule is new and is intended to provide a standard mechanism for handling wills deposited with the court for safekeeping. Minnesota Statutes, section 524.2-515, became effective in 1996 to permit deposit of any will by the testator. This rule is intended to provide uniform and orderly rules for deposit and withdrawal of wills that are deposited pursuant to this statute.

Rule 419. Electronic Service

Except where personal service is required by statute or these rules, service shall be sent by electronic means in accordance with Rule 14 to any party who has agreed to or is required to accept electronic service under Rule 14.

(Added effective July 1, 2015.)

Advisory Committee Comment - 2015 Amendments

As the courts implement electronic filing and electronic service in more types of cases, electronic service using the court's system will increasingly be the most common means of service. Rule 14 defines how the e-filing and e-services systems operate and must be used.

Minnesota Statutes, sections 524.1-401 and 524.5-113, were amended by Minnesota Laws 2014, chapter 204, by addition of the following:

Except where personal service is required by statute for the petition to appoint a guardian under section 524.5-308 or conservator under section 524.5-404, service of all documents and notices under this chapter may, and where required by Supreme Court rule or order shall, be made by electronic means other than facsimile transmission if authorized by rule or order of the Supreme Court and if service is made in accordance with the rule or order.

TITLE VI. CONCILIATION COURT RULES

Rule 501. Applicability of Rules

Rules 501 through 525 apply to all conciliation court proceedings.

Rule 502. Jurisdiction

The conciliation court shall have jurisdiction and powers as prescribed by law.

Rule 503 Computation of Time

Rule 503.01 Generally

The following rules apply in computing any time period specified in these rules, in any local rule or court order, or in any statute that does not specify a method of computing time.

(a) Period Stated in Days or a Longer Unit of Time. When the period is stated in days or a longer unit of time:

(1) exclude the day of the event that triggers the period;

(2) count every day, including intermediate Saturdays, Sundays, and legal holidays; and

(3) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(b) Periods Shorter than 7 Days. Only if expressly so provided by any other rule or statute, a time period that is less than 7 days may exclude intermediate Saturdays, Sundays, and legal holidays. Otherwise, all time periods include Saturdays, Sundays, and legal holidays.

(c) Period Stated in Hours. When the period is stated in hours:

(1) begin counting immediately on the occurrence of the event that triggers the period;

(2) count every hour, including hours occurring during intermediate Saturdays, Sundays, and legal holidays; and

(3) if the period would end on a Saturday, Sunday, or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

(d) Inaccessibility of the Court Administrator's Office. Unless the court orders otherwise, if the court administrator's office is inaccessible:

(1) on the last day for filing or service under Rule 503.01(a) and (b), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or

(2) during the last hour for filing under Rule 503.01(b) and (c), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.

(e) "Last Day" Defined. Unless a different time is set by a statute, local rule, or court order, the last day ends:

(1) for electronic filing, at 11:59 p.m. local Minnesota time; and

(2) for filing by other means, when the Court Administrator's office is scheduled to close.

(f) "Next Day" Defined. The "next day" is determined by continuing to count forward 1 when the period is measured after event and backward when measured before an event.

(Amended effective January 1, 2010; amended effective July 1, 2015; amended effective January 1, 2020.)

Rule 503.02 Definition of Legal Holiday

As used in these rules, "legal holiday" includes any holiday designated in Minnesota Statutes, section 645.44, subdivision 5, as a holiday for the state or any state-wide branch of government and any day that the United States Mail does not operate.

(Amended effective January 1, 2020.)

Rule 503.03 Additional Time After Service by Mail or Service Late in Day

Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other document upon the party, and the notice or document is served upon the party by United States Mail, 3 days shall be added to the prescribed period.

If service is made by any means other than United States Mail and accomplished after 5:00 p.m. local Minnesota time on the day of service, 1 additional day shall be added to the prescribed period.

(Amended effective January 1, 2020.)

1993 Committee Comment

State level judicial branch holidays are defined in Minnesota Statutes 1990, section 645.44, subdivision 5, which includes: New Year's Day, January 1; Martin Luther King's Birthday, the third Monday in January; Washington's and Lincoln's Birthday, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Veteran's Day, November 11; Thanksgiving Day, the fourth Thursday in November; and Christmas Day, December 25. Section 645.44, subdivision 5, further provides that when New Year's Day, January 1; or Independence Day, July 4; or Veteran's Day, November 11; or Christmas Day, December 25; falls on Sunday, the following day shall be a holiday and that when New Year's Day, January 1; or Independence Day, July 4; or Veteran's Day, November 11; or Christmas Day, December 25; falls on Saturday, the preceding day shall be a holiday. Section 645.44, subdivision 5, also authorizes the judicial branch to designate certain other days as holidays. The 1992 Judicial Branch Personnel Plan designates the Friday after Thanksgiving as a holiday.

Conciliation courts are housed in county buildings, and the county is authorized to close county offices on certain days pursuant to Minnesota Statutes 1990, section 373.052. Thus, if a county closes its offices under Minnesota Statutes, section 373.052, on a day that is not a state level judicial branch holiday, such as Christopher Columbus Day, the second Monday in October, the conciliation court in that county would nevertheless include that day as a holiday for the purpose of computing time under Rule 503. See Mittelstadt v. Breider, 286 Minn. 211, 175 N.W.2d 191 (1970) (applying Minnesota Statutes, section 373.052, to filing of notice of election contest with district court). If a county does not close its offices on a day that is a state level judicial branch holiday, such as the Friday after Thanksgiving, the conciliation court in that county must still include that day as a holiday for the purpose of computing time under Rule 503.

Advisory Committee Comment - 2009 Amendment

Rule 503(c) is amended to clarify that for service or filing by mail, if U. S. Postal Service offices are closed on a particular day, that day is not deemed a "working week day" for the purpose of the rule, effectively permitting the mailing to be made on the next day that is a "working week day." This change conforms the rule to the time calculation provision of Minn. R. Civ. P. 6.01, which in turn was amended in 2008 to conform the rule to the Minnesota Supreme Court decision in Commandeur LLC v. Howard Hartry, Inc., 724 N.W.2d 508 (Minn. 2006) (holding that where the

last day of a time period occurred on Columbus Day, service by mail permitted by the rules was timely if mailed on the following day on which mail service was available).

Advisory Committee Comment - 2019 Amendments

This amended Rule 503 is drawn directly to Rule 6.01 as amended as part of the extensive revamping in 2019 of the timing rules for all civil matters. These amendments implement the adoption of a standard "day" for counting deadlines under the rules - counting all days regardless of the length of the period and standardizing the time periods, where practicable, to a 7-, 14-, 21-, or 28-day schedule. The most important establishes "a day is a day" - all days during a period under the rules, regardless of length, are included, including weekends and legal holidays. This change mirrors a set of changes made in the Federal Rules of Civil Procedure, and is intended to create substantial similarity between "state days" and "federal days." The amended rule also adopts the same definition of "legal holidays" as set used in Minn. R. Civ. P. 6.

Rule 503.01(f) is an important provision that will affect many deadlines. It establishes an explicit rule for how days are counted when counting "backwards" from a deadline. The rule requires that, when counting backwards from an event, and the last day falls on a weekend or holiday, the counting continues to the next earlier date that is not a weekend or holiday. This rule is modeled on its federal counterpart and is intended to create greater uniformity in timing between all state and federal court matters.

Rule 504. Judge(s); Administrator; Reporting

(a) Judges. The judge(s) and, where authorized by statute, full and part time judicial officers and referees of the district court shall serve as judge(s) of conciliation court for such periods and at such times as the judge(s) shall determine. A judge, judicial officer, or referee so serving shall be known as a conciliation judge.

(b) Administrator.

(1) The court administrator shall manage the conciliation court, and may delegate a deputy or deputies to assist in performing the administrator's duties. The court administrator shall keep records and accounts and perform such duties as may be prescribed by the judge(s). The court administrator shall account for, and transmit to the appropriate official, all fees received as required by statute or rule.

(2) Under supervision of the conciliation court judges, the court administrator shall explain to litigants the procedures and functions of the conciliation court and shall on request assist litigants in filling out the forms provided under Rules 507(b) and 518(b) of these rules and on request shall, to the extent technically feasible, forward properly completed statement of claim and counterclaim forms to the administrator of the appropriate conciliation court together with the applicable fees, if any. The court administrator shall also advise litigants of the availability of subpoenas to obtain witnesses and documents. The performance of these duties shall not constitute the practice of law.

(3) Unless personal service is required under these rules, the court administrator may transmit notices by mail or by any means authorized by Rule 14 of the General Rules of Practice for the District Courts.

(c) Reporting. Conciliation court trials and proceedings shall not be reported.

(Amended effective July 1, 2015.)

1993 Committee Comment

Rule 504(b)(2) requires court administrators to advise litigants of the availability of subpoenas under Rule 512(a). The required advice may be provided orally or in writing (e.g. on the litigant's copy of a court form, an accompanying instruction sheet, or in a brochure).

Rule 505. Commencement of Action

An action is commenced against a defendant when a statement of claim as required by Rule 507 is filed with the court administrator of the conciliation court having jurisdiction and the applicable fees are paid to the administrator or the affidavit in lieu of filing fees prescribed in Rule 506 is filed with the administrator. Where authorized or required by Rule 14 of the General Rules of Practice for the District Courts, documents may, and where required shall, be filed by electronic means by following the procedures of Rule 14.

(Amended effective July 1, 2015.)

Rule 506. Fees; Affidavit in Lieu of Fees

The court administrator shall charge and collect a filing fee in the amount established by law and the law library fee, from every plaintiff and from every defendant when the first document for that party is filed in any conciliation court action. If the plaintiff or defendant who is a natural person signs and files with the court administrator an affidavit claiming an inability to pay the applicable fees, no fees are required. If the affiant prevails on a claim or counterclaim, the amount of the fees which would have been payable by the affiant must be included in the order for judgment and paid to the administrator of conciliation court by the affiant out of any money recovered by the affiant on the judgment.

(Amended effective July 1, 2015.)

1993 Committee Comment

Statewide conciliation court filing fees are established by the legislature (see Minnesota Statutes, section 357.022). The law library fee is established by the local law library board, and these fees typically range from $0 to $10. Minnesota Statutes 1990, section 134A.09, and Minnesota Statutes 1991 Supplement, section 134A.10. The fee waiver procedure under Rule 506 is essentially a clerical process, and the waiver applies to the conciliation court filing and law library fees only. The procedure for waiver of other fees [e.g. service fees under Rule 508(d)(3), subpoena fees under Rule 512(a), and removal/appeal fees under Rule 521(b)(4)] is set forth in Minnesota Statutes 1990, section 563.01, which requires a formal application to, and decision by, the court. Only a party who is a natural person may utilize the fee waiver procedures under section 563.01 and Rule 506.

Rule 507. Statement of Claim and Counterclaim; Contents; Verification

(a) Claim; Verification; Contents. Each statement of claim and each counterclaim shall be made in the form approved by the court and shall contain a brief statement of the amount and nature of the claim, including relevant dates, and the name and address of the plaintiff and the defendant. The court administrator shall assist with the completion of the statement of claim and counterclaim upon request. Each statement of claim and each counterclaim shall also be signed under penalty of perjury by the party, or the lawyer representing the party pursuant to Minnesota Statutes, section 358.116, provided that the signature is affixed immediately below a declaration using substantially the following language: "I declare under penalty of perjury that everything I have stated in this document is true and correct." In addition to the signature, the date of signing and the county and state where the document was signed shall be noted on the document.

(b) Uniform Statement of Claim or Counterclaim; Acceptance by Court. A statement of claim or counterclaim in the uniform form as published by the state court administrator shall be accepted by any conciliation court administrator when properly completed and filed with the applicable fees, if any.

(Amended effective January 1, 2010; amended effective July 1, 2015.)

1993 Committee Comment

Rule 507(b) requires that all courts accept a statement of claim or counterclaim properly completed on the form set forth in the appendix. Rule 507(a) authorizes a court to tailor the forms that it makes available to litigants for use in that court or to approve forms prepared by the litigants. This rule allows both the court and the litigants to benefit from increased efficiency through the use of various preprinted forms and word processor or computer generated forms. Courts using tailored forms cannot, however, reject a statement of claim or counterclaim properly completed on the form set forth in the appendix.

Advisory Committee Comment - 2009 Amendment

Rule 507, 508, and 518 are amended to remove Forms UCF-8, UCF-9, UCF-10, UCF-22, and 508.1 from the rules and to correct the reference to the forms in the rule. This amendment will allow for the maintenance and publication of the forms by the state court administrator. The forms, together with other court forms, can be found at http://www.mncourts.gov.

Forms UCF-8, UCF-9, UCF-10, UCF-22, and 508.1 should be deleted from the rules and maintained in the future on the court's Web site.

Rule 508. Summons; Trial Date

(a) Trial Date. When an action has been properly commenced, the court administrator shall set a trial date and prepare a summons. Unless otherwise ordered by a judge, the trial date shall not be less than 14 days from the date of mailing or service of the summons.

(b) Contents of Summons. The summons shall state the amount and nature of the claim; require the defendant to appear at the trial in person or if a corporation, by officer or agent; shall specify that if the defendant does not appear judgment by default may be entered for the amount due the plaintiff, including fees, expenses and other items provided by statute or by agreement, and where applicable, for the return of property demanded by the plaintiff; and shall summarize the requirements for filing a counterclaim.

(c) Service on Plaintiff. The court administrator shall summon the plaintiff by first class mail or by any electronic means of delivering notice authorized by Rule 14 of the General Rules of Practice for the District Courts.

(d) Service on Defendant.

(1) If the defendant's address as shown on the statement of claim is within the county, the administrator shall summon the defendant by first class mail, except that if the claim exceeds $2,500 the summons must be served by the plaintiff by certified mail, and proof of service must be filed with the administrator. If the summons is not properly served and proof of service filed within sixty (60) days after issuance of the summons, the action shall be dismissed without prejudice.

(2) If the defendant's address as shown on the statement of claim is outside the county but within the state, and the law provides for service of the summons anywhere within the state, the administrator shall summon the defendant by first class mail, except that if the claim exceeds $2,500

the summons must be served by the plaintiff by certified mail, and proof of service must be filed with the administrator. If the summons is not properly served and proof of service filed within sixty (60) days after issuance of the summons, the action shall be dismissed without prejudice.

(3) If the defendant's address as shown on the statement of claim is outside the state, the administrator shall forward the summons to the plaintiff who, within sixty (60) days after issuance of the summons, shall cause it to be served on the defendant and file proof of service with the administrator. If the summons is not properly served and proof of service filed within sixty (60) days after issuance of the summons, the action shall be dismissed without prejudice. A party who is unable to pay the fees for service of a summons may apply for permission to proceed without payment of fees pursuant to the procedure set forth in Minnesota Statutes, section 563.01.

(4) Service by mail, whether first class or certified, shall be effective upon mailing.

(e) Proof of Service.

Service by first class mail or certified mail shall be proven by an affidavit of service in form substantially similar to that published by the state court administrator. Service may be alternatively proven, when made by the court administrator, by any appropriate notation in the court record of the date, time, method, and address used by the administrator to effect service.

(f) Service by Electronic Means; When Complete; Proof of Service.

Unless these rules require personal service, any document may be served by electronic means under Rule 14 of the General Rules of Practice for the District Courts upon any party who has agreed to or is required to accept service by electronic means. Completion of service by electronic means under Rule 14 is governed by Rule 14. When a document has been served through the E-Filing System in accordance with Rule 14, the record of service on the E-Filing System shall constitute proof of service.

(Amended effective January 1, 2006; amended effective January 1, 2010; amended effective July 1, 2015; amended effective January 1, 2020.)

1993 Committee Comment

The territorial jurisdiction of conciliation court is limited to the county boundaries, and a summons cannot be issued outside the county except in certain situations, including: recovery of certain student loans by educational institutions located within the county; recovery of alleged dishonored checks issued within the county; certain claims arising out of rental property located within the county; actions against two or more defendants when one defendant resides in the county; actions against foreign corporations doing business in this state; and actions against nonresidents other than foreign corporations when the state has jurisdiction under Minnesota Statutes, section 543.19. Minnesota Statutes 1993 Supplement, section 491A.01, subdivisions 3, 6 to 10. In situations in which the address of the defendant as shown on the statement of claim is outside the state, the summons is forwarded to the plaintiff who is then responsible for causing service of the summons on the defendant in the manner provided by law and filing proof of service with the court within sixty (60) days of issuance of the summons.

Various laws govern the service of a summons on nonresident defendants. See, e.g. Minnesota Statutes, sections 45.028 (foreign insurance entities doing business in this state); 303.13 (foreign corporations doing business in this state); 543.19 (other nonresident defendants subject to the jurisdiction of Minnesota's courts). The procedure under each of these laws is different, and it is the plaintiff's responsibility to ensure that the appropriate procedures are followed. For example, service on an unregistered foreign corporation pursuant to Minnesota Statutes 1991 Supplement,

section 303.13, can be accomplished by delivering three copies of the summons to the secretary of state and payment of a $35 fee. The secretary of state then mails a copy to the defendant corporation and keeps a record of the mailing. Rule 508(d) requires that the plaintiff file an affidavit of compliance which should be accompanied by the fee receipt from the secretary of state's office or a copy of the summons bearing the date and time of filing with the secretary of state. Service on an unregistered foreign insurance entity pursuant to Minnesota Statutes 1990, section 45.028, subdivision 2, may be accomplished by: (1) delivering a single copy of the summons to the commissioner of commerce (as of August 1, 1992, there is no filing fee); and (2) the plaintiff mailing a copy of the summons and notice of service to the foreign insurance company by certified mail; and (3) filing of an affidavit of compliance with the court. Service is not effective until all steps are completed, including the filing of the affidavit of compliance, which should be accompanied by receipts or other proof of mailing and filing with the commissioner of commerce. Finally, service on other nonresidents pursuant to Minnesota Statutes 1990, section 543.19, requires that the summons be "personally served" on the nonresident and proof of service filed with the court. Such "personal service" may only be made by a sheriff or any other person not less than eighteen (18) years of age who is not a party to the action. Reichel v. Hefner, 472 N.W.2d 346 (Minnesota Appellate 1991) (applying Minn. R. Civ. P. 4.02 for the district courts).

When service on a foreign corporation has been made under Minnesota Statutes, section 303.13, through the Office of the Secretary of State, the defendant corporation so served shall have thirty (30) days from the date of mailing by the secretary of state in which to answer the complaint. Thus, the conciliation court trial date must be scheduled to allow the defendant the full thirty (30) days to appear. Similarly, when certain foreign insurance entities are served under Minnesota Statutes, section 45.028, subdivision 2, the law also provides a 30-day response period [see, e.g., Minnesota Statutes, section 64B.35, subdivision 2 (fraternal benefit societies)] or prohibits default judgments until the expiration of thirty (30) days from the filing of the affidavit of compliance. [Minnesota Statutes, section 60A.21, subdivision 1, clause (4) (unauthorized foreign insurer)].

Rule 508(d) recognizes that in most situations involving resident defendants, first class mail is a sufficient method of notifying the defendant of the claim. If for some reason the summons cannot be delivered by mail, the last sentence of Rule 508(a) recognizes that personal service of the summons pursuant to the rules of civil procedure for the district court is always an effective means of providing notice of the claim. The party filing the claim is responsible for obtaining personal service, including any costs involved. As indicated above, "personal service" may only be made by a sheriff or any other person not less than eighteen (18) years of age who is not a party to the action.

The provisions requiring service by certified mail were added in order to make the rules consistent with statutes. See Minnesota Statutes 1993 Supplement, section 491A.01, subdivision 3, paragraph (b). If the claim exceeds $2,500, the plaintiff is responsible for causing service of the summons on the defendant by certified mail, and filing proof of service with the court within sixty (60) days of issuance of the summons.

Advisory Committee Comment - 2006 Amendment

Rule 508(d)(4) is a new provision, intended to remove any confusion in the rule over when service by mail is deemed complete. This question is important in determining questions of timing. Making service effective upon mailing is consistent with the provisions of Minn. R. Civ. P. 5.02 and Minn. R. Civ. App. P. 125.03.

The rule has historically required proof of service, but has not specified how service is proven. Rule 508(e) specifies that an affidavit of service should be prepared in form substantially similar to new Form 508.1 to prove service by anyone other than the court administrator. Where the rule

requires the administrator to effect service by mail or certified mail, it is not necessary to require an affidavit of the administrator to prove service, and Rule 508(e) recognizes that a notation of the facts of service in the court's file will suffice to prove that service was effected.

Some courts follow the practice of using certified mail receipts as proof of service. In fact these receipts generally only prove receipt of the mailing, not the mailing itself. Although proof of receipt may be important if a question arises as to the effectiveness of service, it is not an adequate substitute for proof of the facts of service, including the date of mailing.

Rule 509. Counterclaim

(a) Counterclaims Allowed. The defendant may assert a counterclaim within jurisdiction of conciliation court which the defendant has against the plaintiff, whether or not arising out of the transaction or occurrence which is the subject matter of plaintiff's claim.

(b) Assertion of Counterclaim. To assert a counterclaim the defendant shall perform all the following not less than 7 days before the date set for trial of plaintiff's claim:

(1) file with the court administrator a counterclaim required by Rule 507;

(2) pay to the court administrator the applicable fees or file with the administrator the affidavit in lieu of fees prescribed in Rule 506.

Where authorized or required by Rule 14 of the General Rules of Practice for the District Courts, documents may, and where required shall, be filed by electronic means by following the procedures of Rule 14.

(c) Administrator's Duties. The court administrator shall assist with the preparation of the counterclaim on request. When the counterclaim has been properly asserted, the court administrator shall note the filing of the counterclaim on the original claim, promptly transmit notice of the counterclaim to plaintiff and set the counterclaim for trial on the same date as the original claim.

(d) Late Filing. No counterclaim shall be heard if filed less than 7 days before the trial date of plaintiff's claim except by permission of the judge, who has discretion to allow a filing within the 7-day period. Should a continuance be requested by and granted to plaintiff because of the late filing, the judge may require payment of costs by defendant, absolute or conditional, not to exceed $50.

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

Rule 510. Counterclaim in Excess of Court's Jurisdiction

(a) The court administrator shall strike plaintiff's action from the calendar if the defendant not less than 7 days of the date set for trial of plaintiff's claim, files with the court administrator an affidavit stating that:

(1) the defendant has a counterclaim against plaintiff arising out of the same transaction or occurrence as plaintiff's claim, the amount of which is beyond monetary jurisdiction of the conciliation court, and

(2) the defendant has commenced or will commence within 28 days an action against plaintiff in a court of competent jurisdiction based on such claim.

(b) The plaintiff's action shall be subject to reinstatement on the trial calendar at any time after 28 days and up to three years, upon the filing by plaintiff of an affidavit showing that the plaintiff

has not been served with a summons by defendant. If the action is reinstated, the court administrator shall set the case for trial and transmit notice of the trial date to the parties.

(c) Absolute or conditional costs, not to exceed $50, may be imposed against the defendant if the defendant fails to commence an action as provided in paragraph (a)(2) of this rule, and the court determines that the defendant caused the plaintiff's action to be stricken from the calendar in bad faith or solely to delay the proceedings or to harass.

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

Rule 511. Notice of Settlement

If the parties agree on a settlement prior to trial, each party who has made a claim or counterclaim shall promptly advise the court in writing that the claim or counterclaim has been settled and that it may be dismissed.

(Added effective July 1, 1993.)

Rule 512. Trial

(a) Subpoenas. Upon request of a party and payment of the applicable fee, the court administrator shall issue subpoenas for the attendance of witnesses and production of documentary evidence at the trial. Minn. R. Civ. P. 45 to the extent relevant for use of subpoenas for trial applies to subpoenas issued under this rule. A party who is unable to pay the fees for issuance and service of a summons may apply for permission to proceed without payment of fees pursuant to the procedure set forth in Minnesota Statutes, section 563.01. An attorney who has appeared in an action may, as officer of the court, issue and sign a subpoena on behalf of the court where the action is pending.

(b) Testimony and Exhibits. Subject to part (d) of this rule, the judge shall hear testimony of the parties, their witnesses, and shall consider exhibits offered by the parties. The party offering an exhibit shall mark the party's name on the exhibit in a manner that will not obscure the exhibit. All exhibits will be returned to the parties at the conclusion of the trial unless otherwise ordered by the judge.

(c) Appearances. The parties shall appear in person, unless otherwise authorized by the court, and may be represented by a lawyer admitted to practice law before the courts of this state. A lawyer representing a party in conciliation court may participate in the trial to the extent and in the manner that the judge, in the judge's discretion, deems helpful.

A corporation, partnership, limited liability company, sole proprietorship, or association may be represented in conciliation court by an officer, manager, or partner, or an agent in the case of a condominium, cooperative or townhouse association, or may appoint a natural person who is an employee of the party or a commercial property manager to appear on its behalf or settle a claim in conciliation court. In the case of an officer, employee, commercial property manager, or agent of a condominium, cooperative or townhouse association, an authorized power of attorney, corporate authorization resolution, corporate by-law or other evidence of authority acceptable to the court must be filed with the claim or presented at the trial. The authority shall remain in full force and effect only as long as the case is active in conciliation court.

"Commercial property manager" means a corporation, partnership, or limited liability company or its employees who are hired by the owner of commercial real estate to perform a broad range of administrative duties at the property including tenant relations matters, leasing, repairs, maintenance, the negotiation and resolution of tenant disputes, and related matters. In order to appear in conciliation court, a property manager's employees must possess a real estate license under Minnesota Statutes,

section 82.20, and be authorized by the owner of the property to settle all disputes with tenants and others within the jurisdictional limits of conciliation court.

(d) Evidence. The judge shall normally receive only evidence admissible under the rules of evidence, but in the exercise of discretion and in the interests of justice, may receive otherwise inadmissible evidence.

(e) Conciliation; Judgment. The judge may attempt to conciliate disputes and encourage fair settlements among the parties. If at the trial the parties agree on a settlement the judge shall order judgment in accordance with the settlement. If no agreement is reached, the judge shall hear, determine the cause, and order judgment. Written findings of fact or conclusions of law shall not be required.

(f) Failure of Defendant to Appear. If the defendant fails to appear at the trial, after being summoned as provided in these rules, the judge may hear the plaintiff and may:

(1) order judgment in the amount due the plaintiff, including fees, expenses and other items provided by law or by agreement, and where applicable, order return of property to the plaintiff or

(2) otherwise dispose of the matter.

(g) Failure of Plaintiff to Appear, Defendant Present. Should plaintiff fail to appear at the trial, but defendant appears, the judge may hear the defendant and may:

(1) order judgment of dismissal on the merits or order a dismissal without prejudice on the plaintiff's statement of claim, and where applicable, order judgment on defendant's counterclaim in the amount due the defendant, including fees, expenses and other items provided by law or by agreement, and where applicable, order return of property to the defendant, or

(2) otherwise dispose of the matter.

(h) Continuances. On proper showing of good cause, a continuance may be granted by the court on request of either party. The court may require payment of costs, absolute or conditional, not to exceed $50, as a condition of such an order. On proper showing of good cause, requests for continuance that are made at least five days prior to the trial may be granted by the court administrator. Continuances granted by the court administrator shall be limited to one continuance per party.

(Amended effective August 1, 1994; amended effective January 1, 2007.)

1993 Committee Comment

Rule 512(a) authorizes the issuance of subpoenas to secure the attendance of witnesses and production of documentary evidence. The attendance of the parties is required by Rule 512(c).

The fee for issuing a subpoena is $3. Minnesota Statutes 1990, section 357.021, subdivision 2, clause (3). A subpoena may be served by the sheriff, a deputy sheriff, or any other person not less than 18 years of age who is not a party to the action. Minn. R. Civ. P. 4.02 and 45.03. The sheriff's fees and mileage reimbursement rate for service of a subpoena are set by the county board. Minnesota Statutes 1990, section 357.09.

Witnesses are also entitled to attendance fees and travel fees, and, unless otherwise ordered by the court, a witness need not attend at the trial unless the party requesting the subpoena pays the witness one day's attendance and travel fees in advance of the trial. Minnesota Statutes 1990, section 357.22 ($10 per day attendance fee, $.24 per mile mileage fee, to and from courthouse,

measured from witness's residence, if within state, or from state boundary line, if residence is outside the state); Minn. R. Civ. P. 45.03.

A witness who is not a party or an employee of a party and who is required to provide testimony or documents relating to a profession, business, or trade, or relating to knowledge, information, or facts obtained as a result of such profession, business or trade (e.g., a banker witness subpoenaed to produce bank records), is entitled to reasonable compensation for the time and expense involved in preparing for and giving such testimony or producing such documents. The party requesting the subpoena must make arrangements for such compensation prior to the trial. Minn. R. Civ. P. 45.06; D. Herr, R. Haydock, 2 Minnesota Practice, Civil Rules Annotated, section 45.14 (1985). With respect to any subpoena requiring the production of documents, the court may also require the party requesting the subpoena to pay the reasonable costs of producing the documentary evidence. Minn. R. Civ. P. 45.02.

Rule 512(e) does not preclude a court from providing the parties with a written explanation for the court's decision. Explanations, regardless of their brevity, are strongly encouraged. Explanations provide litigants with some degree of assurance that their case received thoughtful consideration, and may help avoid unnecessary appeals. Explanations may be inserted on Form UCF-9, appended to the rules, in either the Order for Judgment section on the front of the form or in the Memorandum section on the reverse side of the court's copy of the form.

Advisory Committee Comment - 2007 Amendment

Rule 512(a) is amended to include express provision for issuance of subpoenas by attorneys admitted to practice before the Court. This provision is adopted verbatim from the parallel provision in the civil rules, Minn. R. Civ. P. 45.01(c), as amended effective Jan. 1, 2006. Although subpoenas may be used for pretrial discovery from non-parties in district court proceedings, conciliation court practice does not allow pretrial discovery, so this use of subpoenas is similarly not authorized by this rule.

The rule is also amended to clarify the cross-references to Minn. R. Civ. P. 45, made necessary by the reorganization and renumbering of Rule 45 effective on Jan. 1, 2006. Rule 45 provides a comprehensive procedure for use of subpoenas that is helpful in conciliation court with one significant exception: because subpoenas are only available in conciliation court for use at trial, and not for pre-trial discovery, the portions of Rule 45 dealing with pre-trial discovery are not applicable in conciliation court.

Rule 513. Absolute or Conditional Costs; Filing of Orders

In any case in which payment of absolute or conditional costs has been ordered as a condition of an order under any provision of these rules, the amount so ordered shall be paid to the court administrator before the order becomes effective or is filed. Conditional costs shall be held by the court administrator to be paid in accordance with the final order entered in the case; absolute costs shall be promptly transmitted by the court administrator to the other party as that party's absolute property.

Rule 514. Notice of Order for Judgment

The court administrator shall promptly transmit to each party a notice of the order for judgment entered by the judge or judicial officer. The notice shall state the last day for obtaining an order to vacate (where there has been a default) or for removing the cause to the civil division of district court under these rules. The notice shall also contain a statement that if the cause is removed to district court, the court will allow the prevailing party to recover from the aggrieved party $50 as

costs if the prevailing party on appeal is not the aggrieved party in the original action as provided in Rule 524.

(Amended effective July 1, 2015.)

1993 Committee Comment

Rules 515, 520(a), and 521(b) of these rules establish a uniform 20-day time period for obtaining an order to vacate or for removing the case to district court. The 20 days is measured from the mailing of the notice of judgment, and the law requires that an additional three days be added to the time period when notice is served by mail. Wilkins v. City of Glencoe, 479 N.W.2d 430 (Minn. App. 1992) (construing Minn. R. Civ. P. 6.05). Computing the deadline can be difficult and confusing for lay persons, and Rule 514 attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including Rule 503 of these rules and Minn. R. Civ. P. 6.05.

Rule 515. Entry of Judgment

The court administrator shall promptly enter judgment as ordered by the judge. The judgment shall be dated as of the date notice is sent to the parties. The judgment so entered becomes finally effective 21 days after the transmission of the notice, unless:

(a) payment has been made in full, or

(b) removal to district court has been perfected, or

(c) an order vacating the prior order for judgment has been filed, or

(d) ordered by a judge.

As authorized by law, any judgment ordered may provide for satisfaction by payment in installments in amounts and at times, as the judge determines. Should any installment not be paid when due, the entire unpaid balance of the judgment ordered, becomes immediately due and payable.

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

1993 Committee Comment

Rule 515 provides that a judgment becomes finally effective 20 days after notice of judgment is mailed to the parties, and the law requires that an additional three days be added to the time period when notice is served by mail. Wilkins v. City of Glencoe, 479 N.W.2d 430 (Minn. App. 1992) (construing Minn. R. Civ. P. 6.05). Computing the effective date of the judgment can be difficult and confusing for lay persons, and Rule 514 attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including Rule 503 of these rules and Minn. R. Civ. P. 6.05. The purpose of the 20-day time period specified in Rule 515 is to permit a party to obtain an order to vacate under Rule 520(a) or effect removal of the case to district court under Rule 521(b).

The legislature has determined that any judgment ordered may provide for satisfaction by payment in installments in amounts and at such times, not exceeding one year for the last installment, as the judge determines to be just and reasonable. Minnesota Statutes 1993 Supplement, section 491A.02, subdivision 5. Rule 512(e) recognizes that the one-year limit on installment payments may be waived by the parties as part of a settlement.

Rule 516. Costs and Disbursements

The order for judgment shall include the fees paid or payable by the prevailing party pursuant to Rules 506 and 508(d)(3) of these rules and, in the discretion of the court, may include all or part of disbursements incurred by the prevailing party which would be taxable in district court and any conditional costs previously ordered to be paid by either party.

Rule 517. Payment of Judgment

A nonprevailing party must make arrangements to pay the judgment directly to the prevailing party. In the event good faith efforts to pay the judgment are not successful or the prevailing party refuses to accept tendered payment, the nonprevailing party may bring a motion to allow payment into court. Upon order of the court, the nonprevailing party may then pay all or any part of the judgment to the court administrator for benefit of the prevailing party.

The court administrator shall enter on the court's records any payment made to the administrator or to the prevailing party directly when satisfied that the direct payments have been made.

(Amended effective January 1, 2010.)

Advisory Committee Comment - 2009 Amendment

Rule 517 is amended to modify the procedure for payment of a conciliation court judgment directly to the court administrator. As amended, the rule requires that payment be made directly by the nonprevailing party to the prevailing party, and permits payment into court only if reasonable attempts to make that payment are not successful or the prevailing party will not accept payment, in which case the nonprevailing party must bring a motion to allow payment into court.

Rule 518. Docketing of Judgment in District Court; Enforcement

(a) Docketing. Except as otherwise provided in Rule 519 with respect to installment judgments, when a judgment has become finally effective as defined in Rule 515 of these rules the judgment creditor may obtain a transcript of the judgment from the court administrator on payment of the applicable statutory fee and file it in district court. Once filed in district court the judgment becomes and is enforceable as a judgment of district court, and the judgment will be docketed by the court administrator upon presentation of an affidavit of identification. No writ of execution or garnishment summons shall be issued out of conciliation court.

(b) Enforcement. Unless the parties have otherwise agreed, if a conciliation court judgment has been docketed in district court and the judgment is not satisfied, the district court shall upon request of the judgment creditor order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and location of all the debtor's assets, liabilities, and personal earnings. The information shall be provided on a form substantially similar to that published by the state court administrator, and the information shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The order shall contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for civil contempt of court. Cash bail posted as a result of being cited for civil contempt of court order under this rule may be ordered payable to the creditor to satisfy the judgment, either partially or fully.

(Amended effective January 1, 2010.)

1993 Committee Comment

The party in whose favor the judgment was entered (the "judgment creditor") is responsible for enforcing the judgment if the other party ("the judgment debtor") does not voluntarily comply with the judgment. Obtaining a transcript of the judgment and filing it in district court under Rule 518(a) is the first step in enforcing a judgment. A judgment requiring the payment of money (as opposed to a judgment requiring the return of property) will also be docketed by the court administrator upon transcription if the statutorily required affidavit of identification (Minnesota Statutes 1990, section 548.09, subdivision 2) is presented. Docketing a money judgment creates a lien against all real property of the debtor in the county in which it is docketed, except for registered land, which requires an additional filing (pursuant to Minnesota Statutes, sections 508.63 and 508A.63) to create a lien. Docketing must be accomplished before the judgment creditor is permitted to use the disclosure provisions of Rule 518(b), which may assist in locating assets of the judgment debtor. Additional information on enforcement of judgments against nonexempt assets of the debtor is set forth in brochures and forms available from local court administration and legal aid offices.

Specific fee amounts have been deleted from these rules as the fees are subject to modification by the legislature. Minnesota Statutes 1990, section 357.021 ($7.50 transcription fee). Whether a separate fee in addition to the transcription fee is required for filing and docketing is also subject to legislative modification. Under current law, no separate fee may be charged for filing and docketing a conciliation court judgment in the district court of the county in which the judgment was rendered.

Advisory Committee Comment - 2009 Amendment

Rule 518 is amended to remove the automatic 30-day stay following docketing of a judgment in district court and the commencement of discovery regarding the judgment. The 30-day stay does not serve a useful purpose in court administration, and simply results in a 30-day delay in resolution of these matters. Accordingly, the committee recommends that it be removed from Rule 518. This change also makes the rule consistent with statute. See Minnesota Statutes, section 491A.02, subdivision 9.

Rule 519. Docketing of Judgment Payable in Installments

No transcript of a judgment of conciliation court payable in installments shall be issued and filed until 21 days after default in payment of an installment due.

(Amended effective January 1, 2020.)

Rule 520. Vacation of Judgment Order and Judgment

(a) Vacation of Order for Judgment Within 21 Days. When a default judgment or judgment of dismissal on the merits has been ordered for failure to appear, the judge within 21 days after notice was transmitted may vacate said judgment order ex parte and grant a new trial on a proper showing by the defaulting party of lack of notice, mistake, inadvertence or excusable neglect as the cause of that party's failure to appear. Absolute or conditional costs not to exceed $50 to the other party may be ordered as a prerequisite to that relief.

(b) Vacation of Judgment After 21 Days. A default judgment may be vacated by the judge upon a proper showing by the defendant that: (1) the defendant did not receive a summons before the trial within sufficient time to permit a defense and did not receive notice of the order for default judgment within sufficient time to permit application for relief within 21 days after notice, or (2) upon other good cause shown. Application for relief pursuant to this Rule 520(b) shall be made within a reasonable time after the applicant learns of the existence of the judgment and shall be

made by motion in accordance with the procedure governing motions in the district court, except that the motion is filed with the court administrator of conciliation court. The order vacating the judgment shall grant a new trial on the merits and may be conditioned upon payment of absolute or conditional costs not to exceed $50.

(c) Notice. The court administrator shall promptly transmit a notice of a new trial date to the parties.

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

1993 Committee Comment

Rule 520(a) establishes a 20-day time period for obtaining an order to vacate a default judgment order or order for judgment of dismissal. The 20 days is measured from the mailing of the notice of judgment, and the law requires that an additional three days be added to the time period when notice is served by mail. Wilkins v. City of Glencoe, 479 N.W.2d 430 (Minn. App. 1992) (construing Minn. R. Civ. P. 6.05). Computing the deadline can be difficult and confusing for lay persons, and Rule 514 attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including Rule 503 of these rules and Minn. R. Civ. P. 6.05.

Rule 520(a) authorizes an informal, ex parte proceeding (involving appearance of one party only), which typically includes the presentation of an affidavit establishing lack of notice, mistake, inadvertence or excusable neglect as the cause of that party's failure to appear. In contrast, Rule 520(b) requires compliance with the formal requirements for making a motion in the district court. See Minn. R. Civ. P. 4.02, 5.02, 6.05; Minn. Gen. R. Prac. for the District Courts 115.01, 115.02, 115.04 to 115.10. Forms and instructions are available from the conciliation court.

Rule 521. Removal (Appeal) to District Court

(a) Trial de novo. Any person aggrieved by an order for judgment entered in conciliation court after contested trial may remove the cause to district court for trial de novo (new trial). An "aggrieved person" may be either the judgment debtor or creditor.

(b) Removal Procedure. To effect removal, the aggrieved party must perform all the following within 21 days after the date the court administrator transmitted to that party notice of the judgment order:

(1) Serve a demand for removal of the cause to district court by first class mail upon every opposing counsel or self-represented litigant. Service may also be by personal service in accordance with the provisions for personal service of a summons in district court. Service shall be by electronic means under Rule 14 if both the counsel or party serving the demand and the counsel or party to be served have agreed to or are required to accept electronic service under Rule 14. The demand for removal shall state whether trial demanded is to be by court or jury, and shall indicate the name, address, and telephone number of the aggrieved party's lawyer, if any. If the aggrieved party is a corporation, the demand for removal must be signed by the party's attorney.

(2) File with the court administrator the original demand for removal with proof of service. The aggrieved party may file with the court administrator within the 21-day period the original and copy of the demand together with an affidavit by the party or the party's lawyer showing that after due and diligent search the opposing party or opposing party's lawyer cannot be located. This affidavit shall serve in lieu of making service and filing proof of service. When an affidavit is filed, the court administrator shall mail the copy of the demand to the opposing party at the party's last known residence address.

(3) File with the court administrator an affidavit by the aggrieved party or that party's lawyer stating that the removal is made in good faith and not for purposes of delay.

(4) Pay to the court administrator as the fee for removal the amount prescribed by law for filing a civil action in district court, and if a jury trial is demanded under Rule 521(b)(1) of these rules, pay to the court administrator the amount prescribed by law for requesting a jury trial in a civil action in district court. A party who is unable to pay the fees may apply for permission to proceed without payment of fees pursuant to the procedure set forth in Minnesota Statutes, section 563.01.

(c) Demand for Jury Trial. Where no jury trial is demanded on removal under Rule 521(b) by the aggrieved party, if the opposing party desires a jury trial that party shall perform all the following within 21 days after the demand for removal was served on the party or lawyer:

(1) Serve a jury trial demand by first class mail upon every opposing counsel or self-represented litigant. Service may also be by personal service in accordance with the provisions for personal service of a summons in district court. Service shall be by electronic means under Rule 14 if both the counsel or party serving the demand and the counsel or party to be served have agreed to or are required to accept electronic service under Rule 14.

(2) File the jury trial demand and proof of service with the court administrator.

(3) Pay to the court administrator the amount prescribed by law for requesting a jury trial in a civil action in district court and, if the demand is the first document filed by the party in the district court proceeding, pay to the administrator the amount prescribed by law for filing a civil action in district court. A party who is unable to pay the fees may apply for permission to proceed without payment of fees pursuant to the procedure set forth in Minnesota Statutes, section 563.01.

(d) Removal Perfected; Vacating Judgment; Transmitting File. When all removal documents have been filed properly and all requisite fees paid as provided under Rule 521(b), the removal is perfected, and the court shall issue an order vacating the order for judgment in conciliation court as to the parties to the removal, and the pertinent portions of the conciliation court file of the cause shall be filed in district court.

(e) Limited Removal.

(1) When a motion for vacation of an order for judgment, or judgment under Rule 520 (a) or (b) of these rules, is denied, the aggrieved party may demand limited removal to the district court for hearing de novo (new hearing) on the motion. Procedure for service and filing of the demand for limited removal and notice of hearing de novo, proof of service of the notice, and procedure in case of inability of the aggrieved party to make service on the opposing party or the opposing party's lawyer shall be in the same manner prescribed in part (b) of this rule, except that the deadline for effecting limited removal shall be 21 days after the date that the court administrator transmits notice of the denial of the motion for vacation of the order for judgment or judgment. The fee payable by the aggrieved party to the court administrator for limited removal shall be the same as the filing fee prescribed by law for filing of a civil action in district court. The court administrator shall then place the matter on the special term calendar for the date specified in the notice. At the hearing in district court, either party may be represented by a lawyer.

(2) A judge other than the conciliation court judge who denied the motion, shall hear the motion de novo (anew) and may (A) deny the motion or (B) grant the motion. In determining the motion the judge shall consider the entire file plus any affidavits submitted by either party or their lawyers.

(3) The court administrator shall transmit a copy of the order made in district court after de novo hearing to both parties and the venue shall be transferred back to conciliation court.

(Amended effective January 1, 1998; amended effective March 1, 2001; amended effective January 1, 2005; amended effective July 1, 2015; amended effective January 1, 2020.)

Cross Reference: Minn. R. Civ. P. 4.02, 4.06, 5.02, 6.01, 6.02, and 6.05.

1993 Committee Comment

Rule 521(b) establishes a 20-day time period for removing the case to district court. The 20 days is measured from the mailing of the notice of judgment, and the law requires that an additional three days be added to the time period when notice is served by mail. Wilkins v. City of Glencoe, 479 N.W.2d 430 (Minn. App. 1992) (construing Minn. R. Civ. P. 6.05). Computing the deadline can be difficult and confusing for lay persons, and Rule 514 attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including Rule 503 of these rules and Minn. R. Civ. P. 6.05.

In district court, personal service may only be made by a sheriff or any other person not less than 18 years of age who is not a party to the action. Reichel v. Hefner, 472 N.W.2d 346 (Minn. App. 1991). This applies to personal service under this Rule 521. Service may not be made on Sunday, a legal holiday, or election day. Minnesota Statutes 1990, sections 624.04; 645.44, subdivision 5; Minnesota Constitution, article VII, section 4.

Advisory Committee Comment - 1997 Amendment

Rule 521(e)(1), as amended in 1997, allows limited removal to district court from a denial of a motion to vacate the order for judgment or judgment made pursuant to Rule 520(a) or (b). To obtain limited removal under Rule 521(e)(1), a party must follow the same procedural steps for obtaining removal under Rule 521(b), except that the event that triggers the 20-day time period for effecting removal is the date that the court administrator mails the notice of denial of the motion to vacate the order for judgment or judgment. The law requires that an additional three days be added to the time period when notice is served by mail. Wilkins v. City of Glencoe, 479 N.W.2d 430 (Minn. App. 1992).

Advisory Committee Comment - 2000 Amendment

Under Rule 521(b)(1) as amended in 2000, if the party seeking to remove (appeal) the case to district court is a corporation, the demand for removal must be signed by an attorney authorized to practice law in the district court. This requirement simply restates a requirement recognized by court decision. See World Championship Fighting, Inc. v. Janos, 609 N.W.2d 263 (Minn. App. 2000), rev. denied (Minn. July 25, 2000). A corporation must be represented by a licensed attorney in district court regardless of the fact that the action originated in conciliation court. See Nicollet Restoration, Inc. v. Turnham, 486 N.W.2d 753 (Minn. 1992).

Advisory Committee Comment - 2004 Amendment

Rule 521(d) is amended in 2004 to clarify its application in a situation where one of several co-parties (either co-plaintiffs or co-defendants) removes (appeals) a conciliation court decision while another co-party does not take that action. The committee believes that the conciliation court judgment should become final against any party who does not remove the case and in favor of any party against whom removal is not sought.

Rule 521 establishes an approved and effective means of service by mail to accomplish removal of a conciliation court case to district court for trial de novo. By decision in 2004, the Minnesota Supreme Court held that a party may also rely on the different means of service by mail contained in Minn. R. Civ. P. 4.05. See Roehrdanz v. Brill, 682 N.W.2d 626 (Minn. 2004). Because service under that rule may require a signed receipt from the party being served, such service may not be effective.

Rule 522. Pleadings in District Court

The pleadings in conciliation court shall constitute the pleadings in district court. Any party may amend its statement of claim or counterclaim if, within 30 days after removal is perfected, the party seeking the amendment serves on the opposing party and files with the court a formal complaint conforming to the Minnesota Rules of Civil Procedure. If the opposing party fails to serve and file an answer within the time permitted by the Minnesota Rules of Civil Procedure, the allegations of the formal complaint are deemed denied. Amendment of the pleadings at any other time shall be allowed in accordance with the rules of civil procedure. On the motion of any party or on its own initiative, the court may order either or both parties to prepare, serve and file formal pleadings.

(Amended effective January 1, 2003.)

Advisory Committee Comment - 2002 Amendment

Rule 522 establishes a streamlined procedure for amendment of pleadings as a matter of right during the first 30 days after an action is removed to district court. The 2002 amendment adds a sentence before the last sentence to make it clear that the parties may move for leave to amend at other times, and the court can allow amendment on its own initiative. In these situations, the standards for amendment and supplementation of pleadings contained in Minn. R. Civ. P. 15 and the case law interpreting that rule should guide the court in deciding whether to allow amendment.

Rule 523. Procedure in District Court

Proceedings in the district court shall, except as otherwise expressly provided in these rules, be in accordance with the Minnesota Rules of Civil Procedure and the General Rules of Practice for the District Courts. The judge who presided in conciliation court shall not preside in district court.

1993 Committee Comment

The Minnesota Supreme Court has determined that a corporation must be represented by a licensed attorney when appearing in district court regardless of the fact that the action originated in conciliation court. Nicollet Restoration, Inc. v. Turnham, 486 N.W.2d 753 (Minnesota 1992).

Rule 524. Mandatory Costs in District Court

(a) For the purposes of this rule, "removing party" means the first party who serves or files a demand for removal. "Opposing party" means any party as to whom the removing party seeks a reversal in whole or in part.

(b) If the removing party prevails in district court, the removing party may recover costs from the opposing party as though the action were commenced in district court. If the removing party does not prevail, the court shall award the opposing party an additional $50 as costs. If the removing party is eligible to proceed under Minnesota Statutes, section 563.01, the $50 costs may be waived if the court determines that a hardship exists and that the case was removed in good faith.

(c) For purposes of this rule, the removing party prevails in district court if:

(1) the removing party recovers at least $500 or 50 percent of the amount or value of property that the removing party requested on removal, whichever is less, when the removing party was denied any recovery in conciliation court;

(2) the opposing party does not recover any amount or any property from the removing party in district court when the opposing party recovered some amount or some property in conciliation court;

(3) the removing party recovers an amount or value of property in district court that exceeds the amount or value of property that the removing party recovered in conciliation court by at least $500 or 50 percent, whichever is less; or

(4) the amount or value of property that the opposing party recovers from the removing party in district court is reduced from the amount or value of property that the opposing party recovered in conciliation court by at least $500 or 50 percent, whichever is less.

(d) Costs or disbursements in conciliation or district court shall not be considered in determining whether there was a recovery by either party in either court or in determining the difference in recovery under this rule.

1993 Committee Comment

Rule 524 simply repeats, for the benefit of litigants, the requirements set forth by the legislature. Minnesota Statutes 1993 Supplement, section 491A.02, subdivision 7. Statutory costs normally available in district court pursuant to Minnesota Statutes, section 549.02, do not apply to conciliation court matters that have been removed to district court. Minnesota Statutes 1992, section 549.02.

Rule 525. Appeal From District Court

The judgment of the district court on removal from conciliation court in any cause may be appealed to the Court of Appeals as in other civil cases.

1993 Committee Comment

An appeal may not be taken directly from conciliation court to the Court of Appeals. McConnell v. Beseres, 358 N.W.2d 113 (1984). Removal under Rule 521(b) or limited removal under Rule 521(c), and a ruling on the removal by the district court, are jurisdictional prerequisites for an appeal to the Court of Appeals from an action initiated in conciliation court.

APPENDIX OF FORMS

The following forms are deleted from the Court Rules and shall be maintained by State Court Administration on the Court's Web site. The forms, together with other court forms, can be found at http://www.mncourts.gov.

Form UCF-8, Statement of Claim and Summons

Form UCF-9, Judgment and Notice of Judgment

Form UCF-10, Defendant's Counterclaim

Form UCF-22, Financial Disclosure Form

Form 508.1, Conciliation Court Affidavit of Service

TITLE VII. HOUSING COURT RULES - HENNEPIN AND RAMSEY COUNTIES

Rule 601. Applicability of Rules

In Hennepin and Ramsey Counties, Rules 601 through 612 apply to all proceedings in Housing Court. These rules and, where not inconsistent, the Minnesota Rules of Civil Procedure, shall apply to housing court practice except where they are in conflict with applicable statutes.

Task Force Comment - 1991 Adoption

These rules apply only in Hennepin and Ramsey Counties. Housing Courts created by the legislature exist only in those counties.

These rules were drafted as a joint effort of legal advisory committees for the Ramsey and Hennepin County Housing Courts. Those committees met on a number of occasions, and these rules are the result of significant drafting efforts and compromise. Those drafting committees included the Housing Court Referee, court administrator, judges, and practitioners of landlord and tenant law in each county. The rules are generally drawn from a current local rule, 4th Dist. R. 13 and the Housing Court Temporary Rules, Rule 17.

The Task Force is mindful that Housing Court is currently in existence in only Ramsey and Hennepin Counties, Minnesota Laws 1989, chapter 328, article 2, sections 17, 18 and 19 (uncodified), and these rules should be reviewed and revised if Housing Courts are used in other districts.

Rule 602. Housing Court Referee

The housing court referee may preside over all actions brought under Minnesota Statutes, chapter 504B, criminal and civil proceedings related to violations of any health, safety, housing, building, fire prevention or housing maintenance code, escrow of rent proceedings, landlord and tenant damage actions, and actions for rent and rent abatement.

A party may request that a judge hear a case by filing such request in writing with the court administrator at least 24 hours before the scheduled hearing date.

(Amended effective January 1, 2000; amended effective July 1, 2019; amended effective January 1, 2020.)

Advisory Committee Comment - 1999 Amendment

The former chapters 504 and 566 were consolidated into and replaced by a new chapter 504B. This change is not intended to have any substantive effect other than to correct the statutory reference.

Task Force Comment - 1991 Adoption

The procedure for removal of a referee assigned in Housing Court is intended to be different, due to the exigencies of practice in that court, from the procedure created by Minn. Gen. R. Prac. 107.

Rule 603. Parties

An unlawful detainer action shall be brought in the name of the owner of the property or other person entitled to possession of the premises. No agent shall sue in the agent's own name. Any

agent suing for a principal shall attach a copy of the Power of Authority to the complaint at the time of filing.

No person other than a principal or a duly licensed lawyer shall be allowed to appear in Housing Court unless the Power of Authority is attached to the complaint at the time of filing, and no person other than a duly licensed lawyer shall be allowed to appear unless the Power of Authority is so attached to the complaint. An agent or lay advocate may appear without a written Power of Authority if the party being so represented is an individual and is also present at the hearing.

Task Force Comment - 1991 Adoption

The Task Force expresses no opinion about whether or the extent to which the role of lay advocates constitutes the unauthorized practice of law. See Minnesota Statutes 1990, section 481.01, et seq.

Rule 604. Complaint

(a) Contents of Complaint. The plaintiff in an eviction action case shall file with the court administrator a complaint containing the following:

(1) A description of the premises including a street address;

(2) The legal owner of the property or other person entitled to possession of the premises;

(3) A statement of how plaintiff has complied with Minnesota Statutes, section 504B.181, by written notice to the defendant, by posting or by actual knowledge of the defendant;

(4) The facts which authorize recovery; and,

(5) A request for return of possession of the property.

(b) Signature. The complaint shall be signed by the plaintiff or the plaintiff's authorized agent or a duly licensed lawyer.

(c) Termination. If the complaint contains allegations of holding over after termination of the lease, a copy of the termination notice, if any, must be attached to the complaint or provided to defendant or defendant's counsel at the initial appearance, unless the plaintiff does not possess a copy of the notice or if the defendant at the hearing acknowledges receipt of the notice.

(d) Breach. If the complaint contains allegations of breach of the lease or rental agreement, a copy of the lease or rental agreement, if any, must be attached to the complaint or provided to defendant and defendant's counsel at the initial appearance, unless the plaintiff does not possess a copy.

(Amended effective January 1, 2000; amended effective July 1, 2019.)

Advisory Committee Comment - 1999 Amendment

The former statute section 504.22 was replaced by a new statute section 504B.181. This change is not intended to have any substantive effect other than to correct the statutory reference.

Rule 605. Return of Summons

All summons shall be served in the manner required by Minnesota Statutes, Chapter 504B, and the affidavit of service shall be filed with the court by 3:00 p.m. 3 days before the hearing, excluding

intervening Saturdays, Sundays or legal holidays, or the matter may be dismissed. The affidavit must contain the printed or typed name of the person who served the summons.

(Amended effective January 1, 2000; amended effective July 1, 2019; amended effective January 1, 2020.)

Advisory Committee Comment - 1999 Amendment

The former Minnesota Statutes, chapter 560, was replaced by a new Minnesota Statutes, chapter 504B. This change is not intended to have any substantive effect other than to correct the statutory reference.

Rule 606. Filing of Affidavits

Upon return of the sheriff or other process server indicating that the defendant cannot be found in the county and, in the case of a nonresidential premises, where no person actually occupies the premises described in the complaint, or, in the case the premises described in the complaint is residential, service has been attempted at least twice on different days, with at least one of the attempts having been made between the hours of 6:00 and 10:00 p.m., the plaintiff or plaintiff's lawyer shall:

(1) file an affidavit stating that the defendant cannot be found or on belief that the defendant is not in the state, and

(2) file an affidavit stating that a copy of the summons and complaint has been mailed to the defendant at the defendant's last known address or that such an address is unknown to the plaintiff.

Service of the summons may be made upon the defendant by posting the summons in a conspicuous place on the premises for not less than one week. A separate affidavit shall be filed stating that the summons has been posted and the date and location of the posting.

(Amended effective January 1, 1998.)

Advisory Committee Comment - 1999 Amendment

This rule is amended to conform the service requirements to the service provisions of Minnesota Statutes 1999 Supplement, section 504B.331. The procedure of the revised rule also streamlines the procedure for issuance, service, and filing of process, and should permit service to be accomplished at a lower cost.

Rule 607. Calendar Call

At the first call of the calendar the parties shall specify whether the case is a default or for trial, and if for trial, whether by court or jury. When each case is called for hearing, the defendant shall be asked whether the defendant admits or denies the charges in the complaint. If a jury trial is demanded, the jury fee must be paid before the jury is impaneled.

(Amended effective July 1, 2019.)

Rule 608. Withheld Rent

In any eviction action case where a tenant withholds rent in reliance on a defense, the defendant shall deposit forthwith into court an amount in cash, money order or certified check payable to the District Court equal to the rent due as the same accrues or such other amount as determined by the court to be appropriate as security for the plaintiff, given the circumstances of the case.

(Amended effective July 1, 2019.)

Rule 609. Recovery of Premises

A writ of recovery and order to vacate shall issue within 24 hours after the entry of judgment, excluding Saturdays, Sundays and legal holidays, unless a stay authorized by law is specifically ordered by the court.

(Amended effective July 1, 2019.)

Rule 610. Motions

Any motion otherwise allowed by Minnesota Rules of Civil Procedure may be made by any party orally or in writing at any time including the day of trial. Whenever possible, oral or written notice of any dispositive motions and the grounds therefore shall be provided by the moving party to all parties before the hearing.

All motions shall be heard by the court as soon as practicable. The court may grant a request by any party for time to prepare a response to any motion for good cause shown by the requesting party or by agreement of the parties.

The requirements of service of notice of motions and any time periods set forth in Minnesota Rules of Civil Procedure and Minnesota General Rules of Practice 115 do not apply.

(Amended effective January 1, 2020.)

Rule 611. Review of Referee's Decision

(a) Notice. In all cases except conciliation court actions, a party not in default may seek review by a judge of a decision or sentence recommended by the referee by serving and filing a notice of review on the form prescribed by the court administrator. The notice must be served and filed within 10 days after an oral announcement in court by the referee of the recommended order or, if there is no announcement of the order in court, within 13 days after service by electronic means or mail of the adopted written order. Service by mail of the written order shall be deemed complete and effective upon the mailing of a copy of the order to the last known address of the petitioner. Service of the notice of review shall be in accordance with Rule 14 of these rules.

A judge's review of a decision recommended by the referee shall be based upon the record established before the referee. Upon the request of any party, a hearing shall be scheduled before the reviewing judge.

(b) Stays. In civil cases, filing and service of a notice of review does not stay entry of judgment nor vacate a judgment if already entered unless the petitioner requests and the referee orders a bond, payment(s) in lieu of a bond, or waiver of bond and payment(s). The decision to set or waive a bond or payment(s) in lieu of bond shall be based upon Minn. R. Civ. App. P. 108.02. A hearing on a bond or payment(s) in lieu of bond shall be scheduled before the referee, and the referee's order shall remain in effect unless a judge modifies or vacates the order.

In criminal cases, the execution of judgment or sentence shall be stayed pending review by the judge.

(c) Transcripts. The petitioner must obtain a transcript from the referee's court reporter. The petitioner must make satisfactory arrangements for payment with the court reporter or arrange for payment in forma pauperis.

Any transcript request by the petitioner must be made within one day, excluding weekend days and legal holidays, of the date the notice of review is filed. The transcript must be provided within 7 days after its purchase by the petitioner.

For good cause the reviewing judge may extend any of the time periods described in this Rule 611(c).

(Amended effective July 1, 2015; amended effective July 1, 2019; amended effective January 1, 2020.)

Rule 612. Discovery

Because of the summary nature of proceedings in Housing Court, the parties shall cooperate with reasonable informal discovery requests by another party.

Upon the request of any party to a matter scheduled for trial, the presiding referee or judge may issue an order for an expedited discovery schedule.

TITLE VIII. RULES RELATING TO CRIMINAL MATTERS

Rule 701. Applicability of Rules

These rules apply in all criminal actions, and supplement the Minnesota Rules of Criminal Procedure. In addition, Rule 707 applies in extended jurisdiction juvenile proceeding.

(Amended effective January 1, 2005.)

Task Force Comment - 1991 Adoption

The rules set forth here are derived from existing local rules. In order to further uniformity in practice in criminal proceedings throughout the state, the Task Force reviewed the existing local rules, and combined those rules having potential usefulness in all cases into a single code. The Task Force then submitted those rules to the Minnesota Supreme Court Advisory Committee on Rules of Criminal Procedure. The recommendations of that Advisory Committee have been endorsed and ratified by this Task Force, and these rules incorporate all of the recommendations of the Advisory Committee.

Rule 702. Bail

(a) Approval of Bond Procurers Required. No person shall engage in the business of procuring bail bonds, either cash or surety, for persons under detention until an application is approved by the State Court Administrator's Office. Approval shall permit the applicant to issue bail bonds throughout the State of Minnesota. Nothing in this section shall infringe upon a judge's discretion in approving a bond. The application form shall be obtained from the State Court Administrator's Office. The completed application shall then be filed with the State Court Administrator's Office stating the information requested and shall be accompanied by verification that the applicant is licensed as an insurance agent by the Minnesota Department of Commerce. The approval granted under this rule may be revoked or suspended by the State Court Administrator's Office and such revocation or suspension shall apply throughout the State of Minnesota. Approved applicants are required to apply for a renewal of approval within a time period (not less than one year) established by the State Court Administrator's Office.

(b) Corporate Sureties. Any corporate surety on a bond submitted to the judge shall be one approved by the State Court Administrator's Office and authorized to do business in the State of Minnesota.

(c) Surety Insolvency. Whenever a corporate surety becomes insolvent, the local agent shall notify the State Court Administrator's Office and the court in every county in which it has issued or applied to issue bonds, in writing immediately. Within 14 days after such notice to the court, the

agent shall file with the trial court administrator a security bond to cover outstanding obligations of insolvent surety, which may be reduced automatically as the obligations are reduced. In the absence of such surety or security bond, a summons shall be sent to all principals on the bonds of the surety.

(d) Posting Bonds. Before any person is released on bond, the bond must be approved by a judge after submission to the prosecuting lawyer for approval of form and execution and filed with the court administrator during business hours or thereafter with the custodian of the jail. In cases where bail has been set by the court and the defendant has provided a bail bond with corporate surety, approval by a judge is unnecessary if the bond conforms to Form 702 as published by the state court administrator.

(e) Forfeiture of Bonds. Whenever a bail bond is forfeited by a judge, the surety and bondsman shall be notified by the court administrator in writing, and be directed to make payment in accordance with the terms of the bond within 90 days from the date of the order of forfeiture. A copy of the order of forfeiture shall be forwarded with the notice.

(f) Reinstatement. Any motion for reinstatement of a forfeited bond or cash bail shall be supported by a petition and affidavit and shall be filed with the court administrator. A copy of said petition and affidavit shall be served upon the prosecuting attorney and the principal of the bond in the manner required by Minn. R. Civ. P. 4.03(e)(1). A petition for reinstatement filed within 90 days of the date of the order of forfeiture shall be heard and determined by the judge who ordered the forfeiture, or the chief judge. Reinstatement may be ordered on such terms and conditions as the court may require. A petition for reinstatement filed between 90 and 180 days from date of forfeiture shall be heard and determined by the judge who ordered forfeiture or the judge's successor and reinstatement may be ordered on such terms and conditions as the court may require, but only with the concurrence of the chief judge and upon the condition that a minimum penalty of not less than ten percent (10%) of the forfeited bail be imposed. No reinstatement of a forfeited bond or cash bail shall be allowed unless the petition and affidavit are filed within 180 days from the date of the order of forfeiture.

(g) Forfeited Bail Money. All forfeited bail money shall be deposited in the state treasury in the manner provided by law.

(h) Bonding Privilege Suspension. A failure to make payment on a forfeited bail within 90 days as above provided shall automatically suspend the surety and its agent from writing further bonds. Such suspension shall apply throughout the State of Minnesota and shall continue for a period of 30 days from the date the principal amount of the bond is deposited in cash with the court administrator.

(Amended effective January 1, 1994; amended effective January 1, 1996; amended effective January 1, 1998; amended effective February 1, 2005; amended effective March 1, 2009; amended effective January 1, 2020.)

Advisory Committee Comments - 1997 Amendment

This Rule is derived from 4th Dist. R. 8.02. Pretrial release is governed by Minn. R. Crim. P. 6, and this rule supplements the provisions of that rule. The Task Force believes that specific, written standards relating to the issuance and forfeiture of bail bonds would be useful to practitioners, courts, and to those issuing bonds.

The Minnesota Supreme Court Advisory Committee on Rules of Criminal Procedure recommended that this local rule be incorporated in the General Rules of Practice for the District Courts for uniform statewide application and the Task Force concurs in that recommendation. The

1997 amendment continues the practice of statewide uniformity, established an uniform bail bond application procedure and making the posting of bonds easier by using a standard form. The rule conforms the rule to the practice in use prior to 1997.

Rule 702(h) was amended in 1993, effective January 1, 1994, to establish statewide suspension of bonding privileges for a surety and a surety's agent in the event of failure to make payment on a forfeited bond. This rule is necessary to ensure that irresponsible sureties are not allowed to move from district to district.

The power to revoke bail bonding privileges must be exercised sparingly. Courts considering this action should give consideration to the appropriate procedure and the giving of notice and an opportunity to be heard if such process is due the bond person. See, e.g., In re Cross, 617 A.2d 97, 100-02 (R.I. 1992) (show cause hearing procedure based on probable cause, with clearly defined burden of proof, not inherently unconstitutional); American Druggists Ins. Co. v. Bogart, 707 F.2d 1229, 1234-36 (11th Cir. 1983) (corporate surety authorized by Secretary of Treasury has right under U.S. Constitution to present bonds to court for approval).

Advisory Committee Comment - 2004 Amendment

Rule 702 is amended in 2004 to allow it to operate appropriately under the system of statewide approval of bond procurers. Under the revised rule, the State Court Administrator's Office reviews and approves bond procurers, and that approval is then applicable in all district courts. The changes in the rule are not intended to change the rule other than to effect this centralization of the agent approval process.

Advisory Committee Comment - 2008 Amendment

Rule 702(d) is amended to remove Form 702 from the rules, and to permit the maintenance and publication of the form by the state court administrator. The form, together with other court forms, can be found at www.mncourts.gov.

Rule 703. Certificates of Representation

In any criminal case, a lawyer representing a client, other than a public defender, shall file with the court administrator on the first appearance a "certificate of representation," in such form and substance as a majority of judges in the district specifies.

Once a lawyer has filed a certificate of representation, that lawyer cannot withdraw from the case until all proceedings have been completed, except upon written order of the court pursuant to a written motion, or upon written substitution of counsel approved by the court ex parte.

A lawyer who wishes to withdraw from a criminal case must file a written motion and serve it by mail or personal service upon the client and upon the prosecutor by mail, personal service or electronic service if required or permitted by Rule 14. The lawyer shall then have the matter heard by the court. No motion of withdrawal will be heard within 14 days of a date certain for hearing or trial.

If the court approves the withdrawal, it shall be effective when the order has been served on the client and the prosecutor and due proof of such service has been filed with the court administrator.

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

Task Force Comment - 1991 Adoption

This rule is derived from 4th Dist. R. 8.05.

The Minnesota Supreme Court Advisory Committee on Rules of Criminal Procedure recommended that this local rule be incorporated in the General Rules of Practice for the District Courts for uniform statewide application and the Task Force concurs in that recommendation.

Rule 704. Timely Appearances

Once the nonfelony arraignment court calendar has convened, no lawyer shall approach the courtroom clerk or the court. Any lawyer appearing late must notify the bailiff in the courtroom of his or her presence. The bailiff will then transmit the information to the court and the case will be called by instruction of the presiding judge.

Task Force Comment - 1991 Adoption

This rule is derived from 4th Dist. R. 8.06.

The Minnesota Supreme Court Advisory Committee on Rules of Criminal Procedure recommended that this local rule be incorporated in the General Rules of Practice for the District Courts for uniform statewide application and the Task Force concurs in that recommendation.

Rule 705. Complaints and Warrants - Submission to Second Judge

A complaint or search warrant application which is found by a judge to be defective or otherwise insufficient shall not be submitted to another judge without a full and complete disclosure of such finding to the second judge.

Task Force Comment - 1991 Adoption

This rule is derived from 4th Dist. R. 8.10.

The Minnesota Supreme Court Advisory Committee on Rules of Criminal Procedure recommended that this local rule be incorporated in the General Rules of Practice for the District Courts for uniform statewide application and the Task Force concurs in that recommendation.

Rule 706. Custody of Exhibits

Exhibits marked in criminal cases shall be kept by the court administrator until the time for appeal has expired or any appeal has been decided, unless surrender of the exhibits is ordered by the judge before whom the case was tried or the chief judge of the district.

Task Force Comment - 1991 Adoption

This rule is derived from 4th Dist. R. 6.03.

The Minnesota Supreme Court Advisory Committee on Rules of Criminal Procedure recommended that this local rule be incorporated in the General Rules of Practice for the District Courts for uniform statewide application and the Task Force concurs in that recommendation.

Rule 707. Transcription of Pleas, Sentences, and Revocation Hearings in Felony, Gross Misdemeanor, and Extended Jurisdiction Juvenile Proceedings, and Grand Jury Proceedings

The following provisions relate to all pleas, sentences, and revocation hearings in all felony, gross misdemeanor, and extended jurisdiction juvenile proceedings, and all grand jury proceedings. Grand jury proceedings are secret as provided in Minn. R. Crim. P. 18 and this rule must be construed to maintain secrecy in accordance with that rule.

(a) Court reporters and operators of electronic recording equipment shall file the stenographic notes or tape recordings of guilty plea, or sentencing and revocation hearings with the court

administrator within 90 days of sentencing, and the stenographic notes or tape recordings of grand jury proceedings shall be filed with the court administrator and maintained in a nonpublic portion of the file at the conclusion of grand jury hearings. The reporter or operator may retrieve the notes or recordings if necessary. Minnesota Statutes 2002, section 486.03, is superseded to the extent that it conflicts with this procedure.

(b) All original grand jury transcripts shall be filed within 60 days of request by the court or prosecutor or receipt of an order from the appropriate court directing transcription and shall be made available to parties other than the court or prosecutor only in accordance with that court order. The court administrator must file and maintain all grand jury transcripts in a nonpublic portion of the file. The court may allow extension of this 60-day deadline upon a showing of good cause.

(c) No charge may be assessed for preparation of a transcript for the district court's own use; any other person ordering a transcript as allowed under the rules shall be at the expense of that person. Transcripts ordered by the defendant or defense counsel shall be prepaid except when the defendant is represented by the public defender or assigned counsel, or when the defendant makes a sufficient affidavit of an inability to pay and the court orders that the defendant be supplied with the transcript at the expense of the appropriate governmental unit.

(d) If no district court file exists with respect to a grand jury proceeding, the administrator shall open a grand jury file upon the request of the prosecutor.

(e) The maximum rate charged for the transcription of any proceeding shall be established, until July 1, 2005, by the Conference of Chief Judges, and thereafter by the Judicial Council. Minnesota Statutes 2002, section 486.06, is superseded to the extent that it conflicts with this procedure.

(Added effective January 1, 2005; amended effective January 1, 2010.)

Advisory Committee Comment - 2004 Amendment

Rule 707 is a new rule, designed to implement provisions of orders of the Minnesota Supreme Court in 2003 relating to the transcription of plea proceedings. See Order, In re Promulgation of Amendments to the Rules of Criminal Procedure, No. C1-84-2137 (Minn., Oct. 31, 2003); Order, In re Promulgation of Amendments to the Rules of Juvenile Procedure, No. CX-01-926 (Minn., Nov. 10, 2003). The rule is not intended to expand or alter the practice under these orders; it merely codifies the orders as part of the general rules.

Advisory Committee Comment - 2009 Amendment

Grand jury proceedings in Minnesota are secret. See Minn. R. Crim. P. 18.08. The court and prosecutors may obtain access to grand jury records and may order a transcript; any other transcription may occur only pursuant to Minn. R. Crim. P. 18.05 subd 1. Rule 707 is amended to provide the rules for filing and maintaining transcripts of grand jury proceedings in the limited circumstances where the transcription is permitted or ordered. The court may also enter a protective order to prohibit further disclosure of the grand jury transcript. Minn. R. Crim. P. 18.05 subd 2.

Rule 707(d) recognizes that there are circumstances where a grand jury is not separately convened for a particular case, and there is no separate file for that grand jury. This subdivision allows the prosecutor to request that a file be opened to serve as the repository for notes, records, or transcript from that proceeding.

Rule 708. ITV In Criminal Cases

Use of ITV in criminal cases is governed by Rules of Criminal Procedure and Rule 131.07 of these rules.

(Added effective March 1, 2009.)

Advisory Committee Comment - 2008 Amendment

On November 19, 2007, the Supreme Court issued an order promulgating Minn. R. Crim. P. 1.05 governing the use of interactive video teleconference (ITV) in criminal proceedings. The order referred the task of developing rules governing the administrative procedures for conducting ITV hearings in criminal matters to the Advisory Committee on General Rules of Practice for the District Courts. In the interim, the Court ordered the State Court Administrator to develop temporary administrative procedures. The administrative procedures are set forth in Minn. Gen. R. Prac. 131.07 for the District Courts.

APPENDIX OF FORMS

FORM 702 [Form deleted effective March 1, 2009.]

TITLE IX. JURY MANAGEMENT RULES

Rule 801. General Policy

Persons shall be selected randomly for jury service, from the broadest possible cross section of people in the area served by the court. All qualified persons have an obligation to serve as jurors when summoned, and all should be considered for jury service.

Task Force Comment - 1991 Adoption

These Jury Management Rules have already been adopted by the Minnesota Supreme Court. See Order Promulgating Jury Management Rules, No. C5-85-837 (Minn. Sup. Ct. June 14, 1990). The Task Force recommends that they be included as part of the General Rules of Practice for the District Courts.

Rule 802. Definitions

(a) "Court" means a district court of this state, and includes, when the context requires, any judge of the court.

(b) "Court administrator," "judicial district administrator," and "jury commissioner" include any deputy of the court designated to perform the functions listed in these rules.

(c) "Source list" means the voter registration list for the jurisdiction served by the court, which may be supplemented with names from other sources as set out in the jury administration plan.

(d) "Voter registration list" means the official record of persons registered to vote.

(e) "Drivers' license list" means the record, maintained by the Department of Public Safety, of persons over 18 years old licensed to drive a motor vehicle or issued a state identification card.

(f) "Master list" means a list of names and addresses, or identifying numbers of prospective jurors, randomly selected from the source list.

(g) "Juror" means a person summoned for service who either is deferred to a specific future date, attends court for the purpose of serving on a jury, or is on call and available to report to court when requested.

(h) "Random selection" means the selection of names in a manner totally immune to the purposeful or inadvertent introduction of subjective bias and such that no recognizable class of the population from which names are being selected can be purposely included or excluded.

(i) "Petit jury" means a body of six persons, impaneled and sworn in any court to try and determine, by verdict, any question or issue of fact in a civil or criminal action or proceeding, according to law and the evidence as given them in court. In a criminal action where the offense charged is a felony, a petit jury is a body of 12 persons, unless a different size is established in accordance with the Minnesota Rules of Criminal Procedure.

(Amended effective January 1, 1994.)

Advisory Committee Comment - 1994 Amendment

Rule 802(i) is amended effective January 1, 1994, to make it clear that the definition of petit jury is not intended to change in any way the mechanism for agreeing to a different sized jury in criminal cases as established in Minnesota Rules of Criminal Procedure. This change is intended to obviate any confusion over this rule, and to eliminate the type of dispute that arose in a case brought to the Minnesota Court of Appeals. See State v. McKenzie, No. C7-93-1890 (Minn. Ct. App., Sept. 23, 1993) (Unpublished Order Opinion).

Rule 803. Jury Commissioner

(a) A jury commissioner is established in each county to administer the jury system under the supervision and control of the chief judge of the judicial district. The jury commissioner shall be the judicial district administrator or designee. If another person is designated jury commissioner, the other person shall be responsible to the judicial district administrator in the performance of the jury commissioner's tasks.

(b) The jury commissioner shall collect and analyze information regarding the performance of the jury system on a regular basis in order to evaluate:

(1) the inclusiveness of the jury source list and the representativeness of the jury pool;

(2) the effectiveness of qualification and summoning procedures;

(3) the responsiveness of individual citizens to jury duty summonses;

(4) the efficient use of jurors; and

(5) the cost effectiveness of the jury system.

(c) The jury commissioner should seek to secure adequate and suitable facilities for juror use in each court facility in which jury trials are held.

(Amended effective January 1, 2007.)

Advisory Committee Comment - 2007 Amendment

Rule 803(b)(1) is amended to state the jury commissioner's responsibility more precisely. Because a jury commissioner does not have control over the composition of the jury source list, the rule should not impose a duty relating to the source list. It shifts that responsibility, however, to require the jury commissioner assess the representativeness of the jury pool as a whole, not the

constituent lists. This amendment is not intended to lessen in any way the representativeness of jury pools.

Rule 804. Jury Administration Plan

(a) Each jury commissioner shall develop and place into operation a written plan for the administration of the jury system. The plan shall be designed to further the policies of these rules.

(b) Each plan must:

(1) describe the jury system;

(2) give a detailed description of the random selection procedures to be used in all phases of juror selection, in accordance with Rule 805;

(3) identify the lists of names, if any, which shall be used to supplement the source list, and describe the storage media by which the lists shall be maintained;

(4) indicate if a master list is to be used, and set the minimum number of names which can be used;

(5) list the conditions which will justify excusing a juror, as well as those which justify deferral;

(6) describe the juror qualification questionnaire, which will be used to gather information to determine if a prospective juror is qualified;

(7) contain policies and procedures for enforcing a summons and for monitoring failures to respond;

(8) describe juror orientation and instruction for jurors upon initial contact prior to service; upon first appearance at the courthouse; upon reporting to a courtroom for voir dire; following empanelment; during the trial; prior to deliberations; and after the verdict has been rendered or when a proceeding is terminated without a verdict.

Rule 805. Random Selection Procedures

(a) Random selection procedures shall be used throughout the juror selection process. Any method may be used, manual or automated, that provides each eligible and available person with an equal probability of selection.

(b) Random selection procedures shall be employed in:

(1) selecting persons to be summoned for jury service;

(2) assigning prospective jurors to panels; and

(3) calling prospective jurors for voir dire.

(c) Departures from the principle of random selection are appropriate:

(1) to exclude persons ineligible for service in accordance with Rule 808;

(2) to excuse or defer prospective jurors in accordance with Rule 810;

(3) to remove prospective jurors for cause or if challenged peremptorily in accordance with applicable rules of procedure;

(4) to equalize service among all prospective jurors in accordance with Rule 812.

Rule 806. Jury Source List

(a) The jury commissioner for each county shall be responsible for compiling and maintaining copies of all lists to be used in the random selection of prospective jurors. These lists shall be compiled when the court finds it necessary. No names shall be placed on the source list, master list, grand jury list, or petit jury venire except as provided by the applicable jury administration plan, or these rules.

(b) The voter registration and driver's license list for the county must serve as the source list. The source list may be supplemented with names from other lists specified in the jury administration plan. Whoever has custody, possession, or control of the lists used in compiling the source list shall provide them to the jury commissioner, upon request and for a reasonable fee, at any reasonable time. All lists shall contain the name and address of each person on the list.

(c) The source list must be used for the random selection of names or identifying numbers of prospective jurors to whom qualification questionnaires and summonses for service must be sent.

(d) When the source list is so large that its use for selecting prospective jurors and mailing out summonses and questionnaires is unreasonably cumbersome, burdensome, and noneconomical, a second list may be created. This master list shall be randomly drawn from the source list.

(e) The jury commissioner shall review the jury source list once every four years for its inclusiveness and the jury pool for its representativeness of the adult population in the county and report the results to the chief judge of the judicial district.

(f) If the chief judge, or designee, determines that improvement is needed in either the inclusiveness of the jury source list or the representativeness of the jury pool, appropriate corrective action shall be ordered.

(Amended effective January 1, 2008.)

Advisory Committee Comment - 1994 Amendment

Rule 806 is amended to incorporate a change made in jury source list creation that predated the adoption of the Minnesota General Rules of Practice but which was not incorporated in the final draft of the rules. This change is not intended to change the existing practice in creation of jury source lists.

Advisory Committee Comment - 2008 Amendment

Rules 806(e) and (f) are amended to state the jury commissioner's responsibility more precisely. Because a jury commissioner does not have control over the composition of the jury source list, the rule should not impose a duty relating to the source list. It shifts that responsibility, however, to require the jury commissioner assess the representativeness of the jury pool as a whole, not the constituent lists. This amendment is not intended to lessen in any way the representativeness of jury pools. This change is similar in purpose and form to the amendment of Minn. Gen. R. Prac. 803, effective January 1, 2007.

Rule 807. Jury Questionnaire and Summons. One-Step Process

(a) The jury commissioner shall mail to every prospective juror whose name has been drawn a juror qualification questionnaire and summons for service, along with instructions to fill out and return the questionnaire by mail within ten days of receipt.

(b) The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person shall be:

(1) combined in a single mailing;

(2) phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems; and

(3) delivered by first class mail.

(c) A summons shall clearly explain how and when the recipient must respond and the consequences of a failure to respond.

(d) The questionnaire shall be phrased and organized so as to facilitate quick and accurate screening, and should request only that information essential for:

(1) determining whether a person meets the criteria for eligibility;

(2) determining whether there exists a mental or physical disability which would prevent the person from rendering satisfactory jury service;

(3) providing basic background information including age, race, gender, occupation, educational level, address, marital status, prior jury service within the past four years, occupation of spouse, and the age(s) of any children; and

(4) efficiently managing the jury system.

(e) The jury commissioner shall make a list of the persons to whom the summons and questionnaire have been sent, but neither the names nor the list shall be disclosed except as provided in these rules.

Rule 808. Qualifications for Jury Service

(a) The jury commissioner shall determine on the basis of information provided on the juror qualification questionnaire, supplemented if necessary, whether the prospective juror is qualified for jury service. This determination shall be entered on the questionnaire or other record designated by the court.

(b) To be qualified to serve as a juror, the prospective juror must be:

(1) A citizen of the United States.

(2) At least 18 years old.

(3) A resident of the county.

(4) Able to communicate in the English language.

(5) Be physically and mentally capable of rendering satisfactory jury service. A person claiming disability may be required to submit a physician's certificate as to the disability, and the Judge may inquire of the certifying physician. A prospective qualified juror who is 70 years of age or older, who requests to be excused from jury service shall be automatically excused from service without having to submit evidence of an inability to serve.

(6) A person who has had their civil rights restored if they have been convicted of a felony.

(7) A person who has not served as a state or federal grand or petit juror in the past four years.

(c) A judge, serving in the judicial branch of the government, is disqualified from jury service.

(Amended effective July 1, 2003; amended effective May 1, 2007.)

Jury Task Force Comment - 2003 Amendment

The Minnesota Supreme Court Jury Task Force recommends that Minn. Gen. R. Prac. 808(b)(7) be amended to provide that "A person who has not served as a state or federal grand or petit juror in the past two years." This change will allow counties with a reduced term of service to have an appropriately large pool of eligible jurors on which to draw.

Advisory Committee Comment - 2007 Amendment

Rule 808 is amended to change the exemption from repeated jury service from two to four years. This change is made on the recommendation of the Jury Managers Resource Team and reflects that sufficient numbers of jurors can be obtained with a four-year exemption. This change returns the rule to the period used before 2003, when the rule was amended to shorten the period to the current two-year period. The two-year period has resulted in various disproportionate calls to jury service and to complaints from repeatedly summoned jurors.

Rule 809. Discrimination Prohibited

A citizen shall not be excluded from jury service in this state on account of race, color, creed, religion, sex, national origin, marital status, status with regard to public assistance, disability, age, occupation, physical or sensory disability, sexual orientation, or economic status.

(Amended effective January 1, 1994; amended effective July 1, 2015.)

Advisory Committee Comment - 1994 Amendment

This rule is amended to add "physical or sensory disability" as types of discrimination specifically prohibited by the rule. This amendment is made to conform the rule to the legislative mandate against discrimination on these bases adopted by the legislature in 1992 and at Minnesota Statutes, section 593.32, subdivision 1.

Advisory Committee Comment - 2015 Amendments

Rule 809 is amended to include a specific prohibition against discrimination on the basis of sexual orientation in jury service. This change is consistent with terms used in legislative definitions of prohibited discriminatory conduct. See, e.g., Minnesota Statutes, section 363A.02 (Minnesota Human Rights Act); 82B.195, subdivision 3 (vii) (real estate appraisers).

Rule 810. Excuses and Deferrals

(a) All automatic excuses or disqualifications from jury service are eliminated except as provided in Rule 808.

(b) Eligible persons who are summoned may be excused from jury service only if:

(1) their ability to receive and evaluate information is too impaired that they are unable to perform their duties as jurors and they are excused for this reason by a jury commissioner or a judge;

(2) they request to be excused because their service would be a continuing hardship to them or to members of the public and they are excused for this reason by the jury commissioner.

(c) Upon request from a qualified prospective juror, the jury commissioner shall determine whether the prospective juror meets the conditions for deferral set out in the jury administration plan. The deferral shall be for a reasonable time, after which the prospective juror shall be available for jury service, in accordance with the court's direction. Deferral of jury service is encouraged as an alternative to excuse from service.

(d) The reason for the excuse or deferral of any prospective juror must be entered in the jury commissioner's records.

(e) A member, officer, or employee of the legislature is excused from jury service while the legislature is in session.

(f) A candidate who has filed an affidavit of candidacy for elected office under Minnesota Statutes, chapter 103C, 122, 204B, 204D, 205, 205A, or 447, is deferred from jury service from the date of filing the affidavit until the day after the election for that office, if the person requests to be deferred for this reason.

Rule 811. Term of Jury Service

The time that persons are called upon to perform jury service and be available for jury service is the shortest period consistent with the needs of justice.

(a) In counties with a population of 100,000 or more, a term of service must not exceed two weeks or the completion of one trial, whichever is longer.

(b) In counties with a population of less than 100,000 but more than 50,000, a term of service must not exceed two months. However, no person is required to continue to serve after the person has reported to the courthouse for ten days or after the completion of the trial on which the juror is sitting, whichever is longer.

(c) In counties with a population of less than 50,001 a term of service must not exceed four months. However, no person is required to continue to serve after the person has reported to the courthouse for ten days or after the completion of the trial on which the juror is sitting, whichever is longer.

(d) Chief judges and judicial district administrators shall review the frequency of juror use in each county in determining the shortest period of jury service that will enable the greatest number of citizens to have the opportunity to report to the courthouse and participate in the jury system. All courts shall adopt the shortest period of jury service that is practical.

Rule 812. Juror Use

(a) Courts shall employ the services of prospective jurors so as to achieve optimum use with minimum inconvenience to jurors.

(b) Courts shall determine the minimally sufficient number of jurors needed to accommodate trial activity; this information and appropriate management techniques shall be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.

(c) Courts may employ procedures to ensure that each prospective juror who has reported to the courthouse is assigned to a courtroom for voir dire each day before any prospective juror is assigned a second time that day.

Rule 813. Challenging Compliance with Selection Procedure

(a) A party may move to stay the proceedings, quash the indictment or for other appropriate relief, on the ground that these rules have not been complied with. Such motion should be made within seven days after the moving party discovers or should have discovered the grounds for the motion, and in any event before the petit jury is sworn to try the case.

(b) If a motion filed under (a) contains a sworn statement of facts which, if true, constitute a substantial failure to comply with these rules, the moving party is entitled to present the testimony of the jury commissioner, any relevant records and papers even if not public or otherwise available, and any other relevant evidence in support of the motion. If the court determines that there has been a substantial failure to comply with these rules in the selection of either a grand jury or a petit jury, the court shall stay the proceedings while a jury is selected in conformity with these rules.

(c) The procedures prescribed by this Rule are the exclusive means by which a party may challenge a jury on the grounds that the jury was not selected in conformity to these rules.

Rule 814. Records

The names of qualified prospective jurors drawn and the contents of juror qualification questionnaires shall not be disclosed except as provided by this rule or as required by Rule 813.

(a) **Public Access.** The names of the qualified prospective jurors drawn and the contents of juror qualification questionnaires, except identifying information to which access is restricted by court order and Social Security numbers, completed by those prospective jurors must be made available to the public upon specific request to the court, supported by affidavit setting forth the reasons for the request, unless the court determines:

(1) in a criminal case that access to any such information should be restricted in accordance with Minn. R. Crim. P. 26.02 subd 2(2); or

(2) in all other cases that in the interest of justice this information should be kept confidential or its use limited in whole or in part.

(b) **Limits on Access by Parties.** The contents of completed juror qualification questionnaires except juror Social Security numbers must be made available to lawyers upon request in advance of voir dire. The court in a criminal case may restrict access to names, telephone numbers, addresses, and other identifying information of the jurors only as permitted by Minn. R. Crim. P. 26.02 subd 2(2). In a civil case the court may restrict access to the names, addresses, telephone numbers, and other identifying information of the jurors in the interests of justice.

(c) **Retention.** The jury commissioner shall make sure that all records and lists including any completed juror qualification questionnaires, are preserved for the length of time ordered by the court or set forth in the official retention schedule except that in criminal cases any information provided to counsel for voir dire as authorized by part (b) shall be preserved in the criminal file for at least ten years after judgment is entered.

(Amended effective July 1, 2005; amended effective January 1, 2007.)

Advisory Committee Comment - 2005 Amendment

The 2005 change to Rule 814 is intended to ensure the privacy of juror Social Security numbers and to reflect the constitutional limits on closure of criminal case records. Juror qualification records on a particular juror will be subject to those constitutional limits only to the extent that the juror has participated in voir dire in a criminal case. Access to completed supplemental juror

questionnaires used in specific cases is governed by separate rules. See Minn. R. Civ. P. 47.01; Minn. R. Crim. P. 26.02 subd 2(3).

Advisory Committee Comment - 2007 Amendment

Rule 814 is amended to delete the apparently absolute right to public access to jury questionnaires one year after the jury list is prepared, contained in Rule 814(d). The provision is replaced by the modified public access right contained in amended Rule 814(a). The procedure applies to the uniform procedure of specific request to the court for access, and essentially simply removes the distinction between requests before and after the one-year anniversary.

TITLE X - MINNESOTA RULES OF GUARDIAN AD LITEM PROCEDURE IN JUVENILE AND FAMILY COURT

Effective January 1, 1999

Rule 901. Scope of Rules; Implementation

Rule 901.01 Scope of Rules

These Rules govern the appointment, responsibilities, and removal of guardians ad litem appointed to advocate for the best interests of the child, minor parent, or incompetent adult in family and juvenile court cases. These Rules do not govern the appointment of a guardian ad litem under Minn. R. Civ. P. 17.02 in child support and paternity matters. These Rules also do not govern guardians ad litem appointed pursuant to Minnesota Statutes, chapter 253B, and sections 245.487 to 245.4888; 256B.77; 494.01 to 494.05; 501B.19; 501B.50; 508.18; 524.1-403; and 540.08.

For purposes of Rules 902 to 907:

(a) The phrase "family court case" refers to the types of proceedings set forth in the Comment to Rule 301 of the Minnesota Rules of Family Court Procedure, including, but not limited to, marriage dissolution, legal separation, and annulment proceedings; child custody enforcement proceedings; domestic abuse and harassment proceedings; support enforcement proceedings; contempt actions in family court; parentage determination proceedings; and other proceedings that may be heard or treated as family court matters.

(b) The phrase "juvenile court case" refers to the juvenile protection matters set forth in Minn. R. Juv. Prot. P. 2.01, including all of the following matters: child in need of protection or services, neglected and in foster care, termination of parental rights, review of out of home placement, and other matters that may be heard or treated as child protection matters, guardianship and adoption proceedings. The phrase "juvenile court case" also refers to the juvenile delinquency matters set forth in Minnesota Rules of Juvenile Delinquency Procedure.

(Amended effective January 1, 1999; amended effective January 1, 2005; amended effective January 1, 2007; amended effective July 1, 2015.)

2015 Advisory Committee Comment

Minnesota Statutes, section 480.35, created the State Guardian ad Litem Board effective July 1, 2010. At that time, administration and oversight of the qualifications, recruitment, screening, training, selection, supervision, and evaluation of guardians ad litem transferred from the Office of the State Court Administrator to the State Guardian ad Litem Board. These administrative and oversight procedures are now addressed in the Guardian ad Litem Program Requirements and Guidelines (Non-statutory), formerly titled the Guardian ad Litem System Program Standards or Program Standards manual. It is the responsibility of the Board to prepare the Requirements and

Guidelines (Non-statutory). The minimum standards set forth in the previous rules are to be maintained in the Requirements and Guidelines (Non-statutory), along with procedures governing complaints about the performance of a guardian ad litem. Also included are standards regarding knowledge and appreciation of the prevailing social and cultural standards of Indian and other minority communities. The Requirements and Guidelines (Non-statutory) are published in both print and electronic formats and are available to the public on the State Guardian ad Litem Board website http://mn.gov/guardian-ad-litem.

Rule 901.02 Implementation

The State Guardian ad Litem Board shall be responsible for insuring the implementation of the Rules of Guardian ad Litem Procedure. The responsibilities set forth in the Rules of Guardian ad Litem Procedure shall be carried out at the direction of the Program Administrator.

(Amended effective January 1, 1999; amended effective January 1, 2005; amended effective July 1, 2015.)

Rule 902. Minimum Qualifications

Before a person may be recommended for service as a guardian ad litem pursuant to Rule 903, the person must satisfy the minimum qualifications set forth in the Guardian ad Litem Program Requirements and Guidelines (Non-statutory) System Program Standards as established by the State Guardian ad Litem Board. The Requirements and Guidelines (Non-statutory) shall be published in print and electronic forms and be available to the public.

(Amended effective January 1, 1999; amended effective January 1, 2005; amended effective January 1, 2007; amended effective July 1, 2015.)

2015 Advisory Committee Comment

The Guardian Ad Litem Requirements and Guidelines (Non-statutory), formerly titled the Program Standards, are available on the State Guardian ad Litem Board website http://mn.gov/guardian-ad-litem.

Rule 903. Appointment of Guardian Ad Litem

Rule 903.01 Order by Court; Recommendation of Guardian Ad Litem for Appointment

When the court orders the appointment of a guardian ad litem in a particular case, the district guardian ad litem manager or the manager's designee shall promptly recommend a guardian ad litem for appointment. If in the exercise of judicial discretion the court determines that the guardian ad litem recommended is not appropriate for appointment, and communicates the reasons for that determination to the district guardian ad litem manager or the manager's designee, the district guardian ad litem manager or the manager's designee shall promptly recommend another guardian ad litem for appointment. No guardian ad litem shall be appointed unless recommended by the district guardian ad litem manager or manager's designee.

(Amended effective January 1, 1999; renumbered and amended effective January 1, 2005.)

Rule 903.02 Juvenile Court Appointment

Subdivision 1. Generally. A guardian ad litem shall not be appointed or serve except upon written order of the court. The order shall set forth:

(a) the statute or rule providing for the appointment of the guardian ad litem;

(b) the provisions for parental fee collection as applicable under Minnesota Statutes, sections 260B.331, subdivision 6, paragraph (a), and 260C.331, subdivision 6, paragraph (a), and as established by the State Guardian ad Litem Board; and

(c) in an adoption proceeding, authorization for the guardian ad litem to review and receive a copy of the adoption study report under Minn. R. Adoption P. 37 and the post-placement assessment report under Minn. R. Adoption P. 38 to the extent permitted by Minnesota Statutes, section 259.53, subdivision 3.

If the court has issued an order appointing a person as a guardian ad litem in a child in need of protection or services proceeding, the court may, but is not required to issue an order reappointing the same person in the termination of parental rights or other permanent placement determination proceeding. An order is required only if a new person is being appointed as guardian ad litem.

Subd. 2. Guardian Ad Litem Shall Not Also Serve on Same Case as Petitioner. When a guardian ad litem is appointed pursuant to Minnesota Statutes, section 260C.163, subdivision 5, paragraph (a), the court shall not appoint as guardian ad litem an individual who is the party, or an agent of the party, who has already filed the initial petition in the case pursuant to Minnesota Statutes, section 260C.141.

Subd. 3. Representation of Child's Parent or Legal Custodian. The court may sua sponte or upon the written or on-the-record request of a party or participant appoint a guardian ad litem for a parent who is a party or the legal custodian if:

(a) the court determines that the parent or legal custodian is incompetent to assist counsel in the matter or understand the nature of the proceedings; or

(b) it appears at any stage of the proceedings that the parent is under eighteen (18) years of age and is without a parent or legal custodian, or that considered in the context of the matter the minor parent's parent or legal custodian is unavailable, incompetent, indifferent to, hostile to, or has interests in conflict with the interests of the minor parent.

Appointment of a guardian ad litem for a parent shall not result in discharge of counsel for the parent.

(Added effective January 1, 2005; amended effective January 1, 2007; amended effective July 1, 2015.)

Advisory Committee Comment - 2004 Amendment

Rule 903.02 prohibits appointment as a guardian ad litem in a juvenile court case any individual, or the individual's agent, who has filed the initial petition in the case. The Rule is also intended to prohibit an individual serving as a guardian ad litem in both a family court matter and a juvenile court matter involving the same child, if the family court guardian ad litem has filed the initial petition in the juvenile court matter. The Rule does not prohibit a guardian ad litem already serving in a juvenile court matter from continuing to serve if, in the course of the case, the guardian ad litem files a petition or other pleadings.

Advisory Committee Comment - 2006 Amendment

If paragraph (c) in Rule 903.02 is not included in the initial order appointing the guardian ad litem in a juvenile protection matter, and the matter proceeds to adoption, the succeeding guardian ad litem appointment order in the adoption matter should include paragraph (c).

If the minor parent or incompetent adult is unable to admit or deny the petition, the court may choose to appoint a substitute decision maker or legal guardian to admit or deny the petition.

Rule 903.03 Family Court Appointment

A guardian ad litem shall not be appointed or serve except upon written order of the court. The order shall set forth:

(a) the statute or rule providing for the appointment of the guardian ad litem;

(b) the specific duties to be performed by the guardian ad litem in the case;

(c) to the extent appropriate, deadlines for the completion of the duties set forth;

(d) to the extent appropriate, the duration of the appointment; and

(e) the provisions for parental fee collection as applicable under Minnesota Statutes, sections 257.69, subdivision 2, paragraph (a), and 518.165, subdivision 3, paragraph (a), and as established by the State Guardian ad Litem Board.

(Amended effective January 1, 1999; renumbered and amended effective January 1, 2005; amended effective January 1, 2007; amended effective July 1, 2015.)

Rule 903.04 Other Roles Precluded

Subdivision 1. Generally. A guardian ad litem under the supervision of the State Guardian ad Litem Board shall not be ordered to, and shall not perform, the following roles in a case in which the person serves as a guardian ad litem;

(a) custody evaluator pursuant to Minnesota Statutes, section 518.167; or

(b) parenting time evaluator; or

(c) parenting time consultant; or

(d) family group decision making facilitator; or

(e) early neutral evaluator; or

(f) mediator, as that role is prescribed in Minnesota Statutes, section 518.619, and Rule 310 of the General Rules of Practice for the District Courts; or

(g) arbitrator or individual authorized to decide disputes between parties; or

(h) parenting time expeditor, as that role is prescribed in Minnesota Statutes, section 518.1751; or

(i) substitute decision-maker under Minnesota Statutes, section 253B.092; or

(j) evaluator charged with conducting a home study under Minnesota Statutes, section 245A.035 or 259.41; or

(k) attorney for the child.

Subd. 2. Roles Distinguished. Nothing in this rule shall prevent a properly qualified person who also serves in other cases as a guardian ad litem from serving in any of the roles in subdivision 1 on a privately paid basis. A guardian ad litem under the supervision of the State Guardian ad

Litem Board is not the same as a mediator, arbitrator, facilitator, custody evaluator, or neutral as those titles and roles are described in Rule 114 of the General Rules of Practice for District Courts.

(Added effective January 1, 2005; amended effective January 1, 2007; amended effective July 1, 2015.)

Rule 904. Removal or Suspension of Guardian Ad Litem from Particular Case

Rule 904.01 Use of Complaints and Investigation Reports

Unless offered into evidence by the guardian ad litem or authorized by written order following an *in camera* review by the court, neither any complaints about the performance of a guardian ad litem, nor any reports of any investigation of such complaints, shall be received as evidence or used in any manner in any proceeding governed by these Rules.

(Amended effective January 1, 1999; renumbered and amended effective January 1, 2005; amended effective January 1, 2007; amended effective July 1, 2015; amended effective July 1, 2015.)

Rule 904.02 Removal or Suspension of Guardian Ad Litem from Particular Case

A guardian ad litem appointed to serve in a particular case may be removed or suspended from the case only by order of the presiding judge. Removal or suspension may be upon initiation of the presiding judge or after hearing upon the motion of a party pursuant to Rule 904.03.

(Amended effective January 1, 1999; renumbered and amended effective January 1, 2005; amended effective July 1, 2015.)

Rule 904.03 Motion to Remove Filed by Party

A party to the case who wishes to seek the removal or suspension of a guardian ad litem for cause must proceed by written motion before the judge presiding over the case. A motion to remove or suspend a guardian ad litem for cause shall be served upon the parties and the guardian ad litem and filed and supported in compliance with the applicable rules of court. At the time the motion is served, a copy of the motion and all supporting documents shall be provided to the district guardian ad litem manager by the party making the motion.

(Amended effective July 1, 2015.)

Rule 904.04 Mandatory Removal By Presiding Judge

The presiding judge shall remove a guardian ad litem from a particular case:

(a) when it is shown by written communication from the district guardian ad litem manager or the manager's designee that the guardian ad litem has been removed from the state program for cause; or

(b) upon notice of any felony, gross misdemeanor, or misdemeanor conviction of the guardian ad litem of an offense involving children or domestic assault; or

(c) upon notice of a finding by the Minnesota Department of Human Services of maltreatment of a child by the guardian ad litem.

(Amended effective July 1, 2015.)

Rule 904.05 Permissive Removal By Presiding Judge

The presiding judge may remove or suspend a guardian ad litem from a particular case:

(a) for failure to comply with a directive of the court, including provisions of the order appointing the guardian ad litem; or

(b) for failure to comply with the responsibilities set forth in these Rules; or

(c) upon notice of formal sanction of the guardian ad litem by any professional or occupational licensing board; or

(d) upon formal request from the district guardian ad litem program for good cause; or

(e) for other good cause shown.

As an alternative to removal or suspension from a specific case, the presiding judge may ask the district guardian ad litem manager to provide appropriate remedial action for the guardian ad litem.

(Amended effective July 1, 2015.)

Rule 905. General Responsibilities of Guardians Ad Litem

Rule 905.01 Generally

In every family court and juvenile court case as defined in Rule 901.01 in which a guardian ad litem is appointed, the guardian ad litem shall:

(a) conduct an independent investigation to determine the facts relevant to the situation of the child or incompetent adult and the child's parent, legal custodian, or other household or family member, which must include, unless specifically excluded by the court:

(i) reviewing relevant documents, which in the case of an adoption shall include the adoption study report and the post-placement assessment report upon order of the court to the extent permitted by Minnesota Statutes, section 259.53, subdivision 3, paragraph (b);

(ii) meeting with and observing the child in the home setting and considering the child's or incompetent adult's wishes, as appropriate; and

(iii) interviewing parents, caregivers, and others relevant to the case;

(b) advocate for the best interests of the child or incompetent adult by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(c) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child or incompetent adult;

(d) monitor the best interests of the child or incompetent adult throughout the judicial proceeding; and

(e) present written reports on the best interests of the child or incompetent adult that include conclusions and recommendations, and the facts upon which they are based.

(Renumbered and amended effective January 1, 2005; amended effective January 1, 2007.)

Advisory Committee Comment - 2006 Amendment

The responsibilities of a guardian ad litem are the same for all appointments made under these Rules, regardless of case type.

Rule 905.02 Representation of Child's Parent or Legal Custodian

In every matter where the guardian ad litem is appointed to represent a parent or legal custodian under Rule 903.02, subdivision 3, the guardian ad litem shall perform the following responsibilities:

(a) conduct an investigation to determine the facts relevant to the situation of the minor parent or incompetent adult and the family, which must include, unless specifically excluded by the court:

(i) reviewing relevant documents;

(ii) meeting with and observing the minor parent or incompetent adult in the home setting and considering the minor parent's, or incompetent adult's wishes, as appropriate; and

(iii) interviewing parents, caregivers, and others relevant to the case;

(b) advocate for the minor parent's or incompetent adult's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(c) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the minor parent or incompetent adult;

(d) monitor the minor parent's or incompetent adult's best interests throughout the judicial proceeding; and

(e) present written reports on the minor parent's or incompetent adult's best interests that include conclusions and recommendations and the facts upon which they are based.

(Adopted and amended effective January 1, 2007.)

Rule 906. Ex Parte Contact Prohibited

Ex parte communication with the court by a guardian ad litem is prohibited, except as to procedural matters not affecting the merits of the case.

(Added effective January 1, 2005.)

Rule 907. Rights of Guardians Ad Litem

Rule 907.01 Rights in Every Case

Subdivision 1. Generally. In every case in which a guardian ad litem is appointed pursuant to Rule 903, the guardian ad litem shall have the rights set forth in clauses (a) to (d).

(a) The guardian ad litem shall have access to the child or incompetent adult including meeting with the child alone as deemed appropriate by the guardian ad litem; and shall have access to all information relevant to the child's or incompetent adult's and family's situation which is accessible under applicable state and federal laws.

(b) The guardian ad litem shall be furnished copies of all pleadings, documents, and reports by the party which served or submitted them. A party submitting, providing, or serving pleadings, documents, or reports shall simultaneously provide copies to the guardian ad litem.

(c) The guardian ad litem shall be notified of all court hearings, administrative reviews, staffings, investigations, dispositions, and other proceedings concerning the case. Timely notice of all court hearings, administrative reviews, staffings, investigations, dispositions, and other proceedings concerning the case shall be provided to the guardian ad litem by the party scheduling the proceeding.

(d) The guardian ad litem shall have the right to participate in all proceedings through submission of written and oral reports, and may initiate and respond to motions.

Subd. 2. Not Unauthorized Practice of Law. The exercise of the rights listed in subdivision 1 by a guardian ad litem shall not constitute the unauthorized practice of law.

(Amended effective January 1, 1999; renumbered and amended effective January 1, 2005; amended effective January 1, 2007.)

Rule 907.02 Rights as a Party

In addition to the rights set forth in Rule 907.01 and any other rights set forth in statute, court order, or Rule, in every case in which a guardian ad litem is a party, the guardian ad litem shall have the right to:

(a) legal representation;

(b) be present at all hearings;

(c) conduct discovery;

(d) bring motions before the court;

(e) participate in settlement agreements;

(f) subpoena witnesses;

(g) make argument in support of or against the petition;

(h) present evidence;

(i) cross-examine witnesses;

(j) request review of the referee's findings and recommended order;

(k) request review of the court's disposition upon a showing of a substantial change of circumstances or that the previous disposition was inappropriate;

(l) bring post-trial motions; and

(m) appeal from orders of the court.

The exercise of these rights shall not constitute the unauthorized practice of law.

(Amended effective January 1, 1999; renumbered and amended effective January 1, 2005.)

Rule 908. [Renumbered Rule 905 Effective January 1, 2005]

Rule 909. [Renumbered Rule 907 Effective January 1, 2005]

Rules 910. - 913. [Deleted Effective January 1, 2005]