MISCELLANEOUS

Special Rules of Procedure Governing Proceedings Under the Minnesota Commitment and Treatment Act

PAGE

Table of Headnotes.....
Text of Rules.....
Index.....

Special Rules for Appointment and Compensation of Counsel in Isolation and Quarantine Cases

PAGE

Table of Headnotes.....
Text of Rules.....
Index.....

Minnesota No-Fault, Comprehensive or Collision Damage Automobile Insurance Arbitration Rules

PAGE

Table of Headnotes.....
Text of Rules.....
Index.....

Legal Services Advisory Committee Membership Rules

PAGE

Table of Headnotes.....
Text of Rules.....
Index.....

Rules Relating to Distribution of Civil Surcharge Funds

PAGE

Table of Headnotes.....
Text of Rules.....

Published by the Revisor of Statutes under Minnesota Statutes, section 3C.08, subdivision 1.

Index.....

Interest Rates on State Court Judgments and Arbitration Awards

PAGE

Table of Rates.....

Index.....

Rule on the Provision of Legal Services Following the Determination of a Major Disaster

PAGE

Text of Rule.....

Index.....

Special Rules for the Pilot Expedited Civil Litigation Track

PAGE

Table of Headnotes.....

Text of Rules.....

Forms.....

Index.....

Special Rules of Procedure Governing Proceedings Under the Minnesota Commitment and Treatment Acts

Effective January 1, 2000
With amendments effective through October 1, 2016

TABLE OF HEADNOTES

Rule

1. General
2. Computation of Time
3. Service and Filing; Signing of Documents
4. Consecutive Hold Orders Prohibited
5. Case Captions
6. Commencement
7. Petitions
8. Summons
9. Appointment and Role of Counsel
10. Attorney-Client Privilege
11. Examiner's List
12. Examiner Reports
13. Medical Records
14. Location of Hearing, Rules of Decorum, Alternative Methods of Presenting Evidence
15. Evidence
16. Rights of Patients
17. Petition to Determine Need for Continued Care
18. Recommitment
19. Termination of Early Intervention
20. Termination of Commitment
21. Public Access to Records
22. Stayed Orders (Mentally Ill and Dangerous to the Public, Sexually Dangerous Persons, and Sexual Psychopathic Personalities)
23. Evaluation and Final Hearings in Cases Governed by Minnesota Statutes, Section 253B.18
24. Expediting Transcripts for Chapter 253B or 253D Appeals
25. Subpoena for Production of Records

26. Treatment Provider Access to Records

TEXT OF RULES

Rule 1. General

(a) Scope. The Special Rules shall apply in proceedings under the 1997 Minnesota Commitment and Treatment Act, Minnesota Statutes, chapter 253B, including its amendments, and chapter 253D, the Minnesota Commitent and Treatment Act: Sexually Dangerous Persons and Sexual Psychopathic Personalities.

(b) Rules Superseded. The Special Rules shall supersede any other body of rules otherwise applicable (e.g., the Rules of Civil Procedure for the District Courts, Probate Court Rules, etc.) in conflict with these Special Rules.

(c) Citation. These Special Rules may be cited as Commitment and Treatment Act Rules.

(Amended effective September 18, 2013.)

Advisory Committee Comment - 1999

The Act, as codified under Minnesota Statutes, chapter 253B, is detailed and the practitioner must be familiar with both the Act and these rules.

Rule 2. Computation of Time

Except as provided by these Special Rules, the Minnesota Rules of Civil Procedure govern the computation of any time periods prescribed by Minnesota Statutes, chapter 253B or 253D. If a respondent is represented by an attorney, whenever an act is required within a certain time after a written demand or service of a document upon a party or entity other than the court, time shall begin to run once both the party and the parties' attorneys have received notice of the document, regardless of the method of service, and shall not include weekends and holidays. The 72-hour absence that triggers missing respondent procedures under Minnesota Statutes, section 253B.141, subdivision 1, commences when the respondent was due to return to the facility and includes weekends and holidays.

(Amended effective September 18, 2013.)

Advisory Committee Comment - 1999

These rules contemplate that service may be effected personally, by mail, or by fax. There are instances in the statute when a notice or a report does not need to be "given" to an attorney. The rule ensures that the attorneys know the basis of any hearing scheduled by the court upon receipt of a filed document. When a party requests a hearing after notice that the treatment center or designated agency intends to take some action (as in the case of revocation of provisional discharge), this rule expands the period of time if the notice was mailed to the attorneys. If the notice was faxed, the time to request the hearing is not expanded.

Rule 3. Service And Filing; Signing of Documents

Whenever a person is required to give or serve any document under this chapter to any party, attorney, or entity other than the court, service shall be made in a manner provided under the Minnesota Rules of Civil Procedure and the General Rules of Practice for the District Courts. Attorneys for both parties must also be served whether or not service upon counsel is specifically required by statute.

Where electronic filing is authorized or required under Minnesota General Rules of Practice 14, documents shall be filed in accordance with that rule.

Notwithstanding Minnesota Statutes, section 253B.23, subdivision 3a, a signature on an electronic document filed in a proceeding subject to these rules is valid if it complies with General Rules of Practice 14.04.

(Amended effective July 1, 2015.)

Advisory Committee Comment - 1999

See comment to Rule 2.

Rule 4. Consecutive Hold Orders Prohibited

A person held under a 72-hour emergency hold must be released by the facility within 72 hours unless a court order to hold the person is obtained. A consecutive hold order not issued by the district court is expressly prohibited, whether or not issued by the same physician or other authority.

Rule 5. Case Captions

Civil commitment proceedings shall be captioned in the name of the person subject to the petition as follows: *In the Matter of the Civil Commitment of: (Full Name of Respondent), Respondent.*

The same caption shall be used in proceedings before the judicial appeal panel established under Minnesota Statutes, section 253B.19, except that the designation in the caption of the committed individual as "Respondent" shall be omitted.

(Amended effective October 1, 2016.)

Advisory Committee Comment - 1999

A person subject to commitment proceedings is referred to as the respondent throughout these rules. The court and counsel shall be sensitive to the correct pronunciation of a respondent's name.

Advisory Committee Comment - 2016

An individual who is committed as mentally ill and dangerous, as a sexually dangerous person, or as a sexual psychopathic personality is committed indeterminately. In these cases, the process for a reduction in custody begins with a petition filed with the Commissioner of Human Services and heard by the special review board, which makes a recommendation to the Commissioner or the judicial appeal panel. To avoid confusion or inaccurate party designations in judicial appeal panel proceedings, the rule is amended to clarify that the party designation of respondent is removed from captions related to judicial appeal panel proceedings.

Rule 6. Commencement

A proceeding for commitment or early intervention is commenced upon filing a petition with the District Court pursuant to Minnesota Statutes, chapter 253B or 253D.

(Amended effective September 18, 2013; amended effective July 1, 2015.)

Advisory Committee Comment - 1999

The committee has attempted to address concerns where conflicts occur between the county of financial responsibility (respondent's residence) and the county where respondent is present,

regarding who shall file the petitions, and to provide guidance in light of short statutory time constraints. The committee did not intend to remove discretion from the county attorney in the county where the respondent is present. If statutory conditions are present for commitment and the county attorney in the county where the respondent is present determines that a commitment is necessary and reasonable for the protection of the respondent or others, then the petition must be filed. Ultimate financial responsibility will be resolved in accordance with Minnesota Statutes, sections 256G.01 to 256G.12.

See also Minnesota Statutes, section 253B.07, subdivision 2a, when dealing with a person subject to Minn. R. Crim. P. 20.01 or 20.02. It is not the intent of the committee to affect venue when the person is subject to a proceeding governed by Minn. R. Crim. P. 20.01 or 20.02 or Minn. R. Juv. Del. P. 20.01 or 20.02.

A petition for commitment as a sexual psychopathic personality or a sexually dangerous person may also be filed in a county where a related criminal conviction was entered. See Minnesota Statutes, section 253B.185, subdivision 1.

Advisory Committee Comment - 2015 Amendments

Various statutes set forth where pre-petition screenings are conducted, where petitions are filed, and which county is the county of financial responsibility. See Minnesota Statutes, section 253B.23, subdivision 1b (2014). The committee determined the statute supersedes the second paragraph of Rule 6 and as such, the second paragraph of the former rule no longer serves a purpose.

Rule 7. Petitions

A petition filed pursuant to Minn. R. Crim. P. 20.01 or Minn. R. Juv. Del. P. 20.01 is sufficient if it contains a judicial determination that the defendant is incompetent to stand trial or be sentenced for the offense. A petition filed pursuant to Minn. R. Crim. P. 20.02 or Minn. R. Juv. Del. P. 20.02 is sufficient if it contains a judicial determination that the defendant was found not guilty, by reason of mental illness or mental deficiency, of the crime with which the defendant was charged.

Advisory Committee Comment - 1999

This rule clarifies that petitions pursuant to Minn. R. Crim. P. 20 or Minn. R. Juv. Del. P. 20 need not include all of the specific requirements of the law relating to petitions for judicial commitment, which arise from referrals to thepre-petition screening team. For example, an examiner's statement in support of commitment is not required, since the basis of the petition is a judicial determination.

Rule 8. Summons

Once a petition has been filed, the court shall issue a summons to be personally served upon the respondent. The summons shall direct the respondent to appear at the times and places stated in the summons for psychiatric, psychological, and medical examination and court hearing. The summons shall state in bold print that an order to apprehend and hold the respondent may be issued if the respondent does not appear as directed. The court need not issue a summons if the respondent is already under a medical or judicial hold.

The court shall direct that a copy of the pre-petition screening report, the petition, and the examiner's supporting statement be personally served upon the respondent with the summons if issued, and that a copy be distributed or electronically transmitted through the E-Filing System to

the petitioner, the respondent's counsel, the county attorney, any person authorized by the respondent, and any other person as the court directs.

(Amended effective July 1, 2015.)

Rule 9. Appointment and Role of Counsel

(a) Appointment by the Committing Court. Immediately upon the filing of a petition for commitment or early intervention the court shall appoint a qualified attorney to represent the respondent at public expense at any subsequent proceeding under Minnesota Statutes, chapter 253B or 253D. An attorney shall represent the respondent until the court dismisses the petition or the respondent is discharged from commitment, and the conclusion of any related appeal.

(b) Private Counsel. The respondent may employ private counsel at the respondent's expense. If private counsel is employed, the court shall discharge the appointed attorney.

(c) Withdrawal. In order to withdraw, counsel must file a motion and obtain the appointing court's approval. Upon approval of withdrawal, the court shall appoint substitute counsel for respondent.

(d) Duty of Counsel. Counsel for the respondent is not required to file an appeal, commence any proceeding, or advance a position asserted in a filing made by the respondent under Minnesota Statutes, chapter 253B or 253D, if, in the opinion of counsel, there is an insufficient basis for proceeding.

(Amended effective September 18, 2013; amended effective October 1, 2016.)

Advisory Committee Comment - 2016 Amendments

The amendments regarding appointment of counsel ensure that committed individuals are continuously represented by counsel during commitment proceedings and during all times the individual is under commitment. No individual should be without counsel while under commitment.

The amendments regarding the duty of counsel recognize the challenges at times faced by counsel in representing individuals proposed for or subject to commitment by balancing counsel's ethical responsibility to ensure that arguments, positions, and pleadings are meritorious with the responsibility to be a vigorous advocate for the individual. When an individual is indeterminately committed, an important responsibility of counsel is to assist the individual in periodically petitioning for a reduction in custody to ensure neutral review of the individual's commitment status.

Rule 10. Attorney-Client Privilege

The content of attorney-client communications by telephone, mail, electronic means, or conference at the facility, shall not be monitored, censored, or made part of a respondent's medical record. The facility may open and inspect, but not read, a letter or package, and must do so in the respondent's presence.

(Amended effective July 1, 2015.)

Rule 11. Examiner's List

The court administrator shall prepare and maintain a list of examiners. A statement of the manner and rate of compensation of examiners shall be attached to the list. Examiners shall be paid at a rate of compensation fixed by the court. If a party seeks appointment of an examiner not on the list, or at a rate of compensation exceeding that fixed by the court, the party shall seek approval of the

court prior to appointment. Examiners in judicial appeal panel proceedings shall be appointed and compensated as provided in Minnesota Statutes, section 253B.19.

(Amended effective October 1, 2016.)

Rule 12. Examiner Reports

Each court-appointed examiner shall examine the respondent and prepare and file with the court a separate report stating the examiner's opinion and the facts upon which the opinion is based. The report shall address:

(a) Whether the respondent is mentally ill, developmentally disabled, chemically dependent, mentally ill and dangerous to the public, a sexually dangerous person, or a sexual psychopathic personality;

(b) Whether the examiner recommends commitment;

(c) The appropriate form, location, and conditions of treatment, including likelihood of the need for treatment with neuroleptic medication; and

(d) The respondent's capacity to make decisions about neuroleptic medication, if needed.

If the petition alleges that the respondent is mentally ill and dangerous to the public, the report shall also address whether there is a substantial likelihood that respondent will engage in acts capable of inflicting serious physical harm on another.

If the petition alleges that the respondent is a sexual psychopathic personality and/or a sexually dangerous person, the report shall address each element set out in Minnesota Statutes, section 253D.02, subdivisions 15 and 16, respectively, including an opinion as to the likelihood that the respondent will engage in future dangerous behavior.

In proceedings before the judicial appeal panel, the examiner report shall address the criteria relating to the type or types of reduction in custody requested in the petition for reduction in custody.

The court shall distribute or electronically transmit through the E-Filing System a copy of the examiner's report to the county attorney, the respondent, and respondent's attorney immediately upon receiving the report. In judicial appeal panel proceedings, the report shall also be distributed to the attorney for the commissioner of human services.

(Amended effective September 18, 2013; amended effective July 1, 2015; amended effective October 1, 2016.)

Rule 13. Medical Records

(a) Medical Records - Defined. For purposes of these rules, "medical records" are records and reports prepared by medical, healthcare, and/or scientific professionals that relate to the past, present, or future physical or mental health or condition of an individual including, but not limited to, medical histories, examinations, diagnoses and treatment, pre-petition screening reports, court-appointed examiner's reports prepared pursuant to Rule 12 of these rules, and any other records designated by the presiding judge as medical records for purposes of this rule.

(b) Access to Respondent's Medical Records. The county attorney, respondent, respondent's attorney, court-appointed examiner, guardian ad litem, substitute decision-maker, and their agents and experts retained by them shall have access to all of the respondent's medical records and the reports of the court-appointed examiners. The records and reports may not be disclosed to any other person without court authorization or the respondent's signed consent. Except for a preliminary

hearing, each party shall disclose to the other party or parties as soon as possible in advance of the hearing which of the respondent's medical records the party intends to introduce at the hearing. In judicial appeal panel proceedings, such disclosure shall be no later than three business days before a scheduled hearing or as provided in the panel's scheduling order.

(Amended effective September 18, 2013; amended effective July 1, 2015; amended effective October 1, 2016.)

Advisory Committee Comment - 2015 Amendments

Rule 13(b) is language retained, substantially unchanged, from the former Rule 13. The only modification concerns the elimination of a specified time frame for the disclosure of all medical records that parties intend to introduce at the hearing. The advisory committee believes that parties should continue to aspire to meet the former 24-hour deadline whenever possible, but recognizes that frequently, in practice, attorneys and parties do not receive respondent's medical records until immediately before the hearing. Accordingly, the disclosures should be made as soon as possible after receiving the records.

The amendments to Rule 13 are not intended to modify or limit the right of a respondent to request a protective order excluding from examiner review medical records which are not relevant or germane to the present mental and/or physical condition of the respondent in accordance with the procedures established in In re D.M.C., 331 N.W.2d 236 (Minn. 1983).

Rule 14. Location of Hearing, Rules of Decorum, Alternative Methods of Presenting Evidence

The judge or judicial officer shall assure the decorum and orderliness of any hearing held pursuant to Minnesota Statutes, chapter 253B or 253D. The judge or judicial officer shall afford to respondent an opportunity to be dressed in conformity with the dignity of court appearances.

A hearing may be conducted or an attorney for a party, a party, or a witness may appear by telephone, audiovisual, or other electronic means if the party intending to use electronic means notifies the other party or parties at least 24 hours in advance of the hearing and the court approves. If a witness will be testifying electronically, the notice must include the name, address, and telephone number where the witness may be reached in advance of the hearing. This rule does not supersede Minnesota Statutes, sections 595.02 to 595.08 (competency and privilege). Respondent's counsel will be physically present with the respondent. The court shall insure that the respondent has adequate opportunity to speak privately with counsel, including, where appropriate, suspension of the audio recording or allowing counsel to leave the conference table to communicate with the client in private.

(Amended effective March 1, 2009; amended effective January 1, 2010; amended effective September 18, 2013; amended effective July 1, 2015.)

Advisory Committee Comment - 2008

Rule 14 is amended to lengthen the amount of notice required to be given by a litigant desiring to have a matter heard by electronic means, typically either telephone or interactive television. The seven days required by the rule can be adjusted by the court if necessary.

Advisory Committee Comment - 2009

Rule 14 is amended to change the amount of notice required to be given by a litigant desiring to have a matter heard by electronic means, typically either telephone or interactive television. The 24 hours required by the rule represents the bare minimum of what may be necessary to allow for

necessary electronic equipment to be made available. This deadline can be adjusted by the court if necessary.

Rule 15. Evidence

The court may admit all relevant, reliable evidence, including but not limited to the respondent's medical records, without requiring foundation witnesses.

(Amended effective September 18, 2013.)

Rule 16. Rights of Patients

In every order for commitment, the committing court shall order that the Rights of Patients, provided in Minnesota Statutes, sections 253B.03, 253D.17, and 253D.18, be incorporated in the order by reference.

(Amended effective September 18, 2013.)

Rule 17. Petition to Determine Need for Continued Care

Upon the filing of a petition to determine the need for continued care pursuant to Minnesota Statutes, section 253B.17, the court shall cause the hearing to be held within 14 days of filing. The hearing may be continued for up to 30 days upon a showing of good cause. The court shall give the respondent, respondent's attorney, county attorney, guardian ad litem, and substitute decision-maker, as well as such other interested persons as the court may direct, at least 10 days' notice of the date and time of the hearing.

(Amended effective September 18, 2013.)

Rule 18. Recommitment

For recommitments pursuant to Minnesota Statutes, section 253B.13, the court shall reference the immediately preceding commitment file in the file on the new petition.

(Amended effective July 1, 2015.)

Rule 19. Termination of Early Intervention

Any petition for involuntary commitment filed at the termination of court-ordered early intervention under Minnesota Statutes, section 253B.065, shall be treated as a petition for initial commitment.

(Amended effective July 1, 2015.)

Advisory Committee Comment - 2015 Amendments

Rule 19 is amended for clarity only, and the amendment does not denote a change in law.

Rule 20. Termination of Commitment

The court shall order termination of the commitment when the commitment expires, or upon a direct discharge by the treatment facility, or upon a discharge by the Commissioner of Human Services. Terminations of indeterminate commitments are governed by Minnesota Statutes, section 253B.18 (persons who are mentally ill and dangerous) and chapter 253D (persons who are sexually dangerous or with sexual psychopathic personalities).

The order shall also discharge the court-appointed attorney.

(Amended effective October 1, 2016.)

Advisory Committee Comment - 1999

Minnesota Statutes, section 253B.12, subdivision 1, paragraph (e), provides for an order terminating the commitment if a 60-90 day report is not timely filed or if the report describes the respondent as not in need of further institutional care and treatment. There is no similar provision for terminating the commitment if the report required by Minnesota Statutes, section 253B.16, is not filed or if there is a final discharge under Minnesota Statutes, section 253B.16, or if a provisional discharge expires under Minnesota Statutes, section 253B.15, subdivision 9. This rule insures a formal termination of the proceeding and discharge of the respondent's court-appointed attorney.

Rule 21. Public Access to Records

(a) Except as provided in these Special Rules, the Rules of Public Access to Records of the Judicial Branch, or as limited by court order, all court files relating to civil commitment shall be available to the public for inspection, copying, printing, or downloading.

(b) The pre-petition screening report, court-appointed examiner's report, and all medical records filed with or received by the court shall not be disclosed to the public except by express order of the district court. This provision shall not limit the ability of any party, witness, or the court to mention the contents of the pre-petition screening report, court-appointed examiner's report, and medical records in open court or in otherwise publicly accessible pleadings or documents. Any reference at a public hearing or in an otherwise public document to confidential reports or medical records shall not render the reports or medical records available to the public, or create a sufficient basis for making the reports or records available to the public.

(c) Where electronic filing is authorized or required under General Rules of Practice 14, the pre-petition screening report, court-appointed examiner's report, and all medical records filed with the court must be designated as confidential by the filing party. Upon discovery by court administration staff that any pre-petition screening reports, court-appointed examiner reports, or medical records have not been designated as confidential by the filing party, the court administrator shall designate the document as confidential and notify the filer of the change in designation.

(d) The court may, sua sponte, or upon motion and hearing, issue an order prohibiting public access to civil commitment case records that are otherwise accessible to the public only if the court finds that exceptional circumstances exist.

(e) Except when authorized by order of the presiding judge or the Minnesota Supreme Court, there shall be no public access to case records of proceedings seeking commitment of a minor. The petition for commitment of a minor must be designated as confidential by the filing party. Upon discovery by court administration staff that the petition for the civil commitment of a minor has not been designated as confidential by the filing party, court administration staff shall designate the petition as confidential and notify the filer of the change in designation.

(Amended effective September 18, 2013; amended effective July 1, 2015.)

Advisory Committee Comment - 2015 Amendments

This rule is amended to clarify public access issues with civil commitment case records. Generally, civil commitment case records are publicly accessible. Rule 4, subdivision 2, of the Rules of Public Access to Records of the Judicial Branch sets forth the procedures for when a court may restrict access to public case records.

Rule 21(b) is amended to remove the requirement for the court administrator to maintain confidential documents in a separate section or file as this requirement is no longer applicable with electronic records. As authorized by these rules and Rule 8, subdivision 5(b) of the Rules of Public Access to Records of the Judicial Branch, all medical records, whether submitted to the court or admitted into evidence, are confidential and shall not be accessible to the public except by express order of the district court. Rule 21(c) establishes the duty of the filing party to properly classify medical records as confidential when filed in the E-Filing System. Medical records introduced and admitted into evidence during a hearing remain confidential even if referenced at a public hearing or in an otherwise public document.

There may be times when otherwise public documents should be kept confidential and Rule 21(d) reminds court users that an order restricting public access may be requested by motion or may issue upon the court's own initiative. However, an order granting such relief must include specific findings that support the order granting the request. Pursuant to Minnesota General Rules of Practice 14.06, a Registered User electronically filing a document that is not accessible to the public is responsible for designating that document as confidential in the E-Filing System at the time of filing. A Registered User is defined in Minnesota General Rules of Practice 14.01.

The Rules of Public Access to Records of the Judicial Branch clarify that civil commitment case records are publicly accessible at courthouses, to ensure that court administration can ensure confidentiality is preserved when appropriate. Rule 21(e) contains provisions intended to satisfy the public need for safety and oversight, while safeguarding the privacy interests of minors who may become or who are civilly committed. The collateral consequences of public accessibility to civil commitment records can have long-term impact on minor respondents and adversely impact treatment. Rule 21(e) clarifies that case records of any civil commitment of a minor respondent shall not be publicly accessible absent a district court order or order or directive of the Minnesota Supreme Court or its designee.

Rule 22. Stayed Orders (Mentally Ill and Dangerous to the Public, Sexually Dangerous Persons, and Sexual Psychopathic Personalities)

Stayed orders for commitment as mentally ill and dangerous to the public, sexually dangerous person, or a sexual psychopathic personality may be issued only by agreement of the parties and approval by the court.

Rule 23. Evaluation and Final Hearings in Cases Governed by Minnesota Statutes, Section 253B.18

(a) For persons who have been committed as mentally ill and dangerous to the public, the head of the treatment facility shall file the report required by Minnesota Statutes, section 253B.18. The evaluation may be conducted at a secure treatment or at a correctional facility. If transport is needed, the court shall designate the agency responsible to do it.

(b) Prior to making the final determination with regard to a person initially committed as mentally ill and dangerous to the public, the court shall hold a hearing. The head of the treatment facility, or his or her designee, shall file the report required by Minnesota Statutes, section 253B.18, subdivision 2. The hearing for final determination shall be held within 14 days of the court's receipt of the report from the head of the treatment facility or within 90 days of the date of initial commitment, whichever is earlier, unless continued by agreement of the parties, or by the court for good cause shown. As its final determination, the court may, subject to Minn. R. Crim. P. 20.01 subd 4:

(1) Discharge the respondent's commitment;

(2) Commit the respondent as mentally ill only, in which case the respondent's commitment shall be deemed to have commenced upon the date of initial commitment, for purposes of determining the maximum length of the determinate commitment; or

(3) Commit the respondent for an indeterminate period as mentally ill and dangerous to the public.

(c) At the request of the respondent, the court shall appoint an examiner of the respondent's choice for purposes of the hearing required by this rule.

(d) The written report of the head of the treatment facility pursuant to Minnesota Statutes, section 253B.18, subdivision 2, shall address the criteria for commitment and whether there has been any change in the respondent's condition since the commitment hearing. The report shall provide the following information:

(1) the respondent's diagnosis;

(2) the respondent's present condition and behavior;

(3) the facts, if any, that establish that the respondent continues to satisfy the statutory requirements for commitment;

(4) a description of treatment efforts and response to treatment by the respondent during hospitalization;

(5) the respondent's prognosis;

(6) the respondent's individual treatment plan;

(7) an opinion as to whether the respondent is in need of further care and treatment;

(8) an opinion as to the program or facility best able to provide further care and treatment, if needed;

(9) an opinion as to whether respondent is dangerous to the public or himself. All supportive data and documentation shall be submitted with the report.

(e) At the hearing, the court shall consider all competent evidence relevant to the respondent's present need for continued commitment. The burden of proof at the hearing is upon the proponent of indeterminate commitment to establish by clear and convincing evidence that the statutory requirements for commitment under Minnesota Statutes, chapter 253B, continue to be met.

(Amended effective September 18, 2013; amended effective July 1, 2015.)

Advisory Committee Comment - 1999

This rule is intended to require final resolution, with due diligence, of the commitment process of a respondent who is mentally ill and dangerous to the public, a sexually dangerous person, or a sexual psychopathic personality. An initial hearing should not be "reviewed" years later. The rule is not intended to dictate where a committed person should be confined. If a commitment is sustained upon review and the individual is still subject to commitment to the Commissioner of Corrections the balance of the sentence is to be served in a correctional institution.

Advisory Committee Comment - 2015 Amendments

Rule 23 is amended to conform to the statutory abrogation of the initial commitment period and review hearing for respondents committed as sexually dangerous persons and/or persons with

a sexual psychopathic personality. All such commitments are now for an indeterminate period of time under Minnesota Statutes, section 253D.07, subdivision 4. The amendment is not intended to modify or limit the rights of respondents committed under petitions filed prior to the statutory change of section 253B.18. See Minnesota Laws 2011, chapter 102, article 3, section 1 (effective May 28, 2011).

Rule 24. Expediting Transcripts for Chapter 253B or 253D Appeals

In addition to satisfying the requirements of the Rules of Civil Appellate Procedure, any party initiating an appeal of an order entered under Minnesota Statutes, chapter 253B or 253D, shall, at or before the date of filing the notice of appeal, (a) serve on each court reporter who recorded the proceedings a copy of the notice of appeal and a request for transcripts the appellant deems necessary for the appeal and (b) file with the notice of appeal a copy of the request(s) for transcripts, along with an affidavit of service of the request(s) on opposing counsel, the court administrator of the court that issued the order appealed, and the court reporter or reporters, unless at the time of filing the notice of appeal all transcripts necessary for the appeal have already been transcribed. The transcript request(s) shall require completion of the transcripts no more than 25 days after the filing of the notice of appeal, unless the 25th day falls on a Saturday, Sunday, or a holiday, in which case the transcripts shall be completed on the next business day. The Court of Appeals may modify the deadline for completion of the transcripts if necessary. Failure of an appellant who intends to order a transcript to serve on the court reporter(s) a request for transcripts the appellant deems necessary for the appeal at the date of filing the notice of appeal does not deprive the Court of Appeals of jurisdiction over the appeal, but extends the time for the Court of Appeals to hear the appeal by the period of delay between the filing of the appeal and service of the transcript request(s).

(Added effective July 1, 2009; amended effective September 18, 2013.)

Rule 25. Subpoena for Production of Records

Where a party in a proceeding under Minnesota Statutes, chapter 253B or 253D, uses a subpoena to obtain the production of records, the advance-service and advance-notice requirements under Minn. R. Civ. P. 45.02(a) and 45.04(a)(5) shall be 24 hours, rather than seven days.

(Added effective July 1, 2010; amended effective September 18, 2013.)

Rule 26. Treatment Provider Access to Records

Following an order for commitment and during the pendency of the commitment, at the request of the head of a treatment facility or program to which a respondent is committed, the county attorney may provide to the facility or program electronic or paper copies of any documents received into evidence as part of the commitment proceedings and, if requested and it exists, the transcript of those proceedings. Any costs associated with obtaining the transcript shall be paid by the treatment facility or program.

(Added effective October 1, 2016.)

Special Rules for Appointment and Compensation of Counsel in Isolation and Quarantine Cases

Effective September 14, 2009

TABLE OF HEADNOTES

Rule

1. General
2. Appointment and Compensation of Counsel
3. Isolation and Quarantine Defense Panel
4. Determination of Indigency for Appeal

TEXT OF RULES

Rule 1. General

(a) Scope. These special rules shall apply in proceedings under Minnesota Statutes, sections 144.419 to 144.4196.

(b) Definition. For purposes of these rules, a "Respondent" is a person subject to isolation or quarantine under Minnesota Statutes, sections 144.419 to 144.4196.

(c) Citation. These special rules may be cited as the Isolation and Quarantine Rules.

(Added effective September 14, 2009)

Rule 2. Appointment and Compensation of counsel

(a) Appointment. The court shall appoint counsel upon request of a Respondent in any district court proceedings under Minnesota Statutes, section 144.4195, subdivision 3, or 144.4195, subdivision 4. The court shall appoint counsel for purposes of an appeal of an order under Minnesota Statutes, section 144.4195, subdivision 3, or 144.4195, subdivision 4, only after making the required indigency determination under Rule 4(a). The court may appoint one attorney to represent a group of Respondents if the court determines the group of Respondents is similarly situated. When appointing an attorney to represent a Respondent, or a group of similarly situated Respondents, the court shall first attempt to appoint an attorney from the Isolation and Quarantine Defense Panel; if no attorneys on the Panel are available, the court shall appoint an otherwise qualified attorney.

(b) Compensation. Court-appointed counsel shall submit timely invoices to the court administrator in the county of venue reflecting the hours worked and all reasonably necessary expenses incurred in preparation of a defense. The hourly compensation rate and expense reimbursement limit shall be as established by the Supreme Court under Rule 3(b). Invoices approved by the court administrator shall be forwarded to the State Court Administrator, who shall forward the invoices to the Department of Health for payment under Minnesota Statutes, section 144.4195, subdivision 5, paragraph (b).

(c) Private Counsel. A Respondent may retain private counsel at the Respondent's expense. If private counsel is retained, the court shall discharge any court-appointed counsel. Where one or more Respondents belonging to a similarly situated group represented by one court-appointed

attorney retain private counsel, this does not affect the right of the other Respondents in the group to court-appointed counsel.

(d) Withdrawal. Under Minnesota Statutes, section 144.4195, subdivision 5, paragraph (b), upon request the court shall allow court-appointed counsel to withdraw from representing a Respondent on appeal if, in the opinion of counsel, there is insufficient basis for proceeding. Withdrawal of any counsel for any other reason shall be governed by Minn. Gen. R. Prac. 105 and Minn. R. Prof. Cond. 1.16.

(Added effective September 14, 2009)

Rule 3. Isolation and Quarantine Defense Panel

(a) Recruitment and Training. Every three years, the State Court Administrator's Office shall recruit a panel of attorneys, verify their qualifications, and train the attorneys to serve as court-appointed counsel in isolation and quarantine cases.

(b) Appointment Order. At the request of the State Court Administrator, the Supreme court by an Order shall appoint these qualified and trained attorneys to the Isolation and Quarantine Defense Panel for three-year terms, and establish the hourly compensation rate and expense reimbursement limit.*

(Added effective September 14, 2009)

**Note: Per Supreme Court Order ADM-09-8004, dated and effective September 14, 2009, court-appointed panel lawyers shall be compensated at an hourly rate of one hundred fifty dollars ($150) an hour, with total fees and expenses not to exceed five thousand dollars ($5,000) for each appointment without prior written approval of the chief judge.*

Rule 4. Determination of Indigency for Appeal

(a) Indigency Standard. The court shall appoint counsel for purposes of appeal of an order under Minnesota Statutes, section 144.4195, subdivision 3 or 4, only if the Respondent has requested and the court has allowed proceeding in forma pauperis under Minnesota Statutes, section 563.01.

(Added effective September 14, 2009)

Minnesota No-Fault, Comprehensive or Collision Damage Automobile Insurance Arbitration Rules

Substantially revised effective January 1, 1991
With amendments received through September 1, 2020

TABLE OF HEADNOTES

Rule

1. Purpose and Administration
2. Appointment of Arbitrator
3. Name of Tribunal
4. Administrator
5. Initiation of Arbitration
6. Jurisdiction in Mandatory Cases
7. Notice
8. Selection of Arbitrator and Challenge Procedure
9. Notice to Arbitrator of Appointment
10. Qualification of Arbitrator and Disclosure Procedure
11. Vacancies
12. Discovery, Motions, and Applications
13. Withdrawal
14. Date, Time, and Place of Arbitration
15. Postponements
16. Representation
17. Stenographic Record
18. Interpreters
19. Attendance at Hearings
20. Oaths
21. Order of Proceedings and Communication with Arbitrator
22. Arbitration in the Absence of a Party or Representative
23. Witnesses, Subpoenas and Depositions
24. Evidence
25. Close of Hearing
26. Reopening the Hearing

27. Waiver of Oral Hearing
28. Extensions of Time
29. Serving of Notice
30. Time of Award
31. Form of Award
32. Scope of Award
33. Delivery of Award to Parties
34. Waiver of Rules
35. Interpretation and Application of Rules
36. Release of Documents for Judicial Proceedings
37. Applications to Court and Exclusion of Liability
38. Confirmation, Vacation, Modification or Correction of Award
39. Administrative Fees
40. Arbitrator, Motion, and Application Fees
41. Rescheduling or Cancellation Fees
42. Expenses
43. Amendment or Modification
Appendix Standards of Conduct Minnesota No-Fault Arbitrators

TEXT OF RULES

Rule 1. Purpose and Administration

(a) The purpose of the Minnesota no-fault arbitration system is to promote the orderly and efficient administration of justice in this State. To this end, the Court, pursuant to Minnesota Statutes, section 65B.525, and in the exercise of its rule making responsibilities, does hereby adopt these rules. These rules are intended to implement the Minnesota No-Fault Act.

(b) Arbitration under Minnesota Statutes, section 65B.525, shall be administered by a standing committee of not less than twelve members to be appointed by the Minnesota Supreme Court. Members shall be appointed for a four-year term commencing on January 1, with at least three members' terms expiring each year. No member shall serve more than two full terms and any partial term.

(c) The day-to-day administration of arbitration under Minnesota Statutes, section 65B.525, shall be by an arbitration organization designated by the Standing Committee with the concurrence of the Supreme Court. The administration shall be subject to the continuing supervision of the Standing Committee.

(Amended effective September 7, 1999; amended effective August 5, 2003; amended effective January 1, 2019.)

Rule 2. Appointment of Arbitrator

The standing committee may conditionally approve and submit to the arbitration organization nominees to the panel of arbitrators quarterly in March, June, September, and December of each year, commencing March 1988. These nominees then may be included in the panel of arbitrators which the standing committee shall nominate annually for approval by the supreme court. The panel appointed by the supreme court shall be certified by the standing committee to the arbitration organization.

(Amended effective August 5, 2003.)

Rule 3. Name of Tribunal

Any tribunal constituted by the parties for the settlement of their dispute under these rules shall be called the Minnesota No-Fault Arbitration Tribunal.

Rule 4. Administrator

When parties agree to arbitrate under these rules, or when they provide for arbitration by the arbitration organization and an arbitration is initiated thereunder, they thereby constitute the arbitration organization for the administrator of the arbitration.

(Amended effective August 5, 2003; amended effective March 1, 2016.)

Rule 5. Initiation of Arbitration

(a) Mandatory arbitration (for claims of $10,000 or less at the commencement of arbitration). At such time as the respondent denies a claim, the respondent shall advise the claimant of claimant's right to demand arbitration.

(b) Nonmandatory arbitration (for claims over $10,000). At such time as the respondent denies a claim, the respondent shall advise the claimant whether or not it is willing to submit the claim to arbitration.

(c) All cases. In all cases the respondent shall also advise the claimant that information on arbitration procedures may be obtained from the arbitration organization, giving the arbitration organization's current address and email address. On request, the arbitration organization will provide a claimant with a petition form for initiating arbitration together with a copy of these rules. Arbitration is commenced by the filing of the signed form, together with the required filing fee, with the arbitration organization. If the claimant asserts a claim against more than one insurer, claimant shall so designate upon the arbitration petition. In the event that a respondent claims or asserts that another insurer bears some or all of the responsibility for the claim, respondent shall file a petition identifying the insurer and setting forth the amount of the claim that it claims is the responsibility of another insurer. Regardless of the number of respondents identified on the claim petition, the claim is subject to the jurisdictional limits set forth in Rule 6.

(d) Denial of claim. If a respondent fails to respond in writing within 30 days after reasonable proof of the fact and the amount of loss is duly presented to the respondent, the claim shall be deemed denied for the purpose of activating these rules.

(e) Commencement notice. The claimant shall simultaneously provide a copy of the petition and any supporting documents to the respondent and arbitration organization. The arbitration organization shall provide notice to the parties of the commencement of the arbitration. The filing date for purposes of the 30-day response period shall be the date of the arbitration organization's commencement notice.

(f) Itemization of claim. At the time of filing the arbitration form, or within 30 days after, the claimant shall file an itemization of benefits claimed and supporting documentation. Medical and replacement services claims must detail the names of providers, dates of services claimed, and total amounts owing. Income loss claims must detail employers, rates of pay, dates of loss, method of calculation, and total amounts owing.

(g) Insurer's response. Within 30 days after receipt of the itemization of benefits claimed and supporting documentation from claimant, respondent shall serve a response to the petition setting forth all grounds upon which the claim is denied and accompanied by all documents supporting denial of the benefits claimed. There is no additional administrative fee where parties to a pending arbitration attempt to mediate their dispute under the arbitration organization's auspices.

(Amended September 12, 1991; amended effective August 31, 1993; amended effective May 19, 1997; amended effective August 5, 2003; amended effective March 1, 2016.)

Standing Committee Comments (2015)

The addition of an e-mail address, in Rule 5(c), is consistent with the trend of facilitating electronic communication. The term "executed" is removed from Rule 5(c) to avoid redundancy.

The purpose of the change in Rule 5(e) is to streamline the filing process and provide a clear "filing date" for purposes of Rule 5(g), the Insurer's Response.

The rules consistently use "arbitration organization" when referring to the administrator.

Rule 6. Jurisdiction in Mandatory Cases

By statute, mandatory arbitration applies to all claims for no-fault benefits or comprehensive or collision damage coverage where the total amount of the claim, at the commencement of arbitration, is in an amount of $10,000.00 or less. In cases where the amount of the claim continues to accrue after the petition is filed, the arbitrator shall have jurisdiction to determine all amounts claimed including those in excess of $10,000.00. If the claimant waives a portion of the claim in order to come within the $10,000.00 jurisdictional limit, the claimant must specify within 30 days of filing the claims in excess of the $10,000.00 being waived.

(Amended September 12, 1991; amended effective September 7, 1999; amended effective March 1, 2016.)

Rule 7. Notice

Upon the filing of the petition form, the arbitration organization shall send notice to the other party together with a request for payment of the filing fee.

(Amended effective August 5, 2003; amended effective March 1, 2016.)

Standing Committee Comments (2015)

The claimant is the only party who may file a petition for No-Fault arbitration. In order to avoid confusion, the language "by either party" was removed.

Under Rule 5(e), the claimant will not be responsible to furnish a copy of the petition to the respondent.

The 20-day notification requirement was removed as it does not serve a necessary purpose.

Rule 8. Selection of Arbitrator and Challenge Procedure

The arbitration organization shall send simultaneously to each party to the dispute an identical list of four names of persons chosen from the panel. Each party to the dispute shall have seven business days from the date of transmission in which to cross out a maximum of one name objected to, number the remaining names in order of preference, and return the list to the arbitration organization. In the event of multiparty arbitration, the arbitration organization may increase the number of potential arbitrators and divide the strikes so as to afford an equal number of strikes to each adverse interest. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable.

One of the persons who have been approved on both lists shall be invited by the arbitration organization to serve in accordance with the designated order of the mutual preference. Any objection to an arbitrator based on the arbitrator's post-appointment disclosure must be made within seven business days from the date of transmission of the arbitrator disclosure form. Failure to object to the appointed arbitrator based upon the post-appointment disclosure within seven business days constitutes waiver of any objections based on the post-appointment disclosure, subject to the provisions in Rule 10. An objection to a potential arbitrator shall be determined initially by the arbitration organization, subject to appeal to the Standing Committee. If an acceptable arbitrator is unable to act, or for any other reason the appointment cannot be made from the submitted list, the arbitration organization shall have the power to make the appointment from among other members of the panel without the submission of additional lists. If any arbitrator should resign, be disqualified or unable to perform the duties of the office, the arbitration organization shall appoint another arbitrator from the no-fault panel to the case.

(Amended effective May 19, 1997; amended effective September 7, 1999; amended effective August 5, 2003; amended effective March 1, 2016.)

Standing Committee Comments (2015)

The change in language is consistent with the trend of facilitating electronic communications.

Rule 9. Notice to Arbitrator of Appointment

Notice of the appointment of the neutral arbitrator, whether appointed mutually by the parties or by the arbitration organization, shall be transmitted to the arbitrator by the arbitration organization, and the signed acceptance of the arbitrator shall be filed with the arbitration organization prior to the opening of the first hearing.

(Amended effective August 5, 2003; amended effective March 1, 2016.)

Rule 10. Qualification of Arbitrator and Disclosure Procedure

(a) Every member of the panel shall be a licensed attorney at law of this state or a retired attorney or judge in good standing. Requirements for qualification as an arbitrator shall be:

(1) at least five years in practice in this state;

(2) at least one-quarter, based upon a five (5) year average, of the attorney's practice is with auto insurance claims or, for an attorney not actively representing clients, at least one-quarter, based upon a five (5) year average, of an ADR practice is with motor vehicle claims or no-fault matters;

(3) completion of an arbitrator training program approved by the No-Fault Standing Committee prior to appointment to the panel;

(4) at least three CLE hours on no-fault issues within the reporting period; and

(5) arbitrators will be required to recertify each year, confirming at the time of recertification that they continue to meet the above requirements.

(b) No person shall serve as an arbitrator in any arbitration in which he or she has a financial or personal conflict of interest. Under procedures established by the Standing Committee and immediately following appointment to a case, every arbitrator shall be required to disclose any circumstances likely to create a presumption or possibility of bias or conflict that may disqualify the person as a potential arbitrator. Every arbitrator shall supplement the disclosures as circumstances require. The fact that an arbitrator or the arbitrator's firm represents automobile accident claimants against insurance companies or self-insureds, including the respondent, does not create a presumption of bias. It is a financial conflict of interest if, within the last year, the appointed arbitrator or the arbitrator's firm has been hired by the respondent to represent the respondent or respondent's insureds in a dispute for which the respondent provides insurance coverage. It is a financial conflict of interest if the appointed arbitrator received referrals within the last year from officers, employees or agents of any entity whose bills are in dispute in the arbitration or the arbitrator's firm has received such referrals.

(c) If an arbitrator has been certified and has met the requirements of subdivision (a) for the past five years but becomes ineligible for certification under Rule 10(a) due to retirement or change in practice, the arbitrator may continue to seek annual certification for up to five years from the date of practice change, and for a retired attorney or judge serving as an arbitrator, at any time, if the following requirements are satisfied:

The arbitrator completes and files an annual No-Fault Arbitrator Recertification form which certifies that:

(1) He or she is an attorney licensed to practice law in Minnesota and is in good standing or a retired attorney or judge in good standing;

(2) He or she has retained current knowledge of the Minnesota No-Fault Act (Minnesota Statutes, sections 65B.41 to 65B.71), Minnesota appellate court decisions interpreting the Act, the Minnesota No-Fault Arbitration Rules, and the Arbitrators' Standards of Conduct; and

(3) He or she has attended at least three CLE hours on no-fault issues within the reporting period, regardless of whether he or she is in CLE active or inactive status.

The rules regarding bias and conflict of interest as set forth in subdivision (b) remain applicable to arbitrators who are recertified under this subdivision (c).

(Amended effective December 1, 1995; amended effective September 7, 1999; amended effective August 5, 2003; amended effective September 10, 2003; amended effective January 1, 2008; amended effective June 1, 2010; amended effective March 1, 2016; amended effective February 1, 2020; amended effective September 1, 2020.)

Comment - 2008

In order to maintain a well-qualified and expert panel of arbitrators, as well as keep a sufficient number of arbitrators from outside the Twin Cities metropolitan area, the Committee finds it necessary to allow for a second basis upon which to qualify as a No-Fault Arbitrator. These secondary qualifications allow seasoned arbitrators to remain on the panel while not penalizing those who choose to slow down their practice. It also allows arbitrators in smaller communities to meet the level of expertise we require who, because of the nature of their practice, may not meet the percentage requirement of Section (a).

Committee Comment - 2010 Amendment

In recent years, there have been inconsistencies in district court rulings and in determinations by the Standing Committee as to what constitutes a conflict of interest for no-fault arbitrators. In response, the Standing Committee wishes to clarify what constitutes a conflict of interest for both respondents' and claimants' attorneys. The Committee recognizes that the Amendments will limit the number of arbitrators, especially in certain out state areas. But the Amendments are necessary to clarify the law and stem the tide of parties seeking removal of arbitrators in the district court. The Amendments also establish, for the first time, that a conflict exists if an arbitrator who is to rule on a disputed bill for a medical provider is aware that the provider has made referrals to the arbitrator within the last year.

Standing Committee Comments (2015)

The conflict-of-interest disclosure requirements in Rule 10 have been broadened to promote accountability and fairness. To ensure prompt and inexpensive arbitration with the limited number of available no-fault arbitrators, the disclosure requirements are not as broad as the requirements of the Uniform Arbitration Act. See Minnesota Statutes, section 572B.12, paragraph (a).

Mandatory no-fault arbitration is different from voluntary arbitration governed by the Uniform Arbitration Act. No-fault arbitration is intended to promptly resolve relatively small claims for insurance coverage. See Rule 1 and Minnesota Statutes, section 65B.42. Unlike arbitrators appointed under the Uniform Arbitration Act, no-fault arbitrators are approved by the Standing Committee and the Supreme Court, based on their willingness and experience with no-fault matters. This necessarily limits the number of no-fault arbitrators.

A change is made in Rule 10(a) to promote consistency between 10(a) and 10(c) in the CLE requirement.

The removal of the phrase, "is aware," in Rule 10(b), adds a greater responsibility to ensure that a complete disclosure is made, as well as is now prohibited as a financial conflict.

The inclusion of "licensure" in Rule 10(c) provides a clear definition of what constitutes a retired arbitrator and when the five-year limit in Rule 10(c) begins to run.

Rule 11. Vacancies

If for any reason an arbitrator should be unable to perform the duties of the office, the arbitration organization may, on proof satisfactory to it, declare the office vacant. Vacancies shall be filled in accordance with the applicable provisions of these rules.

(Amended effective August 5, 2003; amended effective March 1, 2016.)

Rule 12. Discovery, Motions, and Applications

(a) Discovery

The voluntary exchange of information is encouraged. Formal discovery is discouraged except that a party is entitled to the following within 30 days of receipt of the request:

(1) exchange of medical reports;

(2) medical authorizations directed to all medical providers consulted by the claimant in the seven years prior to the accident;

(3) employment records and authorizations for two years prior to the accident, when wage loss is in dispute;

(4) supporting documentation required under No-Fault Arbitration Rule 5; and

(5) other exhibits to be offered at the hearing.

However, upon application and good cause shown by any party, the arbitrator may permit any discovery allowable under the Minnesota Rules of Civil Procedure for the District Courts. Any medical examination for which the respondent can establish good cause shall be completed within 90 days following the commencement of the case unless extended by the arbitrator for good cause.

The Minnesota Rules of Civil Procedure shall apply to claims for comprehensive or collision damage coverage.

(b) Motions and Applications

Motions and Applications are discouraged. No prehearing motion or application may be submitted by any party for consideration until:

(1) The parties have conferred either in person, or by telephone, or in writing in an attempt to resolve their differences. The moving/applying party shall initiate the conference. The moving/applying party shall include with its moving/application papers a certification that the movant/applicant has conferred with the other party and which states the outcome of that conference;

(2) An arbitrator has been appointed in accordance with Rule 8; and

(3) The fees required by Rule 40(a) have been deposited with the arbitration organization.

If a party, or an officer, director, employee, or managing agent of a party fails to obey an order issued by the arbitrator, the arbitrator may issue such orders in regard to the failure as are just, and among others, those authorized by Minn. R. Civ. P. 37.02(b)(1)-(3). However, where the failure to comply is with an order for a medical examination that requires a party to produce another for the examination, orders authorized by Minn. R. Civ. P. 37.02(b)(1)-(3) shall not be available if the party failing to comply shows that the party is unable to produce such person for examination.

Consistent with Rule 32, an arbitrator shall not award attorney's fees to any party.

(Amended effective March 1, 2016; amended effective February 1, 2020.)

Standing Committee Comments (2019)

No-Fault Arbitration is intended to be a "speedy, informal and relatively inexpensive procedure for resolving controversies." Western National Ins. Co. v. Thompson, 797 N.W.2d 201, 205 (Minn. 2011); Weaver v. State Farm Ins. Companies, 609 N.W.2d 878, 884 (Minn. 2000). However, prehearing motion practice has been increasing. This has increased administrative work for the arbitration organization, bogged down the efficient processing of filed arbitrations, and has caused arbitrators to expend extra time and resources to analyze the motions and submissions, conduct prehearing legal research and file review, and issue rulings. It has also increased the work and time of the parties to the arbitration. The addition of the part (b) language to the Rule will reaffirm that motion practice is discouraged and stem prehearing motion practice by requiring conditions be met before submitting a prehearing motion, other than for postponement. The conditions are 1) a meet and confer requirement consistent with Minn. R. Civ. P. 37.01(b) and Minn. Gen. R. Pract. 115.10; 2) the deposit of a motion fee by all parties to the motion from which the arbitration organization and the arbitrator will be compensated; and 3) preventing the filing of any motion prior to the appointment of an arbitrator. The additional language also provides the arbitrator

with authority to enforce the arbitrator's orders, consistent with Minn. R. Civ. P. 37.02(b)(1)-(3) and the authorities interpreting the same. However, consistent with No-Fault Rule 32, attorney's fees shall not be awarded to any party. Added to part (a) of the Rule is language that parties are entitled to the five Rule 12 items within 30 days of a receipt of a request.

Rule 13. Withdrawal

A claimant may withdraw a petition up until 10 days prior to the hearing, thereafter the consent of the respondent shall be required. The claimant will be responsible for the arbitrator's fee, if any, upon withdrawal. If the petition is withdrawn after a panel of arbitrators is submitted and if the claimant shall file another petition arising from the same accident against the same insurer, the same panel of arbitrators shall be resubmitted to the claimant and the respondent. If the petition is withdrawn after the arbitrator is selected and if the claimant shall file another petition arising from the same accident against the same insurer, the same arbitrator who was earlier assigned shall be reassigned. The claimant who withdraws a petition shall be responsible for all parties' filing fees incurred upon the refiling of the petition.

(Amended effective September 7, 1999; amended effective March 1, 2016.)

Standing Committee Comments (2015)

The addition codifies the current practice.

Rule 14. Date, Time, and Place of Arbitration

An informal arbitration hearing will be held in the arbitrator's office or some other appropriate place in the general locale within a 50-mile radius of the claimant's residence, or other place agreed upon by the parties. The arbitrator may fix the date, time, and place for the hearing. If the claimant resides outside of the state of Minnesota, the arbitration organization shall designate the appropriate place for the hearing. At least 14 days prior to the hearing, the arbitration organization shall transmit notice thereof to each party or to a party's designated representative. Notice of hearing may be waived by any party. When an arbitration hearing has been scheduled for a day certain, the courts of the state shall recognize the date as the equivalent of a day certain court trial date in the scheduling of their calendars.

(Amended effective September 7, 1999; amended effective August 5, 2003; amended effective March 1, 2016.)

Standing Committee Comments (2015)

Switching the order of the second and third sentences promotes consistency.

Rule 15. Postponements

The arbitrator, for good cause shown, may postpone any hearing upon the request of a party or upon the arbitrator's own initiative, and shall also grant such postponement when all of the parties agree thereto. The party requesting a postponement will be billed for the cost of the rescheduling; if, however, the arbitrator determines that a postponement was necessitated by a party's failure to cooperate in providing information required under Rule 5 or Rule 12, the arbitrator may assess the rescheduling fee to that party.

(Amended effective December 19, 2005.)

Rule 16. Representation

Any party may be represented by counsel or other representative named by that party. A party intending to be so represented shall notify the other party and the arbitration organization of the name, mailing address, and email address of the representative at least three days prior to the date set for the hearing at which that person is first to appear. When such a representative initiates an arbitration or responds for a party, notice is deemed to have been given.

If counsel or other representative named by the claimant withdraws from representation of any pending matter, the claim shall be dismissed, unless the claimant advises the arbitration organization of the intention to proceed pro se or a replacement counsel or representative is named within 30 days of the sending of the notice of withdrawal.

(Amended effective August 5, 2003; amended effective March 1, 2016.)

Standing Committee Comments (2015)

The amendment in the first paragraph is consistent with the trend of facilitating electronic communications. A similar change has been recommended to the Rules of Civil Procedure.

There have been an increasing number of representatives withdrawing from representation of claimants. This has resulted in a number of unresponsive or unreachable pro se claimants. The language added as the second paragraph of this rule will provide a clear process to follow, for arbitrators, the arbitration organization, and pro se claimants in the event of a withdrawal.

Rule 17. Stenographic Record

Any party desiring an audio or stenographic record shall make arrangements directly with a stenographer and shall notify the other party of these arrangements at least 24 hours in advance of the hearing. The requesting party or parties shall pay the cost of the record. If the transcript is agreed by the parties to be, or determined by the arbitrator to be, the official record of the proceeding, it must be made available to the arbitrator and to the other parties for inspection, at a date, time and place determined by the arbitrator.

(Amended effective December 1, 1995; amended effective March 1, 2016.)

Rule 18. Interpreters

Any party desiring an interpreter shall make all arrangements directly with the interpreter and shall assume the costs of the service. The arbitrator may assess the cost of an interpreter pursuant to Rule 42.

Interpreters must be independent of the parties, counsel, and named representatives. All interpreters must abide by the Code of Professional Responsibility for Interpreters in the Minnesota State Court System.

(Amended effective March 1, 2016.)

Rule 19. Attendance at Hearings

The arbitrator shall maintain the privacy of the hearings. Any person having a direct interest in the arbitration is entitled to attend hearings. The arbitrator shall otherwise have the power to require the exclusion of any witness, other than a party or other essential person, during the testimony of any other witness.

Rule 20. Oaths

Arbitrators, upon accepting appointment to the panel, shall take an oath or affirmation of office. The arbitrator may require witnesses to testify under oath or affirmation.

Rule 21. Order of Proceedings and Communication with Arbitrator

The hearing shall be opened by the recording of the date, time and place of the hearing, and presence of the arbitrator, the parties and their representatives, if any. Either party may make an opening statement regarding the claim. The claimant shall then present evidence to support the claim. The respondent shall then present evidence supporting the defense. Witnesses for each party shall submit to questions or other examination. The arbitrator has the discretion to vary this procedure, but shall afford a full and equal opportunity to all parties for the presentation of any material and relevant evidence. Exhibits, when offered by either party, may be received in evidence by the arbitrator.

The names and addresses of all witnesses and description of the exhibits in the order received shall be made part of the record. There shall be no direct communication between the arbitrator and the parties other than at the hearing, unless otherwise advised by the arbitration organization or by agreement of the parties and arbitrator. However, an arbitrator may directly contact the parties, but such communication is limited to administrative matters. Any direct communication between the arbitrator and parties must be conveyed to the arbitration organization, except communications at the hearing. Pre-hearing exhibits can be sent directly to the arbitrator, delivered in the same manner and at the same time to the opposing party. Parties are encouraged to submit any pre-hearing exhibits at least 24 hours in advance of the scheduled hearing. If the exhibits are not provided to opposing counsel and the arbitrator at least 24 hours before the hearing or if the exhibits contain new information and opposing counsel has not had a reasonable amount of time to review and respond to the information, the arbitrator may hold the record open until the parties have had time to review and respond to the material or reconvene the arbitration at a later date. Any other oral or written communication from the parties to the arbitrator shall be directed to the arbitration organization for transmittal to the arbitrator.

(Amended effective August 5, 2003; amended effective January 1, 2008; amended effective March 1, 2016.)

Comment - 2008

The change in Rule 21 merely formalizes a practice common to the No-Fault arena. More often parties are delaying the submission of their pre-hearing exhibits until the day of the hearing, which does not allow the arbitrator ample time to prepare before the hearing. This rule not only discourages that practice, it allows time for the other party to refute new claims presented by opposing counsel.

Standing Committee Comments (2015)

The inclusion of the additional language will expedite administration.

Rule 22. Arbitration in the Absence of a Party or Representative

Unless the law provides to the contrary, the arbitration may proceed in the absence of any party or representative who, after due notice, fails to be present or fails to obtain a postponement. An award shall not be made solely on the default of a party. The arbitrator shall require the party who is present to submit such evidence as the arbitrator may require for the making of an award.

Rule 23. Witnesses, Subpoenas and Depositions

(a) Through the arbitration organization, the arbitrator may, on the arbitrator's initiative or at the request of any party, issue subpoenas for the attendance of witnesses at the arbitration hearing or at such deposition as ordered under Rule 12, and the production of books, records, documents and other evidence. The subpoenas so issued shall be served, and upon application to the district court by either party or the arbitrator, enforced in the manner provided by law for the service and enforcement of subpoenas for a civil action.

(b) All provisions of law compelling a person under subpoena to testify are applicable.

(c) Fees for attendance as a witness shall be the same as for a witness in the district courts.

(Amended effective August 5, 2003.)

Rule 24. Evidence

The parties may offer such evidence as they desire and shall produce such additional evidence as the arbitrator may deem necessary to an understanding and determination of the issues. The arbitrator shall be the judge of the relevancy and materiality of any evidence offered, and conformity to legal rules of evidence shall not be necessary. The parties shall be encouraged to offer, and the arbitrator shall be encouraged to receive and consider, evidence by affidavit or other document, including medical reports, statements of witnesses, officers, accident reports, medical texts, and other similar written documents that would not ordinarily be admissible as evidence in the courts of this state. In receiving this evidence, the arbitrator shall consider any objections to its admission in determining the weight to which he or she deems it is entitled.

Rule 25. Close of Hearing

The arbitrator shall specifically inquire of all parties as to whether they have any further evidence. If they do not, the arbitrator shall declare the hearing closed. If briefs or documents are to be filed, the hearing shall be declared closed as of the final date set by the arbitrator for the receipt of said documents. The time limit within which the arbitrator is required to make his or her award shall commence to run upon the close of the hearing.

(Amended effective March 1, 2016.)

Rule 26. Reopening the Hearing

At any time before the award is made, a hearing may be reopened by the arbitrator on the arbitrator's own motion, or upon application of a party for good cause shown.

Rule 27. Waiver of Oral Hearing

The parties may provide, by written agreement, for the waiver of oral hearings in any case. If the parties are unable to agree as to the procedure, the arbitration organization shall specify a fair and equitable procedure.

(Amended effective August 5, 2003.)

Rule 28. Extensions of Time

The parties may modify any period of time by mutual agreement. The arbitration organization or the arbitrator may for good cause extend any period of time established by these rules, except the time for making the award. The arbitration organization shall notify the parties of any extension.

(Amended effective August 5, 2003.)

Rule 29. Serving of Notice

Each party waives the requirements of Minnesota Statutes, section 572B.20, and shall be deemed to have agreed that any notices or process necessary or proper for the initiation or continuation of an arbitration under these rules; for any court action in connection herewith including application for the confirmation, vacation, modification or correction of an award issued hereunder as provided in Rule 38; or for the entry of judgment on any award made under these rules may be served on a party by mail or electronic means addressed to the party or its representative at the last known address or by personal service, in or outside the state where the arbitration is to be held, provided that reasonable opportunity to be heard with regard thereto has been granted to the party.

(Amended effective September 7, 1999; amended effective August 5, 2003; amended effective March 1, 2016.)

Standing Committee Comments (2015)

The term "electronic means" was added to the first paragraph, therefore the entire second paragraph is redundant.

Rule 30. Time of Award

The award shall be made promptly by the arbitrator and, unless otherwise agreed by the parties or specified by law, no later than 30 days from the date of closing the hearing, or, if oral hearings have been waived, from the date of the arbitration organizations's transmittal of the final statements and proofs to the arbitrator. In the event the 30th day falls on a weekend or federal holiday, the award shall be made no later than the next business day.

(Amended effective August 5, 2003; amended effective March 1, 2016.)

Rule 31. Form of Award

The award shall be in writing and shall be signed by the arbitrator. It shall be executed in the manner required by law.

Rule 32. Scope of Award

The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable consistent with the Minnesota No-Fault Act. The arbitrator may, in the award, include arbitration fees, expenses, rescheduling fees and compensation as provided in Rules 39, 40, 41, and 42 in favor of any party and, in the event that any administrative fees or expenses are due the arbitration organization, in favor of the arbitration organization, except that the arbitrator must award interest when required by Minnesota Statutes, section 65B.54. The arbitrator may not, in the award, include attorneys fees for either party.

Given the informal nature of no-fault arbitration proceedings, the no-fault award shall not be the basis for a claim of estoppel or waiver in any other proceeding.

(Amended effective August 31, 1993; amended effective September 7, 1999; amended effective August 5, 2003.)

Rule 33. Delivery of Award to Parties

The award may be delivered by the arbitration organization to the parties or their representatives by mail, electronic means, personal service, or any other manner permitted by law.

(Amended effective March 1, 2016.)

Standing Committee Comments (2015)

References to copies are removed because in an electronic environment, the concepts "original" and "copy" are often without meaning.

Rule 34. Waiver of Rules

Any party who proceeds with the arbitration after knowledge that any provision or requirement of these rules has not been complied with and who fails to state an objection thereto in writing shall be deemed to have waived the right to object.

Rule 35. Interpretation and Application of Rules

The arbitrator shall interpret and apply these rules insofar as they relate to the arbitrator's powers and duties. All other rules shall be interpreted by the arbitration organization.

(Amended effective August 5, 2003.)

Rule 36. Release of Documents for Judicial Proceedings

The arbitration organization shall, upon the written request of a party, furnish to the party, at its expense, certified copies of any documents in the arbitration organization's possession that may be required in judicial proceedings relating to the arbitration.

The arbitration organization shall not release documents that are privileged or otherwise protected by law from disclosure. This includes, but is not limited to, any notes, memoranda, or draft thereof prepared by the arbitrator or employee of the arbitrator that were used in the process of preparing the award, and any internal communications between members of the standing committee made as part of the committee's deliberative process.

(Amended effective August 5, 2003; amended effective March 1, 2016.)

Standing Committee Comments (2015)

The No-Fault Standing Committee concluded that some documents and communications are privileged and are therefore protected from disclosure. The language is based on Rule 45.03(c) of the Minnesota Rules of Civil Procedure, which limits the use of subpoenas to compel disclosure of privileged material, and upon Rule 4, subd. 1(c) of the Rules of Public Access to Records of the Judicial Branch, which provides that judicial work product is not accessible to the public.

Rule 37. Applications to Court and Exclusion of Liability

(a) No judicial proceedings by a party relating to the subject matter of the arbitration shall be deemed a waiver of the party's right to arbitrate.

(b) Neither the arbitration organization nor any arbitrator in a proceeding under these rules can be made a witness or is a necessary party in judicial proceedings related to the arbitration.

(c) Parties to proceedings governed by these rules shall be deemed to have consented that judgment upon the arbitration award may be entered in any federal or state court having jurisdiction thereof.

(d) Neither the arbitration organization nor any arbitrator shall be liable to any party for any act or omission in connection with any arbitration conducted under these rules.

(Amended effective September 7, 1999; amended effective August 5, 2003; amended effective March 1, 2016.)

Rule 38. Confirmation, Vacation, Modification, or Correction of Award

The provisions of Minnesota Statutes, sections 572B.01 through 572B.31, shall apply to the confirmation, vacation, modification, or correction of award issued hereunder, except that service of process pursuant to Minnesota Statutes, section 572B.05, shall be made as provided in Rule 29 of these rules.

(Amended effective September 7, 1999; amended effective March 1, 2016.)

Standing Committee Comments (2015)

Minnesota Statutes, chapter 572, was repealed.

Rule 39. Administrative Fees

The initial fee is due and payable at the time of filing and shall be paid as follows: By the CLAIMANT - $40.00, by the RESPONDENT - $150.00. In the event that there is more than one respondent in an action, each respondent shall pay the $150.00 fee.

Upon review of a petition, if the arbitration organization determines that a claim was filed in error, the organization may require that payment of respondent's filing fee be assessed against the claimant.

The arbitration organization may, in the event of extreme hardship on the part of any party, defer or reduce the administrative fee.

(Amended effective August 31, 1993; amended effective August 5, 2003; amended effective July 1, 2004; amended effective July 1, 2008; amended effective March 1, 2016; amended effective September 1, 2016.)

Standing Committee Comments (2015)

The arbitration organization receives filings in error from time to time. In order to relieve the respondent from the cost of these errors, the amendment allows the arbitration organization to shift the administrative fee to the party responsible for the error.

Rule 40. Arbitrator, Motion, and Application Fees

(a) Motion Fees: If prior to any scheduled hearing, a motion or application is brought for the arbitrator to decide (other than a motion to postpone a hearing), the following fees shall be paid:

(1) The movant/applicant shall pay to (deposit with) the arbitration organization a motion fee in the amount of $125.00 at the time the movant submits its motion/application papers to the arbitration organization.

(2) The party opposing the motion/application shall pay to (deposit with) the arbitration organization a motion fee in the amount of $125.00 at the time the opposing party submits its opposition/responsive papers to the arbitration organization.

Upon the arbitration organization's receipt of all papers and required motion fees from the parties, the arbitration organization shall deliver the submissions to the arbitrator. No motion shall be heard or decided by the arbitrator until all required fees have been deposited and papers submitted to the arbitration organization.

In the event there is no response to a motion (filed with the arbitration organization and for which a motion fee has been deposited) by the deadline to respond as set forth in the arbitration organization's written notice to the parties, the motion papers shall be submitted to the arbitrator for consideration.

For each motion in which there are submissions by both parties to the motion, the arbitrator shall be compensated $100.00 and the arbitration organization shall be compensated a $25.00 administrative fee. The arbitrator shall direct which party is responsible for the arbitrator and administrative fees, which shall be paid from that party's previously deposited motion fee. The party not responsible for the arbitrator and administrative fees shall be refunded the motion fee that was previously deposited with the arbitration organization.

For each motion in which there is no response from the responding party, the arbitrator shall be compensated $50.00 for the motion and the arbitration organization shall be compensated a $25.00 administrative fee, which shall be paid from the moving party's deposited motion fee. The moving party may assert a claim at the hearing for the portion of the motion fee deposited with the arbitration organization that is not subject to refund from the arbitration organization.

In the event the arbitration organization is notified prior to submission to the arbitrator that the motion is withdrawn or resolved, the arbitration organization shall be compensated a $25 administrative fee, which shall be paid from the moving party's deposited motion fee. The remaining $100 shall be refunded to the moving party. The moving party may assert a claim at the hearing for the $25 administrative fee paid to the arbitration organization.

(b) In addition to compensation as in (a) above, except as otherwise provided by the Rules, an arbitrator shall be compensated for services and for any use of office facilities in the amount of $300 per case.

(c) If the arbitration organization is notified of a settlement or a withdrawal of a claim at any time up to 24 hours prior to the scheduled hearing, but after the appointment of the arbitrator, the arbitrator's fee shall be the sum of $50.00. If the arbitration organization is notified of a postponement, settlement or a withdrawal of a claim 24 hours or less prior to the scheduled hearing, the arbitrator's fee shall be $300.00. Unless the parties agree otherwise, the fee in a settlement shall be assessed equally to the parties and the fee in a withdrawal shall be borne by claimant, and the fee in a postponement shall be borne by the requesting party. Regardless of the resolution of the case, the arbitrator's fee shall not exceed $300 and is subject to the provisions of Rule 15.

(d) An arbitrator serving on a court-ordered consolidated glass case shall be compensated at a rate of $200.00 per hour.

(e) Once a hearing is commenced, the arbitrator shall direct assessment of the fee.

(Amended effective December 1, 1995; amended effective September 7, 1999; amended effective August 5, 2003; amended effective January 1, 2008; amended effective March 1, 2016; amended effective February 1, 2020.)

Comment - 2008

It is becoming increasingly common for parties to request a last-minute postponement of a hearing, sometimes on multiple occasions. This change encourages the parties to consider the time the arbitrator has set aside to hear the matter and places postponed hearings more in line with the fee structure for settled cases. This rule also formalizes the practice of assessing the postponement fee to the requesting party. Finally, this rule specifies that the arbitrator's fee shall not exceed $300. This has become necessary as an increasing number of arbitrators have requested a larger fee because of time devoted to a particular case.

Standing Committee Comments (2015)

In response to Illinois Farmers Insurance Company v. Glass Service Co., 683 N.W.2d 792 (Minn. 2004), the No-Fault Standing Committee issued a resolution in which a rate of $200.00 per hour may be charged on court-ordered consolidated glass cases.

Standing Committee Comment (2019)

Rule 40(a) is rewritten to now establish the motion fee referenced in Rule 12(b)3 and the arbitrator's authority to direct which party's deposited motion fee will be used to pay the arbitrator and administrative fee in cases when there are submissions from both parties to the motion, with refund of motion fee deposit to the party(s) not responsible. The rule also provides that in cases where there is no response to the motion, the arbitrator is compensated $50.00 and the arbitration organization is compensated $25.00 from the moving party's motion fee, with refund of the remaining $50.00 to the moving party. As only one-half of the submissions are being considered by the arbitrator, arbitrator compensation for the motion is reduced by one-half. The moving party is entitled to bring a claim at the evidentiary hearing for the amount of the motion fee (deposited but not subject to refund from the arbitration organization) that is paid as arbitrator compensation and administrative fee. If the motion is withdrawn or resolved prior to submission to the arbitrator for consideration, then only the $25.00 administrative fee is nonrefundable.

The arbitration organization, in accordance with its customary procedures, shall issue compensation to the arbitrator and the arbitration organization along with applicable refund after the proceedings have concluded. The former Rule 40(b)-(d) are renumbered 40(c)-(e), respectively.

Rule 41. Rescheduling or Cancellation Fees

A party requesting to reschedule or cancel a hearing shall be charged a fee of $100.00, provided that the request does not fall within the provisions of Rule 40(b) that specifically address settlement or withdrawal.

(Amended effective July 1, 2004; amended effective December 19, 2005; amended effective July 1, 2008; amended effective March 1, 2016.)

Standing Committee Comments (2015)

Fees are at a flat rate of $100.00.

Rule 42. Expenses

Generally each side should pay its own expenses. An arbitrator does, however, have the discretion to direct a party or parties to pay expenses as part of an award.

(Amended effective August 5, 2003.)

Rule 43. Amendment or Modification

The Standing Committee may propose amendments to these rules as circumstances may require. All changes in these rules and all other determinations of the Standing Committee shall be subject to review and approval by the Minnesota Supreme Court.

APPENDIX

Standards of Conduct

Minnesota No-Fault Arbitrators

Preamble

No-Fault Arbitrators, like judges, have the power to decide cases. Therefore, arbitrators undertake serious responsibilities to the public, as well as to the parties. In order for the system to succeed, the public must have the utmost confidence in the arbitration process and the arbitrators who serve on the No-Fault Panel. To this end, these Standards of Conduct for Minnesota No-Fault Arbitrators have been established by the No-Fault Standing Committee. The purpose of these Standards is to provide guidance in order to promote a fair, neutral, and impartial panel of arbitrators.

I. Integrity and Fairness

An arbitrator shall at all times act in a manner that promotes public confidence in the integrity and impartiality of the arbitration process.

A. An arbitrator has a responsibility not only to the parties but also to the process of arbitration itself, and must observe high standards of conduct so that the integrity and fairness of the process will be preserved. Accordingly, an arbitrator should recognize a responsibility to the public, to the parties whose rights will be decided, and to all other participants in the proceedings.

B. Arbitrators shall conduct themselves in a way that is fair to all parties and should not be swayed by outside pressure, public clamor, fear of criticism, or self-interest. Arbitrators shall avoid conduct and statements which give the appearance of partiality.

C. An arbitrator shall conduct the arbitration process in a manner which advances the fair and efficient resolution of the matters submitted for decision. An arbitrator shall make all reasonable efforts to prevent delaying tactics, harassment of parties or other participants, or other abuse or disruption of the arbitration process.

D. An arbitrator who withdraws prior to the completion of the arbitration, whether upon the arbitrator's initiative or upon the request of one or more of the parties, shall take reasonable steps to protect the interests of the parties in the arbitration, including return or destruction of evidentiary materials and the protection of confidentiality.

II. Disclosures

An arbitrator shall make a full and complete disclosure of any interests or relationships pursuant to Rule 10.

A. An arbitrator shall make all disclosures as required under Rule 10.

B. The obligation to disclose interests or relationships described in paragraph A is a continuing duty which requires the arbitrator to disclose, as soon as practicable, at any stage of the arbitration, any such interests or relationships which may arise, or which are called to the arbitrator's attention, or discovered.

C. Any doubts as to whether or not disclosure should be made shall be resolved in favor of disclosure.

III. Communications

An arbitrator shall avoid impropriety or even the appearance of impropriety in communicating with parties.

A. An arbitrator shall not discuss a proceeding with any party or attorney in the absence of any other party or attorney.

B. An arbitrator shall not have any direct communication other than what is prescribed in Rule 21.

C. If a party or attorney attempts to communicate directly with the arbitrator, the arbitrator shall notify the arbitration organization.

D. When an arbitrator communicates in writing with one party, the arbitrator shall at the same time send a copy of the communication to every other party.

IV. Hearing Proceedings

An arbitrator shall conduct the proceedings fairly and diligently.

A. An arbitrator shall conduct the proceedings in an even-handed manner. The arbitrator should be patient and courteous to the parties, their representatives, and the witnesses and should encourage similar conduct by all participants.

B. The arbitrator shall afford to all parties the right to be heard. The arbitrator shall allow each party a fair opportunity to present evidence and arguments.

C. If a party fails to appear after due notice, the arbitrator may proceed with the arbitration when authorized to do so, but only after receiving assurance that appropriate notice has been given to the absent party. Arbitrators must comply with Rule 22.

D. An arbitrator shall not exert pressure on any party to settle or to utilize other dispute resolution processes. An arbitrator shall not be present or otherwise participate in settlement discussions or act as a mediator unless requested to do so, in writing, by all parties and their representatives.

V. Decisions, Orders, and Awards

An arbitrator shall make decisions in a just, independent, and deliberate manner.

A. The arbitrator shall, after careful deliberation, decide only those issues submitted for determination.

B. An arbitrator shall decide all matters justly, exercising independent judgment, and shall not permit outside pressure or other considerations to affect the decision.

C. An arbitrator shall not delegate the duty to decide to any other person.

D. An arbitrator shall make a determination based on the evidence presented. An award must be supported by the evidence.

VI. Trust and Confidentiality

An arbitrator shall be faithful to the relationship of trust and confidentiality inherent in that office.

A. An arbitrator is in a relationship of trust to the parties and shall not, at any time, use confidential information acquired during the arbitration proceeding to gain personal advantage or advantage for others, or to affect adversely the interest of another.

B. The arbitrator shall keep confidential all matters relating to the arbitration proceedings and decision.

C. It is improper, at any time, for an arbitrator to inform anyone of any decision in advance of the time it is given to all parties. After an arbitration award has been made, it is improper for an arbitrator to assist, in any way, in proceedings to enforce or challenge the award.

VII. Time and Availability

An arbitrator shall devote the time and attention to each case in order to promote efficiency.

A. An arbitrator shall promptly schedule and be prepared for hearings.

B. An arbitrator shall not delay the process and shall not postpone a hearing, except for good cause.

C. An arbitrator shall promptly file decisions of any pending issues and shall issue an award within 30 calendar days of the closure of the record.

VIII. Arbitrator Qualifications

An arbitrator must continue to meet the qualifications under Rule 10 in order to serve on the Minnesota No-Fault Panel.

A. An arbitrator shall be faithful to the law and shall maintain professional competence in it.

B. An arbitrator shall file a timely and accurate recertification form on an annual basis.

C. An arbitrator shall provide evidence of qualifications upon request by the arbitration organization, No-Fault Standing Committee, or Minnesota Supreme Court.

IX. Enforcement Procedures

Preamble

No-Fault Arbitrators are given broad discretion to make decisions and oversee the No-Fault arbitration process. Therefore, in order to ensure the protection of the public, an arbitrator who violates the above Standards is subject to the procedures outlined below.

Application: Inclusion on the No-Fault Panel of Arbitrators is a conditional privilege, revocable for cause.

Scope: These procedures apply to complaints against any No-Fault Arbitrator who has been approved to serve on the No-Fault Panel by the Minnesota Supreme Court, as well as those conditionally approved by the No-Fault Standing Committee.

A. Complaint

1. A complaint must be in writing, signed by the complainant and filed with the arbitration organization. The complaint shall identify the arbitrator and the basis for the complaint.

2. Alternatively, if the arbitration organization becomes aware of a violation of these Standards of Conduct and is unable to remedy such violation, the organization shall notify the No-Fault Standing Committee as outlined in these procedures.

3. The arbitration organization shall provide a copy of the complaint and supporting documents to the arbitrator.

4. The arbitration organization shall notify the No-Fault Standing Committee, which will assign an investigative member or members to investigate the allegation(s).

B. Investigation

1. The assigned committee member(s) will undertake such review, investigation, and action as it deems appropriate. In all such cases, the member(s) will contact the arbitrator and complainant to review the allegations and may request additional notes, records, or recollection of the arbitration process. It shall not be considered a violation of these Standards for the arbitrator to make such disclosures as part of the investigation. The member(s) may also request the arbitration organization disclose any records pertinent to the investigation.

2. Once the investigation has been completed, the member(s) will draft a written memorandum, which shall include findings, conclusions, and recommendations. This memorandum will be provided to the full Committee at the next quarterly meeting.

3. If the recommendation is for removal, suspension, or a public reprimand, the arbitrator shall be notified, and shall have the right to appear before the No-Fault Standing Committee prior to deliberations on the complaint.

4. The No-Fault Standing Committee shall review the memorandum and determine whether the allegation(s) constitute a violation of the Standards of Conduct, and if so, recommend what sanction(s) would be appropriate. The Committee shall select a member to draft a Notice of the Committee's decision. The decision must include the findings, conclusions, and sanctions, if any.

5. The arbitration organization shall circulate the Notice to the arbitrator and complainant.

C. Sanctions

The No-Fault Standing Committee may impose sanctions, including, but not limited to:

1. Removal from the Panel with set conditions for reinstatement, if appropriate. Should the Committee determine that removal is appropriate, such recommendation will be made to the Minnesota Supreme Court;

2. Suspension for a period of time;

3. The issuance of a public reprimand. The reprimand will be posted on the arbitration organization's Web site, which shall include publishing the arbitrator's name, a summary of the violation, and any sanctions imposed. The public reprimand may also be published elsewhere;

4. The issuance of a private reprimand;

5. The provision of "Best Practices" Information;

6. The imposition of retraining requirements;

7. Supervision of the arbitrator's service for a period of time by a designee of the No-Fault Standing Committee; and

8. The notification of any professional licensing authority with which the arbitrator is affiliated, of the complaint and its disposition.

D. Request for Appearance

If the recommendation by the investigative member(s) is to remove, suspend, or issue a public reprimand, an arbitrator may make a written request to the arbitration organization to appear before the No-Fault Standing Committee. After the arbitrator has been notified of the recommendation, the arbitrator has 15 calendar days from the date of the notice to request an appearance.

E. Confidentiality

All files, records, and proceedings of the No-Fault Standing Committee which relate to or arise out of any complaint shall be confidential, except:

1. As between Committee members and the arbitration organization;

2. As otherwise required by law by rule or statute.

If the Committee designates a sanction as public, the sanction and the grounds for the sanction shall be of public record, but the Committee's file shall remain confidential. Confidential documents, memoranda, and communications shall include the deliberations, mental processes, and communications of the Committee and arbitration organization.

F. Immunity

The members of the No-Fault Standing Committee and the arbitration organization shall be immune from suit for any conduct in the course of their official duties.

(Added effective January 1, 2018.)

Legal Services Advisory Committee Membership Rules

Adopted May 24, 1982
With amendments received through August 1, 2009

TABLE OF HEADNOTES

Rule

1. Definitions
2. Purpose
3. Legal Services Advisory Committee

TEXT OF RULES

Rule 1. Definitions

As used in these rules:

1. Eligible client means an individual who is financially unable to afford legal assistance as determined by a recipient by applying Federal Legal Service Corporation standards in effect on July 1, 1982.

2. Qualified Legal Services Program means a nonprofit corporation which provides or proposes to provide legal services to eligible clients in civil matters and which is governed by a board of directors composed of attorneys at law and consumers of legal services.

3. Recipient means a qualified legal services program that receives funds from the Supreme Court to provide legal services to eligible clients.

Rule 2. Purpose

It is of primary importance for all citizens to have access to our system of justice. The Minnesota Legislature has recognized this necessity by appropriating a surcharge on civil filings to fund legal services for persons unable to afford private counsel and to fund programs which organize members of the private bar to perform services for qualified alternative dispute resolution. The distribution of funds for such legal services and alternative dispute resolution programs shall be accomplished in accordance with these rules.

Rule 3. Legal Services Advisory Committee

A. Composition. The Legal Services Advisory Committee shall consist of:

1. A chairman appointed by this Court for such time as it designates and serving at the pleasure of this Court but not more than six years as chairman; and

2. Effective July 1, 1982, ten members appointed by the Court for three year terms or until their successors are appointed, except that shorter terms shall be used where necessary to assure that as nearly as may be possible one third of all terms expire each June 30th. No person may serve more than two three-year terms in addition to any additional shorter terms to which he was originally appointed to fill a vacancy and any period served as chairman.

3. The members specified in subdivision 1 and 2 shall be constituted as follows: seven attorneys at law who are well acquainted with the provision of legal services in civil matters, four of whom shall be nominated by the state bar association in a manner determined by it, and three of whom shall be nominated by the programs in Minnesota providing legal services in civil matters on July 1, 1982, with funds provided by the Federal Legal Services Corporation in the manner determined by them; two public members who are not attorneys and two persons who could qualify as eligible clients. In making the appointments of the attorney-at-law members the Court shall not be bound by the nominations prescribed above.

B. Vacancy. In the event of a vacancy, the Court shall fill the vacancy from same constituency represented by the member being replaced. Any member who misses three consecutive regularly scheduled meetings will be deemed to have resigned from the committee and the Court will appoint a new member to fill the vacancy and complete the term.

C. Members Expenses. The members shall be paid their reasonable and necessary expenses incurred in the performance of their duties.

D. Duties. The committee shall have general supervisory authority over the administration of these rules, shall advise the Court on the distribution of funds to qualified legal services or alternative dispute resolution programs after a review of applications which meet the eligibility criteria established by the committee and perform such other duties as the Court may direct. The committee may elect a vice chairman and specify the duties of the position. The committee may also elect an executive committee and authorize it to perform specified duties of the Legal Services Advisory Committee between meetings.

E. Staff. The State Court Administrator or his designee(s) shall serve as staff to the Legal Services Advisory Committee. When authorized by the Court, the State Court Administrator may employ such additional personnel as necessary with funds appropriated for this purpose to administer these rules.

F. Rules. The committee may adopt rules for its operation not inconsistent with these rules.

(Amended effective January 1, 2009.)

Rules Relating to Distribution of Civil Surcharge Funds

With amendments received through August 1, 2006

TABLE OF HEADNOTES

Rule

4. Federal Legal Services Corporations
5. Discretionary Grant Funds
6. Surcharge Appropriation Budget

TEXT OF RULES

Rule 4. Federal Legal Services Corporations

A. Eligible Entities - Mandatory Distribution

The Legal Services Corporations which have been identified by statute, Minnesota Statutes, section 480.242, subdivision 2, as recipients of 85 percent of the surcharge funds, are those qualified legal services programs which have demonstrated an ability as of July 1, 1982, to provide legal services to persons unable to afford private counsel with funds provided by the federal Legal Services Corporation.

Those programs are:

1. Southern Minnesota Regional Legal Services
   60 East Fourth Street
   St. Paul, MN 55101

2. Mid Minnesota Legal Assistance
   222 Grain Exchange Building
   323 South Fourth Street
   Minneapolis, MN 55415

3. Judicare of Anoka County
   403 Jackson Street
   Anoka, MN 55303

4. Legal Aid Service of Northeastern Minnesota
   302 Ordean Building
   424 West Superior Street
   Duluth, MN 55802

5. Northwest Minnesota Legal Services
   Eighth Street and Fourth Avenue South
   P.O. Box 714
   Moorhead, MN 56560

6. Anishinabe Legal Service
   Box 157
   Cass Lake, MN 56633

B. Frequency of Distribution

The mandatory distribution to the Legal Services Corporations shall be made of funds on deposit at the Supreme Court on October 15, January 15, April 15, May 15 and June 15 based upon the number of persons with incomes below the poverty level established by the United States Census Bureau who reside in the geographical area served by each program as determined by the Supreme Court on the basis of the 1980 national census. Until the 1980 figures are available, the 1970 census poverty level data shall be the basis for preliminary distributions.

An adjustment in funds disbursed shall be made to insure that total fiscal year 1983 disbursements are in accord with the 1980 census data applied for the entire year. The Legal Services Corporations shall, upon request by the Legal Services Advisory Committee, provide a report and recommendation in writing concerning the number of such persons in the areas served by each such program in accordance with the statutory criteria. The report shall set forth the bases for the enumerations.

C. Maintenance of Financial Records

Each Legal Service Corporation shall maintain books and records in accord with generally accepted accounting principles. The books and records shall account for the receipts and expenditure of all funds appropriated from the surcharge. Within 90 days after the close of the state fiscal year the Legal Service Corporation shall return any unexpended funds to the Supreme Court. Books and records shall be maintained for a period of five years from the close of the fiscal year in question or until audited whichever is sooner.

D. Budgets

Each Legal Service Corporation shall submit a proposed budget to the legislature biennially. These budgets shall be submitted to the Supreme Court for inclusion in the agency's budget in the manner, form, and time prescribed for state agencies.

Rule 5. Discretionary Grant Funds

A. Application Process

The Legal Services Advisory Committee shall solicit applications for funding for the provision of qualified legal services in civil matters to eligible clients, including programs which organize members of the private bar to perform services and programs for qualified alternative dispute resolution.

B. Requests for Proposal

Requests for proposal shall be prepared by the Legal Services Advisory Committee specifying the requirements with which applicants must comply. At a minimum applicants must furnish statements about the nature of the proposed program, a proposed budget, and a description of the organizational structure of the sponsoring agency.

C. Notice of Requests for Proposal

Notice of the requests for proposal shall be posted in the Bench and Bar, Finance and Commerce, the St. Paul Legal Ledger and such other places as the Legal Services Advisory Committee deems likely to give adequate notice to potential applicants at least 30 days prior to the application deadline.

D. Application Deadline

The request for proposal shall clearly state the application deadline. The Legal Services Advisory Committee shall consider all applications submitted prior to the deadline.

E. Review and Recommendation

The Legal Services Advisory Committee shall review all applications within 90 days of the deadline and recommend in writing to the Supreme Court the agencies and dollar amount of the awards which it deems most suitable for receiving surcharge funding.

F. Award of Surcharge Funds by the Supreme Court

The Supreme Court, if it agrees with the recommendations of the Legal Services Advisory Committee, shall contract with the agency to execute the proposed program within legal and budgetary limitations. The funds shall be disbursed in the manner provided by contract.

G. Maintenance of Books and Records

Each recipient of an award of legal services surcharge funds shall maintain books and records in accord with generally accepted accounting principles. The books and records shall account for the receipt and expenditure of all funds appropriated from the surcharge. Within 90 days after the close of the state fiscal year the recipient shall return any unexpended funds to the Supreme Court. Books and records shall be maintained for a period of five years from the close of the fiscal year in question or until audited whichever is sooner.

Rule 6. Surcharge Appropriation Budget

The responsibility for presenting the surcharge budget to the legislature shall reside with the Legal Services Advisory Committee.

2021 INTEREST RATES ON STATE COURT JUDGMENTS AND ARBITRATION AWARDS

Minnesota Statutes, section 549.09, directs the State Court Administrator to determine the annual interest rate applicable to certain state court judgments, verdicts, and arbitration awards. For judgments and awards governed by section 549.09[1] the annual interest rate for calendar year 2020 shall be 4%, provided that for judgments exceeding $50,000 that are finally entered on or after August 1, 2009, except a judgment or award for or against the state or a political subdivision of the state entered on or after April 16, 2010, or a judgment or award in a family court action entered on or after August 1, 2015, the interest rate shall be 10% per year until paid.[2] Minnesota Statutes, section 548.091, subdivision 1a, provides that the interest rate applicable to child support judgments shall be the rate provided in Minnesota Statutes, section 549.09, subdivision 1, subject to an 18% maximum rate.

The following lists the judgment rates in effect for state courts for the periods noted:

YEAR	M.S. 549.09 Annual Rate	M.S. 549.09 Rate for Judgment exceeding $50,000 finally entered on or after 8/1/09 but not Judgments for or against the state or a political subdivision finally entered on or after 4/16/2010, or Judgments or awards in family court actions entered on or after 8/1/2015	M.S. 548.091 Rate for Child Support Judgments
2009	4%	10%	Follow 549.09 rate (but not more than 18%)
2010	4%	10%	Follow 549.09 rate (but not more than 18%)
2011	4%	10%	Follow 549.09 rate (but not more than 18%)
2012	4%	10%	Follow 549.09 rate (but not more than 18%)
2013	4%	10%	Follow 549.09 rate (but not more than 18%)
2014	4%	10%	Follow 549.09 rate (but not more than 18%)
2015	4%	10%	Follow 549.09 rate (but not more than 18%)
2016	4%	10%	4%
2017	4%	10%	4%
2018	4%	10%	4%
2019	4%	10%	4%
2020	4%	10%	4%
2021	4%	10%	4%

[1]The interest rate determined pursuant to Minnesota Statutes, section 549.09, does not apply to judgments for the recovery of taxes and employment arbitrations pursuant to Minnesota Statutes, chapter 179 or 179A, and may not apply to judgments in condemnation cases. In condemnation cases governed by Minnesota Statutes, section 117.195, the interest rate determined pursuant to Minnesota Statutes, section 549.09, is presumed to satisfy the constitutional requirement of just compensation unless the landowner shows that this rate does not provide what a reasonable and prudent investor would have earned while investing so as to maximize the rate of return, yet guarantee safety of principle. State by Humphrey v. Jim Lupient Oldsmobile Co., 509 N.W.2d 361, 364 (Minn. 1993). Under a Federal Employers Liability Act (FELA) case, United States Code, title 45, section 51 (2012), brought in state court, federal law governs all substantive matters. However, the Minnesota Supreme Court recently held post-judgment interest was procedural and did not affect substantive FELA rights, and the state post-judgment interest rate under Minnesota Statutes, section 549.09, subdivision 1, paragraph (c), clause (2), applied rather than the federal rate. Alby v. BNSF Railway Company, 934 N.W. 2d 831 (Minn. 2019); *reversed and remanded* (October, 2019).

The interest rate on judgments for the recovery of taxes owed to the Commissioner of the Department of Revenue, such as income, excise, and sales taxes, is established by the Commissioner pursuant to Minnesota Statutes, section 270C.40, subdivision 5. The interest rate for state tax judgments also applies to judgments for the recovery of real or personal property taxes, subject to a 10% minimum and 14% maximum, and double that in certain cases. See Minnesota Statutes, section 279.03, subdivision 1a. These rates may be obtained from the Department of Revenue.

Minnesota Statutes, section 549.09, subdivision 1, paragraph (d), provides that Minnesota Statutes, section 549.09, does not apply to arbitrations between employers and employees under Minnesota Statutes, chapter 179 or 179A, and that an arbitrator is neither required to nor prohibited from awarding interest under Minnesota Statutes, chapter 179, or Minnesota Statutes, section 179A.16, for essential employees.

[2]As amended by Minnesota Laws 2002, chapter 247, section 1, Minnesota Laws 2009, chapter 83, article 2, section 35, and Minnesota Laws 2010, chapter 249, Minnesota Statutes, section 549.09, directs that the annual rate is to be determined by using the monthly one-year constant maturity treasury yield reported in the latest statistical release of the federal reserve board of governors rounded to the nearest one percent, subject to a four percent minimum; provided that for certain judgments exceeding $50,000 entered on or after August 1, 2009, the interest rate shall be 10% per year until paid. As amended by Minnesota Laws 2010, chapter 249, section 1, and Minnesota Laws 2015, chapter 30, section 12, judgments or awards exceeding $50,000 for or against the state or a political subdivision of the state and in family court actions are no longer subject to the 10% interest rate.

Rule on the Provision of Legal Services Following the Determination of a Major Disaster

Subd. 1. Determination of Existence of Major Disaster. Solely for purposes of this rule, the Supreme Court shall determine when an emergency affecting the justice system, as a result of a natural or other major disaster has occurred in:

(1) This jurisdiction and whether the emergency caused by the major disaster affects the entirety or only a part of this jurisdiction, or

(2) Another jurisdiction but only after such a determination and its geographical scope have been made by the highest court of that jurisdiction. The authority to engage in the temporary practice of law in this jurisdiction pursuant to subdivision 3 shall extend only to lawyers who principally practice in the area of such other jurisdiction determined to have suffered a major disaster causing an emergency affecting the justice system and the provision of legal services.

Subd. 2. Temporary Practice in this Jurisdiction Following Major Disaster. Following the determination of an emergency affecting the justice system in this jurisdiction pursuant to subdivision 1 of this rule, or a determination that persons displaced by a major disaster in another jurisdiction and residing in this jurisdiction are in need of pro bono services and the assistance of lawyers from outside this jurisdiction is required to help provide such assistance, a lawyer authorized to practice law in another United States jurisdiction, and not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, may provide legal services in this jurisdiction on a temporary basis. Such legal services must be provided on a pro bono basis without compensation, expectation of compensation or other direct or indirect pecuniary gain to the lawyer. Such legal services shall be assigned and supervised through an established not-for-profit bar association, pro bono program or legal services program or through such organizations specifically designated by the Supreme Court.

Subd. 3. Temporary Practice in this Jurisdiction Following Major Disaster in Another Jurisdiction. Following the determination of a major disaster in another United States jurisdiction, a lawyer who is authorized to practice law and who principally practices in that affected jurisdiction, and who is not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, may provide legal services in this jurisdiction on a temporary basis. Those legal services must arise out of and be reasonably related to that lawyer's practice of law in the jurisdiction, or area of such other jurisdiction, where the major disaster occurred.

Subd. 4. Duration of Authority for Temporary Practice. The authority to practice law in this jurisdiction granted by subdivision 1 of this rule shall end when the Supreme Court determines that the conditions caused by the major disaster in this jurisdiction have ended except that a lawyer then representing clients in this jurisdiction pursuant to subdivision 2 is authorized to continue the

provision of legal services for such time as is reasonably necessary to complete the representation, but the lawyer shall not thereafter accept new clients. The authority to practice law in this jurisdiction granted by subdivision 3 of this rule shall end 60 days after the Supreme Court declares that the conditions caused by the major disaster in the affected jurisdiction have ended.

Subd. 5. Court Appearances. The authority granted by this rule does not include appearances in court except:

(1) Pursuant to the court's pro hac vice admission rule and, if such authority is granted, any fees for such admission shall be waived; or

(2) If the Supreme Court, in any determination made under subdivision 1, grants blanket permission to appear in all or designated courts of this jurisdiction to lawyers providing legal services pursuant to subdivision 2. If such an authorization is included, any pro hac vice admission fees shall be waived.

Subd. 6. Disciplinary Authority and Registration Requirement. Lawyers providing legal services in this jurisdiction pursuant to subdivision 1 or 2 are subject to the Supreme Court's disciplinary authority and the Rules of Professional Conduct of this jurisdiction as provided in Minn. R. Prof. Cond. 8.5. Lawyers providing legal services in this jurisdiction under subdivision 1 or 2 shall, within 30 days from the commencement of the provision of legal services, file a registration statement with the Lawyer Registration Office. The registration statement shall be in a form prescribed by the Supreme Court. Any lawyer who provides legal services pursuant to this rule shall not be considered to be engaged in the unlawful practice of law in this jurisdiction.

Subd. 7. Notification to Clients. Lawyers authorized to practice law in another United States jurisdiction who provide legal services pursuant to this rule shall inform clients in this jurisdiction of the jurisdiction in which they are authorized to practice law, any limits of that authorization, and that they are not authorized to practice law in this jurisdiction except as permitted by this rule. They shall not state or imply to any person that they are otherwise authorized to practice law in this jurisdiction.

(Added effective January 1, 2010.)

Special Rules for the Pilot Expedited Civil Litigation Track

Effective July 1, 2013; Amended effective September 1, 2017

TABLE OF HEADNOTES

Rule

Preface
1. Mandatory Assignment of Certain Actions to the Expedited Litigation Track
2. Automatic Disclosures of Information
3. Case Management Conference
4. Limitations on Discovery

APPENDIX OF FORMS

Appendix

A. Sample Expedited Litigation Track Assignment Order
B. Sample Expedited Litigation Track Case Management Order
C. Sample Expedited Litigation Track Case Scheduling Order (No CMC)

TEXT OF RULES

Preface

The purposes of the Expedited Litigation Track (ELT) are to promote efficiency in the processing of certain civil cases, reduce cost to the parties and the court system, maintain a system for resolution of claims that is relevant to the parties, and provide a quick and reduced-cost process for obtaining a jury trial when civil actions cannot be resolved by judicial decision (dispositive motions) or by settlement.

The core principles that support the establishment of a mandatory Expedited Litigation Track include:

1. Most civil actions can be resolved by court decision or settlement upon a sharing of basic facts regarding the claims and defenses of the parties;

2. Timely and assertive judicial attention to matters results in the resolution of actions that can be resolved through settlement and provides for customized discovery and trial procedures that will be most cost-effective for the court and the parties;

3. Attorneys and parties are hesitant to voluntarily elect expedited procedures, thus a mandatory system is required;

4. Extensive discovery through interrogatories, requests for production, and depositions is often unnecessary, unproductive, and leads to protracted litigation and unnecessary litigation costs;

5. A compact discovery schedule will reduce the time and cost of litigation for courts and litigants;

6. Mandatory disclosure of relevant information, rigorously enforced by the court, will result in disclosure of facts and information necessary to evaluate the anticipated evidence for purposes of settlement and to allow parties to prepare for trial;

7. Expedited cases should be completed within 4-6 months;

8. Having a trial date or week certain is key to minimizing cost and delay; and

9. Assignment of an expedited case to a single judge is also highly desirable, but district courts may need flexibility to ensure that trial dates are observed. This may involve assignment of a case to a pool of judges for trial or the use of adjunct judicial officers to handle case management conferences. Where possible district courts should avoid assigning judges on the day of trial to prevent the last minute striking or removal of judges that necessitates a continuance.

Rule 1. Mandatory Assignment of Certain Actions to the Expedited Litigation Track

(a) General; Effective Date. Unless excluded by an order of the court made pursuant to Rule 1(c) herein, all civil actions identified in Rule 1(b) that are filed in the First Judicial District in Dakota County, the Fourth Judicial District, and the Sixth Judicial District in St. Louis County in Duluth on or after January 1, 2016, shall be assigned to the ELT and managed pursuant to these Special Expedited Litigation Track Rules (ELT Rules).

(b) Actions Included. The following civil actions shall be assigned to the ELT, unless excluded pursuant to Rule 1(c) herein:

(1) in the Sixth Judicial District in St. Louis County in Duluth and in the First Judicial District in Dakota County, all civil matters having the case type indicator Consumer Credit Contract, Other Contract, Personal Injury, Reduced Mortgage Redemption, or Other Civil, or Conciliation Appeal;

(2) in the Fourth Judicial District, all civil matters having the case type indicator Consumer Credit Contract and Conciliation Appeal, and, where designated by the presiding judge by assignment to ELT (referred to in these rules as "Assignment to ELT"), matters having the case type indicator Other Contract, Personal Injury, or Other Civil; provided that this shall not prevent the Fourth Judicial District from initially requiring any Conciliation Appeal to first proceed with mediation before Assignment to ELT;

(3) Any action where all the parties voluntarily agree to be governed by the ELT Rules by including an "ELT Election" in the civil cover sheet filed under the General Rules of Practice or by jointly filing an ELT Election certificate with the court, and the court has accepted such agreement by Assignment to ELT.

(c) Initial Motion for Exclusion from ELT. A party objecting to the mandatory assignment of a matter to the ELT must serve and file a motion setting forth the reasons that the matter should be removed from the ELT. Said motion papers must be served and filed within 30 days of the filing of the action or, where applicable, Assignment to ELT. The motion shall be heard during the Case Management Conference, if any, under Rule 3 of these rules or at such other time as the court shall direct. The factors that should be considered by the court in ruling on said motion include:

(1) Multiple parties or claims;

(2) Multiple or complex theories of liability, damages, or relief;

(3) Complicated facts that require the discovery options provided by the Minnesota Rules of Civil Procedure;

(4) Substantial likelihood of dispositive motions; or

(5) Any factor that demonstrates that assignment to the ELT would substantially affect a party's right to a fair and just resolution of the matter (e.g., timing of obtaining discovery from a third party, estimated damages significantly exceeding $100,000).

(d) Subsequent Motion for Exclusion from ELT. After the time for bringing a motion under Rule 1(c) of this rule has expired and no later than the trial date, a party may by motion request that the case be removed from the ELT for good cause shown related to a new development that could not have been previously raised.

(Added effective July 1, 2013; amended effective January 1, 2016; amended effective September 1, 2017.)

Rule 2. Automatic Disclosures of Information

(a) Content; Timing. Each party shall prepare and serve an Automatic Disclosure of Information within 60 days after filing of the action or, where applicable, filing of the Assignment to ELT. The Automatic Disclosure of Information shall include the following:

(1) A statement summarizing each contention in support of every claim or defense which a party will present at trial and a brief statement of the facts upon which the contentions are based.

(2) The name, address and telephone number of each individual likely to have discoverable information - along with the subjects of that information and any statement from such individual - that the disclosing party may use to support its claims or defenses. However, no party shall be required to furnish any statement (written or taped) protected by the attorney/client privilege or work-product rule.

(3) A copy - or description, by category and location - of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses.

(4) If a claim for damages is being made, a description of the precise damages being sought by the party and the method for calculation of said damages. If the party has any liability insurance coverage providing coverage for the claims being made by another party, the name of the insurance company, the limits of coverage, and the existence of any issue that could affect the availability of coverage.

(5) A brief summary of the qualifications of any expert witness the party may call at the time of trial together with a report or statement of any such expert which sets forth the subject matter of the expert witness's anticipated testimony; the substance of the facts and opinions to which the expert is expected to testify, and a brief summary of the grounds for each opinion.

(6) Any offers of stipulation of any fact that is relevant to any claim or defense in the matter.

(7) An estimate of the number of trial days that it will take to complete trial of the matter.

(b) Filing Disclosure; Privacy Considerations. Automatic disclosures under this rule need not be filed with the court unless otherwise ordered by the court. If a court directs the filing of automatic disclosures, the party filing such disclosures shall take necessary and appropriate steps to protect the privacy interests (such as, without limitation, addresses and telephone numbers) of individuals identified in the disclosures.

(Added effective July 1, 2013; amended effective January 1, 2016.)

Rule 3. Case Management Conference

(a) Timing; Scope. Within 45 to 60 days of the date of filing of an action, or where applicable, within 30 days of filing of the Assignment to ELT, the court shall convene a Case Management Conference (CMC). All counsel and parties, whether represented or unrepresented, must participate in the CMC. At the CMC, the court and the parties shall address the following subjects:

(1) Any motion to exclude the matter from the ELT Rules made pursuant to ELT Rule 1(c) of these rules;

(2) The prospects for settlement via mediation, arbitration, court-conducted settlement conference, or other form of ADR;

(3) Any request for modification of the abbreviated discovery process required by the ELT Rules;

(4) The setting of a day or week certain trial date to begin no later than 120 to 180 days following filing of the action or, where applicable, the Assignment to ELT;

(5) The setting of a deadline for the filing of all trial documents, including witness lists, exhibit lists, jury instructions, special jury verdict forms, trial briefs and motions in limine; and

(6) The setting of the date for completion of hearing of any motions.

(b) Format; Alternative Judicial Intervention. The court may conduct the CMC by telephone or may substitute other judicial intervention (including but not limited to one or more telephone discussions or issuing a scheduling order based on information supplied by the parties in their civil cover sheet) that addresses the above subjects.

(Added effective July 1, 2013; amended effective January 1, 2016.)

Rule 4. Limitations on Discovery

(a) Time Period Limited. The period for conducting discovery shall continue for a period of 90 days from the Case Management Conference, if one is held, or from the scheduling order, or for a different period established by court order. Upon a request of the parties, the court, for good cause shown, may extend the period for conducting discovery for up to an additional 30 days.

(b) Written Discovery Limits; Motions to Compel. Written discovery shall be limited to 15 interrogatories, 15 requests for production of documents and things, and 25 requests for admissions. Written discovery by each party must be served within 30 days of the date of the CMC, if one is held, or from the scheduling order, or for a different period established by court order, and responses thereto must be served within 30 days of the date of service. Motions to compel responses to written discovery shall be made within 15 days of the date a response was due and shall be made pursuant to the modified discovery motion procedure set forth in Rule 4(d) of these rules.

(c) Depositions. Depositions are permitted as a matter of right of the parties only but must be taken within the deadline established by the court. Except as otherwise ordered by the court, a deposition of a non-party witness shall be allowed only if the deposition is being taken in lieu of in-person trial testimony.

(d) Meet and Confer Requirement. Prior to any motion to compel discovery, the party seeking the discovery and the party from whom responses are being sought must, by and through their counsel (or a pro se litigant if unrepresented by counsel), confer in an attempt to resolve the dispute. If the dispute is not resolved, the party seeking the discovery shall contact the court and schedule a telephone conference with the court, and provide notice of the date and time of the telephone

conference to all adverse parties. No later than 5 days prior to the date of the discovery dispute telephone conference, each party shall serve and file with the court a letter not exceeding 2 pages in length setting forth the party's position on the discovery dispute and providing copies of the disputed discovery. The court, in its discretion, may allow additional argument at the telephone conference. The court shall promptly rule on the discovery dispute.

(Added effective July 1, 2013; amended effective January 1, 2016.)

APPENDIX OF SAMPLE FORMS

The forms appended hereto are set forth as samples that may be used in the Expedited Litigation Track Pilot Project.

Appendix A: Sample Expedited Litigation Track Assignment Order

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF _____	_____ JUDICIAL DISTRICT
	CASE TYPE: _____
_____, Plaintiff	File Number: _____
v.	**ELT Assignment and Case**
_____, Defendant	**Management Conference Order**

_____

It is ORDERED:

1. This case is assigned to the pilot project ("ELT Pilot") under the Special Rules For a Pilot Expedited Civil Litigation Track ("ELT Rules");
2. A party objecting to this assignment must make a formal motion under ELT Rule 1(c) or (d), for removal from the ELT Pilot;
3. Each party shall provide the Automatic Disclosure Of Information required under ELT Rule 2;
4. A Case Management conference shall be held on: _____, and each party shall attend the conference prepared to discuss the subjects identified in ELT Rule 3; and
5. The Limitations on Discovery set forth in ELT Rule 4 apply.

Dated: _____ BY THE COURT:

_____

Judge of District Court

(Added effective July 1, 2013.)

Appendix B: Sample Expedited Litigation Track Case Management Order

STATE OF MINNESOTA DISTRICT COURT

COUNTY OF _____ _____ JUDICIAL DISTRICT

CASE TYPE: _____

_____, Plaintiff File Number: _____

v. **ELT Case Management Order**

_____, Defendant

_____

It is ORDERED:

1. Each party shall provide the Automatic Disclosure Of Information required under Rule 2 of the Special Rules For a Pilot Expedited Civil Litigation Track ("ELT Rules");
2. ADR will/will not be used, and if used the deadline and form of ADR shall be: _____;
3. The Limitations on Discovery set forth in ELT Rule 4 apply;
4. All motions shall be heard by: _____;
5. The day or week certain for trial is: _____;
6. The deadline for submitting all trial documents, including witness lists, jury instructions, special verdict forms, trial briefs, and motions in limine is: _____.

Dated: _____ BY THE COURT:

_____

Judge of District Court

(Added effective July 1, 2013.)

Appendix C: Sample Expedited Litigation Track Case Scheduling Order (No CMC)

STATE OF MINNESOTA DISTRICT COURT

COUNTY OF _____ _____JUDICIAL DISTRICT

CASE TYPE: _____

_____, Plaintiff File Number: _____

v. **ELT Scheduling Order**

_____, Defendant

_____

Appearances:

[Name], Title for the [Plaintiff]

[Name], [Title or Law Firm] for the [Defendant]

This case shall be governed by the Special Rules For a Pilot Expedited Civil Litigation Track ("ELT Rules") as modified herein. The parties are reminded that ELT Rule 2(a) requires initial automatic disclosures to be made within 60 days from the date of filing of the action or, where applicable, filing of the Assignment to ELT.

1. Joinder of additional parties, by amendment or third party practice, shall be accomplished on or before [plus 30 days].
2. Discovery shall be completed - that is, all depositions completed, all interrogatories answered, all requests for production responded to and all responsive documents produced, all requests for admission propounded and responded to, and any privilege logs exchanged - and all discovery-related motions shall be scheduled to be heard on or before [plus 60 days].
3. No discovery dispute may be brought before the court unless the parties have conferred and made a good faith effort to settle their dispute as contemplated by Minn. R. Civ. P. 37.01(b) and Minn. Gen. R. Prac. 115.10. The party raising an unresolved discovery issue shall first arrange a telephone conference with the court and the other party or parties to determine if the dispute can be resolved without a formal motion. In the event a telephone conference is scheduled, the party requesting the telephone conference may submit to the Court, seventy-two hours before the conference, a letter, no longer than two pages outlining with specificity the issues to be addressed with the Court. The other party or parties may submit a responsive letter subject to the same length and specificity conditions twenty-four hours before the conference. The correspondence must be filed with the Court as well as courtesy copied by email to [CLERK'S EMAIL HERE]. No motion or submission other than these letters shall be filed before the telephone conference. Only if the telephone conference does not resolve the dispute may a formal motion be scheduled.
4. All other non-dispositive motions (including motions to amend the pleadings) shall be scheduled to be heard on or before [plus 60 days].
5. Dispositive motions shall be scheduled with the Court's clerk to be heard on or before [plus 110 days]. The scheduling of a dispositive motion requires as much as two or three months advance notice to the Court's clerk.
6. All dispositive and non-dispositive motions are subject to the following requirements:

a. A copy of the memorandum (in pdf) and all exhibits (in pdf) shall be sent to the [CLERK'S EMAIL HERE]. If an exhibit exceeds the maximum allowable size for an attachment to email (currently 30MB), it shall be delivered on CD, DVD, or USB-Drive to the Court within three business days of filing. The hardware will not be returned. A copy of the proposed order, in word shall be sent to [CLERK'S EMAIL HERE].

b. A paper courtesy copy of each memorandum shall be delivered to the Court in person or by mail. The Court requires paper courtesy copies of exhibits only under the following circumstances: when the exhibits include color, photographs, oversized documents (like plans or schematics) or other material that is not suitably reproduced within the e-filing system, those specific exhibits should be delivered in person or by mail. The court may later request paper copies of exhibits, but parties should not provide them as a default unless they meet the exception just described.

c. The Court requires that, for any memorandum citing deposition testimony, the entire deposition transcript shall be courtesy copied to the Court in pdf format via email, USB-drive, or CD. Media will not be returned.

d. Nothing should ever be sent to the Court by fax.

e. No motion will be heard unless the parties have conferred either in person or by telephone in an attempt to resolve their difference before the scheduled hearing. The moving party shall initiate such communications. The moving party shall certify to the Court, before the time of the hearing, compliance with this order or any reason for not complying. Whenever any pending motion is settled, the moving party shall promptly advise the Court.

7. Any party that wishes to request a pre-trial or settlement conference (after the mediation date) may do so by making a written request, copying the other parties, to the Court's clerk.

8. The case will be considered ready for trial during the court's civil trial block [INSERT TRIAL DATE OR BLOCK 4-6 MONTHS FROM FILING]. An order for trial will follow closer to the trial date. **If an attorney or party** has a conflict which cannot be resolved during this period, it must be made known to the court and the other parties within 15 days of this order.

Other matters

9. The clerk for this case is [NAME, CLERK'S EMAIL HERE, (612) xxx-xxxx].

10. Counsel shall immediately notify the Court of any final disposition of this matter or any final disposition of this matter as to any party. A signed stipulation and a proposed order for dismissal shall follow as soon as possible.

11. All documents filed with the Court Administrator must be e-filed in accordance with Minnesota Supreme Court Order and rules adopted on May 24, 2012. **All attorneys representing a party in this matter are required** to add themselves immediately to the electronic Master Service list for this case. (Unrepresented parties are excluded from this requirement.) The Court will issue and distribute all orders in this matter electronically. The Court will not send attorneys or represented clients a hard-copy of documents filed by the Court. Questions regarding signing up for the electronic case service list may be directed to the District Court on its E-File Help Line at 651-227-2002.

12. In accordance with Rule 6.04(b) of the Minnesota Rules of Civil Procedure, weekend days and legal holidays shall be excluded when computing time periods of less than seven days. For example, in the case of a Monday motion hearing with no legal holiday during the preceding week, the reply memorandum is due on the preceding Wednesday.

13. Parties needing an interpreter for court hearings shall immediately, upon receipt of this Order, notify the Court of the need for an interpreter and of the language requested.

14. **No adjustments to this scheduling order** may be made by stipulation of the parties without approval of the Court. **No changes to this scheduling order may be sought** without filing a motion [WITHIN 30 DAYS OF THE DATE OF THIS ORDER]. The Court will not entertain requests to amend the scheduling order telephonically or by email. As with all motions, the non-moving party must be consulted before any such motion is filed. If there is an objection to the motion, the moving party shall so state in its moving papers. A motion which has been objected to must be served at least by email or fax on any other party in the case who is not registered to receive efiling notifications. **A party objecting to a motion**

to modify the scheduling order shall have three business days to make its response. Requests for amendments to this scheduling order will be granted only for good cause.

15. If it appears by notice of motion and motion or otherwise that a party has failed to comply with a provision of this Order, the party will be subject to appropriate sanctions, including attorney's fees and costs, striking of pleadings, preclusion of evidence, default judgment, dismissal of the case, or any other relief deemed appropriate by the Court.

16. All corporate parties must be represented by an attorney.

17. Counsel and their clients are reminded of Minn. R. Civ. P. 1, as amended effective July 1, 2013, which reads as follows:
These rules govern the procedure in the district courts of the State of Minnesota in all suits of a civil nature, with the exceptions stated in Rule 81. They shall be construed and administered to secure the just, speedy, and inexpensive determination of every action.
It is the responsibility of the court and the parties to examine each civil action to assure that the process and the costs are proportionate to the amount in controversy and the complexity and importance of the issues. The factors to be considered by the court in making a proportionality assessment include, without limitation: needs of the case, amount in controversy, parties' resources, and complexity and importance of the issues at stake in the litigation.

Dated: _____ BY THE COURT:

_____

NAME, Judge of District Court

(Added effective January 1, 2016.)