

Certificate

THE STATE OF MINNESOTA.

I, Joseph J. Bright, Revisor of Statutes, hereby certify that I have compared each of the sections printed in this edition of Minnesota Statutes, 1957, with its original section of the statutes, so far as sections printed therein were derived from those statutes; and have compared every other section printed therein with the original section in the enrolled act from which the same was derived; and have compared every section that has been amended, with all amendments thereof; and that all sections therein appear to be correctly printed.

JOSEPH J. BRIGHT,
Revisor.

TERMS OF DISTRICT COURT

TERMS OF DISTRICT COURT

for the Judicial Districts in Effect through June 30, 1959

FIRST JUDICIAL DISTRICT*

Chief Judge: Edwin J. Kenny.

Judges: Edwin J. Kenny, Duluth; Mark Nolan, Duluth; Wm. J. Archer, Duluth; Victor H. Johnson, Duluth; Christ Holm, Hibbing; J. K. Underhill, Virginia.

Counties	Terms	Where Held
Carlton	Second Monday in February; first Monday in June; second Monday in October	Carlton
Cook	Third Monday in April; third Monday in October	Grand Marais
Lake	First Monday in June; second Monday in January	Two Harbors
St. Louis	Second Monday after first day in January; third Monday in April; first Tuesday after first Monday in September; first Monday in November	Duluth

In addition to the general terms of the district court in St. Louis County to be held at the county seat, general terms of the court are hereby established to be held in the city of Virginia, in that county, on the first Monday in April, the first Tuesday after the first Monday in September, and the fourth Monday in November; in the village of Hibbing, in that county, the second Monday in February, the second Monday in May, and the second Monday in October, in each year; in the city of Ely, in that county, the third Monday in March and the second Monday in October, in each year, for the trial, hearing and determination of all actions, civil and criminal, and with the same force and effect as though held at the county seat of said county; and all proceedings of whatsoever kind that can be heard and determined in the district court of this state may be tried, heard and determined at the said city of Virginia, the said village of Hibbing, or the said city of Ely with the same force and effect as though heard and determined at the county seat of said county, except that all proceedings for the registration of title to real estate shall be tried at the county seat of said county as now provided by law, and all other actions to determine title to real estate shall be tried at the county seat, except that by written consent of all parties thereto any such action may be tried at said city of Virginia, at the village of Hibbing, or the city of Ely in accordance with such written consent; but no officer having in his custody any of the public records of St. Louis County shall be required to produce such record at the trial of any action not on trial at the county seat, save upon the order of the court providing for the production of such record and its immediate return to the officer producing it, upon its introduction as evidence in such cause. If the day specified for the commencement of any term herein falls on a legal holiday, said term shall commence on the first business day following said holiday.

SPECIAL TERMS

Special terms of said district court shall also be held at the city of Virginia at least once in each month, and at the village of Hibbing at least once in each month, on such days and at such times as the court may designate by order, for the hearing of such matters as are usually held at special terms and at chambers in the district court, and the court may, by order, provide for holding special terms of court at the city of Ely at any time when in the judgment and discretion of the court it shall deem it expedient so to do, for the hearing of such matters as are usually heard at special terms and at chambers, in the district court, and may in such order, if it deem it expedient, provide for the trial of issues of fact and law in cases where such action is to be tried by the court without a jury or a jury has been waived by the parties to the action, and such waiver has been filed with the clerk of court.

Special terms of said district court shall also be held at the city of Duluth at 9:30 A.M. daily except Saturday before the judge in chambers.

*Effective July 1, 1959, the first judicial district will be the sixth judicial district.

SECOND JUDICIAL DISTRICT

Chief Judge: Carlton McNally

Judges: Carlton McNally, Clayton Parks, Albin S. Pearson, Robert V. Rensch, Royden S. Dane, Arthur A. Stewart, Ronald E. Hachey, James Otis.

Counties	Terms	Where Held
Ramsey	First Monday in October of each year	St. Paul

SPECIAL TERMS

Daily before the judge in chambers.

THIRD JUDICIAL DISTRICT*

Chief Judge: Leonard Keyes.

Judges: Leonard Keyes, Anoka; Carl W. Gustafson, Center City; Rollin G. Johnson, Stillwater.

Counties	Terms	Where Held
Anoka	Fourth Tuesday in April; fourth Tuesday in November	Anoka
Chisago	Second Tuesday in April; second Tuesday in November	Center City
Isanti	First Tuesday in February; first Tuesday in September	Cambridge
Kanabec	Second Tuesday in June; second Tuesday in December	Mora
Pine	Second Tuesday in March; second Tuesday in September	Pine City
Sherburne	Third Tuesday in February; third Tuesday in September	Elk River
Washington	First Monday in January; first Monday in April; first Monday in October	Stillwater
Wright	Fourth Tuesday in March; fourth Tuesday in October	Buffalo

SPECIAL TERMS

Anoka	First and Third Mondays of each month	Anoka
Chisago	Fourth Monday in February, June and August	Center City
Washington	Second Monday of each month for the trial of Issues of Law and Fact without a jury and the hearing of Motions and Applications	Stillwater

Isanti, Kanabec, Pine, Sherburne, and Wright

By appointment

*Effective July 1, 1959, the third judicial district will be the tenth judicial district.

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TERMS OF DISTRICT COURT

FOURTH JUDICIAL DISTRICT

Chief Judge: Levi M. Hall.

Judges: Levi M. Hall, Paul S. Carroll, John A. Weeks, D. E. LaBelle, Earl J. Lyons, Harold N. Rogers, William C. Larson, Rolf Fosseen, Theodore B. Knudson, Paul Jaroscak, Leslie L. Anderson, Thomas Tallakson, Irving R. Brand, William D. Gunn.

Counties	Terms	Where Held
Hennepin	Second Monday in September	Minneapolis

SPECIAL TERMS

Daily before judge in chambers.

FIFTH JUDICIAL DISTRICT*

Chief Judge: Byron R. Wilson.

Judges: Byron R. Wilson, Moorhead; Rol E. Barron, Wadena; E. J. Ruegemer, St. Cloud; W. F. Rogosheske, Little Falls.

Counties	Terms	Where Held
Becker	First Monday in March; first Monday in October	Detroit Lakes
Benton	Second Monday in February; second Monday in September	Foley
Clay	Second Monday in April; second Monday in November	Moorhead
Douglas	First Monday in March; first Monday in October	Alexandria
Mille Lacs	First Monday in March; first Monday in October	Milaca
Morrison	Second Monday in April; second Monday in November	Little Falls
Otter Tail	Second Monday in April; second Monday in November	Fergus Falls
Stearns	Second Monday in April; second Monday in November	St. Cloud
Todd	First Monday in March; first Monday in October	Long Prairie
Wadena	Second Monday in February; second Monday in September	Wadena

*Effective July 1, 1959, the fifth judicial district will be the seventh judicial district.

SIXTH JUDICIAL DISTRICT*

Chief Judge: E. R. Selnes.

Judges: E. R. Selnes, Glenwood; C. A. Rolloff, Montevideo; Sam G. Gandrud, Litchfield.

Counties	Terms	Where Held
Big Stone	Third Monday in May; first Monday in December	Ortonville
Chippewa	First Monday in June; first Monday in December	Montevideo
Grant	Second Monday in March; third Monday in October	Elbow Lake
Kandiyohi	Second Monday in March; second Monday in September	Willmar
Lac qui Parle	Second Monday in April; second Monday in October	Madison
Meeker	Second Monday in April; second Monday in October	Litchfield
Pope	First Monday in June; third Monday in November	Glenwood
Renville	Second Monday in May; second Monday in November	Olivia
Stevens	Second Monday in February; second Monday in September	Morris
Swift	Second Monday in May; second Monday in November	Benson
Traverse	Fourth Monday in February; first Monday in October	Wheaton
Wilkin	Fourth Monday in March; first Monday in November	Breckenridge
Yellow Medicine	Second Monday in March; second Monday in September	Granite Falls

*Effective July 1, 1959, the sixth judicial district will be the eighth judicial district.

SEVENTH JUDICIAL DISTRICT*

Chief Judge: Paul A. Lundgren (also chief judge of the eleventh judicial district).

Judges: Paul A. Lundgren, Thief River Falls; J. H. Sylvestre, Crookston.

Counties	Terms	Where Held
Kittson	Second Monday in March; second Monday in October	Hallock
Mahnomen	Third Monday in March; first Monday in October	Mahnomen
Marshall	Fourth Monday in March; fourth Monday in October	Warren
Norman	First Monday in March; third Monday in October	Ada
Pennington	Second Monday in May; fourth Monday in November	Thief River Falls
Polk	Third Monday in May; third Monday in November	Crookston
Red Lake	First Monday in April; first Monday in November	Red Lake Falls
Roseau	Second Monday in April; second Monday in November	Roseau

*Effective July 1, 1959, the seventh and eleventh judicial districts will be the ninth judicial district.

EIGHTH JUDICIAL DISTRICT*

Chief Judge: W. A. Schultz (also chief judge of the twelfth judicial district).

Judges: W. A. Schultz, South St. Paul; Wm. C. Christianson, Red Wing.

Counties	Terms	Where Held
Dakota	Second Monday in January; first Monday in April; second Monday in November	Hastings
Goodhue	Second Monday in February; second Monday in May; first Monday in October	Red Wing

SPECIAL TERM

Dakota	First and third Friday each month except July and August	Hastings
Goodhue	First and third Tuesday each month except July and August	Red Wing

*Effective July 1, 1959, the eighth and twelfth judicial districts will be the first judicial district.

NINTH JUDICIAL DISTRICT*

Chief Judge: Charles A. Flinn (also chief judge of the thirteenth judicial district).

Judges: Charles A. Flinn, Windom; B. M. Heinzen, Marshall; George D. Erickson, New Ulm.

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TERMS OF DISTRICT COURT

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Counties	Terms	Where Held
Brown	Second Monday in May; first Monday after Thanksgiving Day....	New Ulm
Cottonwood	Fourth Tuesday in April; second Tuesday in November.....	Windom
Lincoln	First Monday in March; second Monday in September.....	Ivanhoe
Lyon	Fourth Monday in April; fourth Monday in October.....	Marshall
Murray	Second Tuesday in April; first Tuesday in December.....	Slayton
Nicollet	First Monday in March; second Monday in September.....	St. Peter
Nobles	Second Tuesday in February; second Tuesday in October.....	Worthington
Pipestone	Second Tuesday in January; first Tuesday in June.....	Pipestone
Redwood	First Monday in April; first Monday in October.....	Redwood Falls
Rock	Second Tuesday in March; second Tuesday in September.....	Luverne

*Effective July 1, 1959, the ninth and thirteenth judicial districts will be the fifth judicial district.

TENTH JUDICIAL DISTRICT*

Chief Judge: Arnold W. Hatfield (also chief judge of the fourteenth judicial district).
Judges: Arnold W. Hatfield, Wabasha; Leo F. Murphy, Winona.

Counties	Terms	Where Held
Houston	Third Monday in May; fourth Monday in October.....	Caledonia
Olmsted	First Monday in January, February, March, April, May, June, September, October, November, December.....	Rochester
Wabasha	Third Monday in May; second Monday in November.....	Wabasha
Winona	Second Monday in January; third Monday in April; third Monday in September	Winona

SPECIAL TERMS

Houston	First Thursday in each month.....	Caledonia
Olmsted	First and third Fridays in each month.....	Rochester
Wabasha	Third Monday in each month.....	Wabasha
Winona	Second and fourth Mondays in each month.....	Winona

Special term days scheduled for Monday falling on a legal holiday will be held the Tuesday following.
Other Special Term days falling on a legal holiday will be held on the day preceding the holiday.
*Effective July 1, 1959, the tenth and fourteenth judicial districts will be the third judicial district.

ELEVENTH JUDICIAL DISTRICT*

Chief Judge: Paul A. Lundgren (also chief judge of the seventh judicial district).
Judges: D. H. Fullerton, Brainerd; J. J. Hadler, International Falls; Arnold C. Forbes, Bemidji.

Counties	Terms	Where Held
Aitkin	Second Tuesday in May; first Tuesday in December.....	Aitkin
Beltrami	Third Tuesday in February; second Tuesday in September.....	Bemidji
Cass	First Tuesday in February; first Tuesday in September.....	Walker
Clearwater	Third Tuesday in April; first Tuesday in November.....	Bagley
Crow Wing	First Tuesday in April; first Tuesday in November.....	Brainerd
Hubbard	Second Tuesday in March; second Tuesday in October.....	Park Rapids
Itasca	Third Tuesday in February; second Tuesday in September.....	Grand Rapids
Koochiching	Second Tuesday in May; first Tuesday in December.....	International Falls
Lake of the Woods.....	Third Tuesday in April; first Tuesday in November.....	Baudette

In years when the first Tuesday in November is general election day the November terms will be held on the first Wednesday of that month.
*Effective July 1, 1959, the eleventh and seventh judicial districts will be the ninth judicial district.

TWELFTH JUDICIAL DISTRICT*

Chief Judge: W. A. Schultz (also chief judge of the eighth judicial district).
Judges: Harold E. Flynn, Shakopee; Arlo E. Haering, Waconia.

Counties	Terms	Where Held
Carver	First Monday in March; second Monday in October.....	Chaska
LeSueur	Third Monday in April; third Monday in September.....	LeCenter
McLeod	Second Monday in May; second Monday in November.....	Glencoe
Scott	First Monday in June; first Monday in December.....	Shakopee
Sibley	Fourth Monday in March; fourth Monday in October.....	Gaylord

SPECIAL TERMS

McLeod	Second and fourth Fridays each month at 10:00 A.M.....	Glencoe
Scott	First and third Fridays each month at 10:00 A.M.....	Shakopee

*Effective July 1, 1959, the twelfth and eighth judicial districts will be the first judicial district.

THIRTEENTH JUDICIAL DISTRICT*

Chief Judge: Charles A. Flinn (also chief judge of the ninth judicial district).
Judges: Milton D. Mason, Mankato; L. J. Irvine, Wells.

Counties	Terms	Where Held
Blue Earth	First Tuesday in February; second Tuesday in May; second Wed- nesday in October.....	Mankato
Faribault	Second Monday in May; second Monday in November.....	Blue Earth
Jackson	Second Monday in April; second Monday in September.....	Jackson
Martin	Second Monday in March; second Monday in October.....	Fairmont
Watonwan	Second Tuesday in April; second Tuesday in September.....	St. James

SPECIAL TERMS

Blue Earth	First and third Saturdays each month except during August and holidays	Mankato
Faribault	First Wednesday each month except August.....	Blue Earth
Jackson	First Friday each month except August.....	Jackson
Martin	First Monday in each month except August.....	Fairmont
Watonwan	Second and fourth Mondays in January, March, June, July, November and December; second Monday in May and October; fourth Monday in February at 1:00 P.M.....	St. James

*Effective July 1, 1959, the thirteenth and ninth judicial districts will be the fifth judicial district.

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TERMS OF DISTRICT COURT

FOURTEENTH JUDICIAL DISTRICT*

Chief Judge: Arnold W. Hatfield (also chief judge of the tenth judicial district).
Judges: A. C. Richardson, Austin; Warren F. Plunkett, Austin; John F. Cahill, Waseca.

Counties	Terms	Where Held
Dodge	First Monday in April; third Monday in September.....	Mantorville
Fillmore	Second Monday in April; second Monday in October.....	Preston
Freeborn	Fourth Monday in March; second Monday in September; first Monday in December.....	Albert Lea
Mower	Second Monday in January; first Monday in June; second Monday in November.....	Austin
Rice	First Monday in May; first Wednesday after first Monday in November	Faribault
Steele	First Monday in June; first Monday in December.....	Owatonna
Waseca	First Monday in March; second Monday in October.....	Waseca

*Effective July 1, 1959, the fourteenth and tenth judicial districts will be the third judicial district.

TERMS OF DISTRICT COURT for the Judicial Districts Established July 1, 1959

FIRST JUDICIAL DISTRICT

Chief Judge: W. A. Schultz.
Judges: W. A. Schultz, South St. Paul; Wm. C. Christianson, Red Wing; Harold E. Flynn, Shakopee; Arlo E. Haering, Waconia.

Counties	Terms	Where Held
Carver	First Monday in March; second Monday in October.....	Chaska
Dakota	Second Monday in January; first Monday in April; second Monday in November.....	Hastings
Goodhue	Second Monday in February; second Monday in May; first Monday in October	Red Wing
LeSueur	Third Monday in April; third Monday in September.....	LeCenter
McLeod	Second Monday in May; second Monday in November.....	Glencoe
Scott	First Monday in June; first Monday in December.....	Shakopee
Sibley	Fourth Monday in March; fourth Monday in October.....	Gaylord

SPECIAL TERMS

Dakota	First and third Friday each month except July and August.....	Hastings
Goodhue	First and third Tuesday each month except July and August.....	Red Wing
McLeod	Second and fourth Fridays each month at 10:00 A.M.....	Glencoe
Scott	First and third Fridays each month at 10:00 A.M.....	Shakopee

SECOND JUDICIAL DISTRICT

Chief Judge: Carlton McNally.
Judges: Carlton McNally, Clayton Parks, Albin S. Pearson, Robert V. Rensch, Royden S. Dane, Arthur A. Stewart, Ronald E. Hachey, James Otis.

Counties	Terms	Where Held
Ramsey	First Monday in October of each year.....	St. Paul

SPECIAL TERMS

Ramsey	Daily before the judge in chambers.....	St. Paul
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THIRD JUDICIAL DISTRICT

Chief Judge: Arnold W. Hatfield.
Judges: Arnold W. Hatfield, Wabasha; A. C. Richardson, Austin; Warren F. Plunkett, Austin; Leo F. Murphy, Winona; John F. Cahill, Waseca.

Counties	Terms	Where Held
Dodge	First Monday in April; third Monday in September.....	Mantorville
Fillmore	Second Monday in April; second Monday in October.....	Preston
Freeborn	Fourth Monday in March; second Monday in September; first Monday in December.....	Albert Lea
Houston	Third Monday in May; fourth Monday in October.....	Caledonia
Mower	Second Monday in January; first Monday in June; second Monday in November.....	Austin
Olmsted	First Monday in January, February, March, April, May, June, September, October, November, December.....	Rochester
Rice	First Monday in May; first Wednesday after first Monday in November	Faribault
Steele	First Monday in June; first Monday in December.....	Owatonna
Wabasha	Third Monday in May; second Monday in November.....	Wabasha
Waseca	First Monday in March; second Monday in October.....	Waseca
Winona	Second Monday in January; third Monday in April; third Monday in September	Winona

SPECIAL TERMS

Houston	First Thursday in each month	Caledonia
Olmsted	First and third Fridays in each month	Rochester
Wabasha	Third Monday in each month	Wabasha
Winona	Second and fourth Mondays in each month	Winona

Special term days scheduled for Monday falling on a legal holiday will be held the Tuesday following.
Other Special Term days falling on a legal holiday will be held on the day preceding the holiday.

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TERMS OF DISTRICT COURT

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FOURTH JUDICIAL DISTRICT

Chief Judge: Levi M. Hall.
Judges: Levi M. Hall, Paul S. Carroll, John A. Weeks, D. E. LaBelle, Earl J. Lyons, Harold N. Rogers, William C. Larson, Rolf Fosseen, Theodore B. Knudson, Paul Jaroscak, Leslie L. Anderson, Thomas Tallakson, Irving R. Brand, William D. Gunn.

Counties	Terms	Where Held
Hennepin	Second Monday in September	Minneapolis

SPECIAL TERMS

Daily before judge in chambers.

FIFTH JUDICIAL DISTRICT

Chief Judge: Charles A. Flinn.
Judges: Charles A. Flinn, Windom; Milton D. Mason, Mankato; E. M. Heinzen, Marshall; George D. Erickson, New Ulm; L. J. Irvine, Wells.

Counties	Terms	Where Held
Blue Earth	First Tuesday in February; second Tuesday in May; second Wednesday in October	Mankato
Brown	Second Monday in May; first Monday after Thanksgiving Day	New Ulm
Cottonwood	Fourth Tuesday in April; second Tuesday in November	Windom
Faribault	Second Monday in May; second Monday in November	Blue Earth
Jackson	Second Monday in April; second Monday in September	Jackson
Lincoln	First Monday in March; second Monday in September	Ivanhoe
Lyon	Fourth Monday in April; fourth Monday in October	Marshall
Martin	Second Monday in March; second Monday in October	Fairmont
Murray	Second Tuesday in April, first Tuesday in December	Slayton
Nicollet	First Monday in March; second Monday in September	St. Peter
Nobles	Second Tuesday in February; second Tuesday in October	Worthington
Pipestone	Second Tuesday in January; first Tuesday in June	Pipestone
Redwood	First Monday in April; first Monday in October	Redwood Falls
Rock	Second Tuesday in March; second Tuesday in September	Luverne
Watonwan	Second Tuesday in April; second Tuesday in September	St. James

SPECIAL TERMS

Blue Earth	First and third Saturdays each month except during August and holidays	Mankato
Faribault	First Wednesday in each month except August	Blue Earth
Jackson	First Friday each month except August	Jackson
Martin	First Monday in each month except August	Fairmont
Watonwan	Second and fourth Mondays in January, March, June, July, November and December; second Monday in May and October; fourth Monday in February at 1:00 P.M.	St. James

SIXTH JUDICIAL DISTRICT

Chief Judge: Edwin J. Kenny.
Judges: Edwin J. Kenny, Duluth; Mark Nolan, Duluth; Wm. J. Archer, Duluth; Victor H. Johnson, Duluth; Christ Holm, Hibbing; J. K. Underhill, Virginia.

Counties	Terms	Where Held
Carlton	Second Monday in February; first Monday in June; second Monday in October	Carlton
Cook	Third Monday in April; third Monday in October	Grand Marais
Lake	First Monday in June; second Monday in January	Two Harbors
St. Louis	Second Monday after first day in January; third Monday in April; first Tuesday after first Monday in September; first Monday in November	Duluth

In addition to the general terms of the district court in St. Louis County to be held at the county seat, general terms of the court are hereby established to be held in the city of Virginia, in that county, on the first Monday in April, the first Tuesday after the first Monday in September, and the fourth Monday in November; in the village of Hibbing, in that county, the second Monday in February, the second Monday in May, and the second Monday in October, in each year; in the city of Ely, in that county, the third Monday in March and the second Monday in October, in each year, for the trial, hearing and determination of all actions, civil and criminal, and with the same force and effect as though held at the county seat of said county; and all proceedings of whatsoever kind that can be heard and determined in the district court of this state may be tried, heard and determined at the said city of Virginia, the said village of Hibbing, or the said city of Ely with the same force and effect as though heard and determined at the county seat of said county, except that all proceedings for the registration of title to real estate shall be tried at the county seat of said county as now provided by law, and all other actions to determine title to real estate shall be tried at the county seat, except that by written consent of all parties thereto any such action may be tried at said city of Virginia, at the village of Hibbing, or the city of Ely in accordance with such written consent; but no officer having in his custody any of the public records of St. Louis County shall be required to produce such record at the trial of any action not on trial at the county seat, save upon the order of the court providing for the production of such record and its immediate return to the officer producing it, upon its introduction as evidence in such cause. If the day specified for the commencement of any term herein falls on a legal holiday, said term shall commence on the first business day following said holiday.

SPECIAL TERMS

Special terms of said district court shall also be held at the city of Virginia at least once in each month, and at the village of Hibbing at least once in each month, on such days and at such times as the court may designate by order, for the hearing of such matters as are usually held at special terms and at chambers in the district court, and the court may, by order, provide for holding special terms of court at the city of Ely at any time when in the judgment and discretion of the court it shall deem it expedient so to do, for the hearing of such matters as are usually heard at special terms and at chambers, in the district court, and may in such order, if it deem it expedient, provide for the trial of issues of fact and law in cases where such action is to be tried by the court without a jury or a jury has been waived by the parties to the action, and such waiver has been filed with the clerk of court.

Special terms of said district shall also be held at the city of Duluth at 9:30 A.M. daily except Saturday before the judge in chambers.

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TERMS OF DISTRICT COURT

SEVENTH JUDICIAL DISTRICT

Chief Judge: Byron R. Wilson.

Judges: Byron R. Wilson, Moorhead; Rol E. Barron, Wadena; E. J. Ruegemer, St. Cloud; W. F. Rogosheske, Little Falls.

Counties	Terms	Where Held
Becker	First Monday in March; first Monday in October.....	Detroit Lakes
Benton	Second Monday in February; second Monday in September.....	Foley
Clay	Second Monday in April; second Monday in November.....	Moorhead
Douglas	First Monday in March; first Monday in October.....	Alexandria
Mille Lacs	First Monday in March; first Monday in October.....	Milaca
Morrison	Second Monday in April; second Monday in November.....	Little Falls
Otter Tail	Second Monday in April; second Monday in November.....	Fergus Falls
Stearns	Second Monday in April; second Monday in November.....	St. Cloud
Todd	First Monday in March; first Monday in October.....	Long Prairie
Wadena	Second Monday in February; second Monday in September.....	Wadena

EIGHTH JUDICIAL DISTRICT

Chief Judge: E. R. Selnes.

Judges: E. R. Selnes, Glenwood; C. A. Rolloff, Montevideo; Sam G. Gandrud, Litchfield.

Counties	Terms	Where Held
Big Stone	Third Monday in May; first Monday in December.....	Ortonville
Chippewa	First Monday in June; first Monday in December.....	Montevideo
Grant	Second Monday in March; third Monday in October.....	Elbow Lake
Kandiyohi	Second Monday in March; second Monday in September.....	Willmar
LacQuiParle	Second Monday in April; second Monday in October.....	Madison
Meeker	Second Monday in April; second Monday in October.....	Litchfield
Pope	First Monday in June; third Monday in November.....	Glenwood
Renville	Second Monday in May; second Monday in November.....	Olivia
Stevens	Second Monday in February; second Monday in September.....	Morris
Swift	Second Monday in May; second Monday in November.....	Benson
Traverse	Fourth Monday in February; first Monday in October.....	Wheaton
Wilkin	Fourth Monday in March; first Monday in November.....	Breckenridge
Yellow Medicine	Second Monday in March; second Monday in September.....	Granite Falls

NINTH JUDICIAL DISTRICT

Chief Judge: Paul A. Lundgren.

Judges: D. H. Fullerton, Brainerd; J. J. Hadler, International Falls; Paul A. Lundgren, Thief River Falls; Arnold C. Forbes, Bemidji; J. H. Sylvestre, Crookston.

Counties	Terms	Where Held
Aitkin	Second Tuesday in May; first Tuesday in December.....	Aitkin
Beltami	Third Tuesday in February; second Tuesday in September.....	Bemidji
Cass	First Tuesday in February; first Tuesday in September.....	Walker
Clearwater	Third Tuesday in April; first Tuesday in November.....	Bagley
Crow Wing	First Tuesday in April; first Tuesday in November.....	Brainerd
Hubbard	Second Tuesday in March; second Tuesday in October.....	Park Rapids
Itasca	Third Tuesday in February; second Tuesday in September.....	Grand Rapids
Kittson	Second Monday in March; second Monday in October.....	Hallock
Koochiching	Second Tuesday in May; first Tuesday in December.....	International Falls
Lake of the Woods.....	Third Tuesday in April; first Tuesday in November.....	Baudette
	In years when the first Tuesday in November is general election day the November terms will be held on the first Wednesday of that month.	
Mahnomen	Third Monday in March; first Monday in October.....	Mahnomen
Marshall	Fourth Monday in March; fourth Monday in October.....	Warren
Norman	First Monday in March; third Monday in October.....	Ada
Pennington	Second Monday in May; fourth Monday in November.....	Thief River Falls
Polk	Third Monday in May; third Monday in November.....	Crookston
Red Lake	First Monday in April; first Monday in November.....	Red Lake Falls
Roseau	Second Monday in April; second Monday in November.....	Roseau

TENTH JUDICIAL DISTRICT

Chief Judge: Leonard Keyes.

Judges: Leonard Keyes, Anoka; Carl W. Gustafson, Center City; Rollin G. Johnson, Stillwater.

Counties	Terms	Where Held
Anoka	Fourth Tuesday in April; fourth Tuesday in November.....	Anoka
Chisago	Second Tuesday in April; second Tuesday in November.....	Center City
Isanti	First Tuesday in February; first Tuesday in September.....	Cambridge
Kanabec	Second Tuesday in June; second Tuesday in December.....	Mora
Pine	Second Tuesday in March; second Tuesday in September.....	Pine City
Sherburne	Third Tuesday in February; third Tuesday in September.....	Elk River
Washington	First Monday in January; first Monday in April; first Monday in October.....	Stillwater
Wright	Fourth Tuesday in March; fourth Tuesday in October.....	Buffalo

SPECIAL TERMS

Anoka	First and third Mondays of each month.....	Anoka
Chisago	Fourth Monday in February, June and August.....	Center City
Washington	Second Monday of each month for the trial of Issues of Law and Fact without a jury and the hearing of Motions and Applications	Stillwater
Isanti, Kanabec, Pine, Sherburne, and Wright	By appointment	

APPENDICES

- APPENDIX 1. Supreme Court of Minnesota**
- APPENDIX 2. District Court**
- APPENDIX 3. Municipal Courts**
- APPENDIX 4. Judges of Probate**
- APPENDIX 5. United States Courts in Minnesota**
- APPENDIX 6. Supreme Court Rules**
- APPENDIX 7. District Court Rules**
- APPENDIX 8. Rules of Civil Procedure for the District Courts of Minnesota**
- APPENDIX 9. Analysis of the State Governmental Structure**

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APPENDIX 1. SUPREME COURT OF MINNESOTA

APPENDIX 1

SUPREME COURT OF MINNESOTA

JUSTICES

Name	Title	Term Expires
Roger L. Dell.....	Chief Justice.....	1961
Thomas Gallagher.....	Associate Justice.....	1961
Leroy E. Matson.....	Associate Justice.....	1963
Frank T. Gallagher.....	Associate Justice.....	1959
Oscar R. Knutson.....	Associate Justice.....	1961
Martin A. Nelson.....	Associate Justice.....	1961
William P. Murphy.....	Associate Justice.....	1963
Clarence R. Magney.....	Commissioner	

COURT OFFICIALS

Mae Sherman.....	Clerk
Frank Larkin.....	Deputy Clerk
Ruth E. Jensen.....	Court Reporter
Margaret S. Andrews.....	State Librarian

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APPENDIX 2. DISTRICT COURT

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APPENDIX 2

DISTRICT COURT

JUDGES

TERMS: Judges elected for six years, terms expiring first Monday in January of year.

Dist.	Judge	Post Office	Term Expires
1	E. J. Kenny.....	Duluth	1961
1	Mark Nolan.....	Duluth	1961
1	William J. Archer.....	Duluth	1963
1	Victor H. Johnson.....	Duluth	1963
1	Christ Holm.....	Hibbing	1959
1	J. K. Underhill.....	Virginia	1959
2	Carlton McNally.....	St. Paul	1963
2	Clayton Parks.....	St. Paul	1963
2	Albin S. Pearson.....	St. Paul	1959
2	Robert V. Rensch.....	St. Paul	1963
2	Royden S. Dane.....	St. Paul	1959
2	Arthur A. Stewart.....	St. Paul	1963
2	James C. Otis.....	St. Paul	1961
2	Ronald E. Hachey.....	St. Paul	1963
3	Leonard Keyes.....	Anoka	1959
3	Carl W. Gustafson.....	Center City	1963
3	Rollin G. Johnson.....	Forest Lake	1961
4	Levi M. Hall.....	Minneapolis	1963
4	Paul S. Carrol.....	Minneapolis	1961
4	John A. Weeks.....	Minneapolis	1959
4	D. E. LaBelle.....	Minneapolis	1961
4	Earl J. Lyons.....	Minneapolis	1961
4	Harold N. Rogers.....	Minneapolis	1963
4	William C. Larson.....	Minneapolis	1963
4	Rolf Fosseen.....	Minneapolis	1963
4	Theodore B. Knutson.....	Minneapolis	1963
4	Paul J. Jaroscak.....	Minneapolis	1959
4	Leslie L. Anderson.....	Minneapolis	1959
4	Thomas Tallakson.....	Minneapolis	1961
4	Irving R. Brand.....	Minneapolis	1963
4	William D. Gunn.....	Minneapolis	1963
5	Byron R. Wilson.....	Moorhead	1961
5	Rol E. Barron.....	Wadena	1959
5	Walter F. Rogosheske.....	Little Falls	1963
5	E. J. Ruegamer.....	St. Cloud	1961
6	E. R. Selness.....	Glenwood	1961
6	Clarence A. Rolloff.....	Montevideo	1959
6	Sam G. Gandrud.....	Litchfield	1959
7	Paul A. Lundgren.....	Thief River Falls	1961
7	J. H. Sylvestre.....	Crookston	1963
8	W. A. Schultz.....	South St. Paul	1961
8	Wm. C. Christianson.....	Red Wing	1963
9	Charles A. Flinn.....	Windom	1963
9	George D. Erickson.....	New Ulm	1959
9	B. M. Heinzen.....	Marshall	1963
10	Leo F. Murphy.....	Winona	1959
10	Arnold Hatfield.....	Rochester	1961
11	Arnold C. Forbes.....	Bemidji	1963
11	D. H. Fullerton.....	Brainerd	1963
11	J. J. Hadler.....	International Falls	1959
12	Harold E. Flynn.....	Shakopee	1963
12	Arlie E. Haering.....	Waconia	1961
13	Milton D. Mason.....	Mankato	1963
13	L. J. Irvine.....	Wells	1963
14	John F. Cahill.....	Waseca	1959
14	A. C. Richardson.....	Austin	1961
14	Warren F. Plunkett.....	Austin	1963

CLERKS

District	County	Name	Address	Term Expires
1	Carlton	Joe P. Poirier.....	Carlton	1959
	Cook	J. T. Hussey.....	Grand Marais	1959
	Lake	J. R. Lindgren.....	Two Harbors	1961
2	St. Louis	Fred Ash.....	Duluth	1961
	Ramsey	Edward J. Fitzgerald.....	St. Paul	1961
3	Anoka	Raymond Nilsson.....	Anoka	1963
	Chisago	Theodore Johnson.....	Center City	1959
	Isanti	Mylow V. Peterson.....	Cambridge	1961
	Kanabec	Albert E. Anderson.....	Mora	1961
	Pine	Cornelius Nieboer.....	Hinckley	1961
	Sherburne	Irvin Hetrick	Elk River	1959
	Washington	R. C. Peterson.....	Stillwater	1961
	Wright	F. M. Leahy.....	Buffalo	1961
4	Hennepin	Phillip C. Schmidt.....	Minneapolis	1959
5	Becker	Charlie Greenlaw.....	Detroit Lakes	1961
	Benton	S. J. Tomporowski.....	Foley	1959
	Clay	D. G. Rusness.....	Moorhead	1961
	Douglas	Ed Ormseth.....	Alexandria	1959
	Mille Lacs	Carl Eckdall.....	Millaca	1959
	Morrison	R. L. Meyers.....	Little Falls	1959
	Otter Tail	H. W. Glorvigen.....	Fergus Falls	1961
	Stearns	Albert W. Schmitt.....	St. Cloud	1959

MINNESOTA STATUTES 1957

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APPENDIX 2. DISTRICT COURT

District	County	Name	Address	Term Expires	
		Todd	Harry L. King	Long Prairie	1961
		Wadena	Florence Claydon	Wadena	1959
6	Big Stone	Henry J. Larkin	Ortonville	1961	
	Chippewa	Clara V. Ronning	Montevideo	1959	
	Grant	Harold Bartness	Elbow Lake	1961	
	Kandiyohi	Leonard Blom	Willmar	1959	
	Lac qui Parle	E. C. Hull	Madison	1959	
	Meeker	Stanley O. Ross	Litchfield	1959	
	Pope	L. G. Solhaug	Glenwood	1959	
	Renville	Glen Agre	Olivia	1959	
	Stevens	E. T. Jacobson	Morris	1961	
	Swift	Earl H. Prall	Benson	1959	
	Traverse	Walter H. Klugman	Wheaton	1961	
	Wilkin	K. W. Erdmann	Breckenridge	1959	
	Yellow Medicine	Edwy O. Dibble	Granite Falls	1959	
7	Kittson	Roy Coleman	Hallock	1959	
	Mahnomen	Camilla Hardy	Mahnomen	1961	
	Marshall	Edwin K. Rokke	Warren	1959	
	Norman	Oscar H. Nordby	Ada	1959	
	Pennington	Henry Storhaug	Thief River Falls	1961	
	Polk	Raymond H. Espe	Crookston	1959	
	Red Lake	Hazel Pahlen	Red Lake Falls	1959	
	Roseau	C. A. Cornellusen	Roseau	1961	
8	Dakota	Viola Thomas	Hastings	1959	
	Goodhue	Ellif W. Olson	Red Wing	1959	
9	Brown	Carl A. Witt	New Ulm	1959	
	Cottonwood	M. B. Severson	Windom	1961	
	Lincoln	Chris. Simonsen	Ivanhoe	1959	
	Lyon	H. E. Persons	Marshall	1959	
	Murray	Douglas E. Johnson	Slayton	1959	
	Nicolet	Olive Peterson	St. Peter	1959	
	Nobles	Stanley E. Nelson	Worthington	1959	
	Pipestone	O. T. Johnson	Pipestone	1959	
	Redwood	Frank Baldwin	Redwood Falls	1961	
	Rock	Charles W. Soutar	Luverne	1959	
10	Houston	Maurice McCauley	Caledonia	1959	
	Olmsted	Mrs. George B. Cutting	Rochester	1961	
	Wabasha	Luke C. Beaver	Wabasha	1959	
	Winona	Joseph C. Page	Winona	1959	
11	Aitkin	Walter M. Moork	Aitkin	1959	
	Beltrami	Beatrice Haley	Bemidji	1961	
	Cass	Anona Riviere	Walker	1961	
	Clearwater	John O. Hanson	Bagley	1961	
	Crow Wing	Leone Bouck	Brainerd	1959	
	Hubbard	Myrth Komula	Park Rapids	1959	
	Itasca	John E. McMahon	Grand Rapids	1961	
	Koochiching	A. J. Carew	International Falls	1961	
	Lake of the Woods	Belle M. Williams	Baudette	1959	
12	Carver	Albert A. Vojtsek	Chaska	1959	
	LeSueur	Edsel J. Janovsky	LeCenter	1959	
	McLeod	Heston Benson	Glencoe	1959	
	Scott	Hugo P. Hentges	Shakopee	1959	
	Sibley	Arline Maurer	Gaylord	1961	
13	Blue Earth	Harry W. Haedt	Mankato	1961	
	Faribault	Paul Belau	Blue Earth	1961	
	Jackson	John Seim	Jackson	1959	
	Martin	Ardella Koehler	Fairmont	1959	
	Watonwan	Ruth Steel Eppeland	St. James	1959	
14	Dodge	Harry E. Cowles	Mantorville	1959	
	Fillmore	Kerneth J. Hall	Preston	1961	
	Freeborn	Evan K. Wulff	Albert Lea	1961	
	Mower	W. P. Plzak	Austin	1959	
	Rice	Elmer N. Heck	Faribault	1961	
	Steele	Harry Ganser	Owatonna	1961	
	Waseca	Frank S. Papke	Waseca	1961	

APPENDIX 3

MUNICIPAL COURTS

The four classes of municipal courts are:

- (1) Courts organized under special laws;
- (2) Courts organized under L. 1895, c. 229;
- (3) Courts organized under Chapter 488 of the general laws;
- (4) Courts organized under or accepting the provisions of Chapter 488 and taking advantage of the modifications permitted by Section 488.26.

The rules governing the regulation of pleadings, practice, and procedure in the municipal courts in actions of a civil nature effective January 1, 1954, are printed in Minnesota Reports, Volume 237, as a supplement thereto.

Village municipal courts must organize under Chapter 488 or a special law.

Municipality	Judges	Law of Origin
Ada, city	W. C. Ripley	Chapter 488
Adrian, village	H. T. Vanderwaal	Chapter 488
Albert Lea, city	Courtney A. Silfe	Chapter 488
Alexander, city	J. G. Thornton	L. 1895, c. 229
Anoka, city	James Knutson	Chapter 488
Appleton		Section 488.26
Austin, city	Kenneth McMillan	Chapter 488
Baudette, village	Oliver F. Kellogg	Chapter 488
	Ed Brunner	
Bemidji, city	Alfred C. Schmidt	Chapter 488
Bloomington, village	Herbert Wilcox	Chapter 488
	Kingsley Holman	
Brainerd, city	Robt. R. Alderman	L. 1885, c. 116 as amended
Buhl, village	Thos. J. Guidarelli	Chapter 488
Canby, city	O. J. Ostensoe	L. 1895, c. 229
Cass Lake, village	J. E. Lundrigan	Chapter 488
Chisholm, city	Eugene E. Bangs	Chapter 488
Cloquet, city	Ladean A. Overlie	Chapter 488
Columbia Heights, city	Joseph Wargo	Chapter 488
Coon Rapids, village	Thos. T. Forsberg	Chapter 488
Crookston, city	R. A. Peterson	Chapter 488
Crosby, village	Elmer G. Anderson	L. 1913, c. 33
Dawson, city	Harold R. Battershell	L. 1895, c. 229
Detroit Lakes, city	P. F. Schroeder	L. 1895, c. 229
Duluth, city	Runar Erickson	L. 1923, c. 238 as amended
	C. C. Colton	
East Grand Forks, city	Harry Gregg	Chapter 488
Edina, village	Donald Burris	Chapter 488
	Irving C. Iverson	
Ely, city	John W. Somrock	L. 1891, c. 59 as amended
Eveleth, city	Frank Rauner	Chapter 488
	Albert Del Vecchio	
Faribault, city	James H. Caswell	L. 1925, c. 120
Fergus Falls, city	W. Earl Williams	L. 1895, c. 229
Fridley, village	Elmer C. Johnson	Chapter 488
Gaylord, village	R. H. Mathwich	L. 1941, c. 187
Gilbert, village	Carlo R. Paclotti	L. 1915, c. 75
Glencoe, city	Frank T. O'Malley	L. 1895, c. 229
	Geo. C. Gould	
Granite Falls, city	S. N. Knutson	Chapter 488
Hibbing, village	N. S. Chanak	L. 1929, c. 253 as amended
Hopkins, city	Robert P. Harriman	Chapter 488
	K. M. Max Otto	
Hutchinson, city	W. O. McNelly	L. 1895, c. 229
International Falls, city	Mark Abbott	L. 1907, c. 176
Jordan, city	J. M. Schwinger	L. 1895, c. 229
Keewatin, village	Steve G. Greevich	Chapter 488
Lake City, city	John W. Lamb	L. 1895, c. 229
Le Sueur, city	John C. Schmidt	Section 488.26
Little Falls, city	H. M. Braggans	L. 1915, c. 10
Long Prairie, village	Logan O. Scow	Chapter 488
Luverne, city	D. M. Main	Section 488.26
Madison, city	Harold Nelson, Jr.	Section 488.26
Mahnomen, village	Chas. F. Vondra	Ex. L. 1937, c. 72 as amended
Mankato, city	Leslie H. Morse	L. 1927, c. 61
	Norman Nitzkowski	
Marshall, city	A. L. Soucy	Chapter 488
Melrose, city		Chapter 488
Minneapolis, city	Dana Nicholson	Ex. L. 1889, c. 34 as amended
	Luther Sletten	
	Mrs. Betty Washburn	
	Lindsay Arthur	
	Tom Bergin	
Montevideo, city	B. J. Oyen	Chapter 488
Montgomery, city	Frank M. Turek	L. 1895, c. 229
Moorhead, city	Rosco Brown	Special Police Magistrate
Moose Lake, village	R. T. Hart, Jr.	Chapter 488
Morris, city	Clayton A. Gay	Chapter 488
Nashwauk, village	Stanley Saccoman	Chapter 488
New Prague, city	Edw. L. Schmidt	L. 1895, c. 229

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APPENDIX 3. MUNICIPAL COURTS

Municipality	Judges	Law of Origin
New Ulm, city	Ed Nierengarten	Chapter 488
Northfield, city	Asmund H. Ause	Chapter 488
	M. L. Grundhoffer	
North Mankato, city	A. J. Berndt	Chapter 488
	John E. Larson	
Ortonville, city	M. F. McDonald	Chapter 488
Owatonna, city	F. A. Alexander	Chapter 488
Perham, village	J. Kukowski, Jr.	Chapter 488
Pine Island, village	T. C. Coen	Chapter 488
Pipestone, city	T. E. Fellows	L. 1895, c. 229
	M. T. Evans	
Proctor, village	Robert Hubbard	Chapter 488
	D. C. Birch	
Red Wing, city	G. W. Terwilliger	Chapter 488
Redwood Falls, city	C. M. Bakke	L. 1895, c. 229
Richfield, village	J. J. Poitras	Chapter 488
Rochester, city	Irving L. Eckholdt	Chapter 488
	Richard White	
Roseville, village	Jerome E. Franke	Chapter 488
St. Charles, city	S. H. McElhanev	L. 1895, c. 229
St. Cloud, city	Wendell Y. Henning	Ex. L. 1935, c. 88
St. Paul, city	Archie Gingold	Ex. L. 1889, c. 351 as amended
	Edw. D. Mulally	
	J. Jerome Plunkett	
	Leonard J. Keyes	
Sauk Centre, city	Leo Hedin	L. 1895, c. 229
	Arne Anderson	
Shakopee, city	Richard Mertz	L. 1895, c. 229
	John Girgen	
Sleepy Eye, city	Willard Hauser	L. 1895, c. 229
South St. Paul, city	Irving W. Beaudoin	Chapter 488
Springfield, city	Leo Berg	L. 1895, c. 229
Staples, city	L. G. Dunn	Chapter 488
	O. A. Jacobmeyer	
Stillwater, city	W. M. Nolan	L. 1876, c. 200 as amended
Thief River Falls, city	H. O. Chomme	L. 1895 c. 229
	Stanley N. Mortenson	
Tower, city	J. A. Johnson	L. 1929 c. 4 as amended
	Anthony J. Musich	
Tracy, village	Russell Brewster	Section 488.26
Two Harbors, city	Thomas Dwan	Chapter 488
Virginia, city	Frank Rosenmeier	Chapter 488
	Andrew Benkusky	
Waseca, city	Daniel Gallagher	L. 1951, c. 625
Waterville, city	A. F. Schied	L. 1895, c. 229
Wayzata, city	Earle Johnson, Jr.	Chapter 488
West St. Paul, city	J. Jerome Kluck	Chapter 488
Willmar, city	Richard Selvig	Chapter 488
Winona, city	Edw. D. Libera	L. 1885, c. 115 as amended
Worthington, city	Henry Fauske	L. 1895, c. 229

The following counties do not have a municipal court:

Aitkin	Fillmore	Marshall	Renville
Carver	Grant	Martin	Roseau
Cass	Houston	Meeker	Traverse
Chisago	Hubbard	Mille Lacs	Wabasha
Clearwater	Isanti	Murray	Wadena
Cook	Jackson	Nicollet	Watonwan
Cottonwood	Kanabec	Pine	Wilkin
Dodge	Kittson	Pope	Wright
Faribault	Lincoln	Red Lake	

Three counties, Stearns, Benton, and Sherburne, are served by the municipal court at St. Cloud; Big Stone and Lac qui Parle counties by the municipal court at Ortonville; Chippewa and Yellow Medicine by the municipal court at Granite Falls. Spooner is consolidated with Baudette.

MINNESOTA STATUTES 1957

APPENDIX 4. JUDGES OF PROBATE

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APPENDIX 4

JUDGES OF PROBATE

County	Name	Post-Office Address	Term Expires
Aitkin	L. E. Johnson	Aitkin	1963
Anoka	Lawrence J. Green	Anoka	1959
Becker	Geo. W. Peoples	Detroit Lakes	1963
Beltrami	Marcus Reed	Bemidji	1959
Benton	Charles Walker	Foley	1963
Big Stone	Hiram W. Hewitt	Clinton	1959
Blue Earth	Frank E. Morse	Mankato	1959
Brown	William B. Mather, Jr.	New Ulm	1963
Carlton	Ed. J. Johnson	Carlton	1959
Carver	Edward H. Luedloff	Chaska	1959
Cass	A. B. Oliver	Walker	1963
Chippewa	Douglas P. Hunt	Montevideo	1963
Chisago	A. M. Bullis	North Branch	1959
Clay	James A. Garrity	Moorhead	1963
Clearwater	Melvin T. Anderson	Bagley	1963
Cook	James V. Creech	Grand Marais	1963
Cottonwood	Lucille Stahl	Windom	1963
Crow Wing	H. W. Longfellow	Brainerd	1963
Dakota	E. J. Hiniker	Hastings	1963
Dodge	Patrick J. Foley	Kasson	1959
Douglas	Roy C. Wicklund	Alexandria	1963
Faribault	John A. Wasgatt	Blue Earth	1963
Fillmore	George O. Murray	Preston	1959
Freeborn	Norris O. Peterson	Albert Lea	1963
Goodhue	Elmer J. Tomfroh	Red Wing	1963
Grant	Arthur H. Ackerson	Elbow Lake	1963
Hennepin	James G. Kehoe	Minneapolis	1963
Houston	Elmer M. Anderson	Caledonia	1963
Hubbard	Keith L. Kraft	Park Rapids	1963
Isanti	Raymond T. Olsen	Cambridge	1963
Itasca	John W. Gardner	Grand Rapids	1963
Jackson	William G. Kregler	Jackson	1963
Kanabec	Frank M. Ziegler	Mora	1963
Kandiyohi	M. A. Wahlstrand	Willmar	1963
Kittson	C. J. Hemmingson	Hallock	1959
Koochiching	Harvey H. Palmer	International Falls	1959
Lac qui Parle	Theodore Sien	Madison	1963
Lake	Walter Egeland	Two Harbors	1963
Lake of the Woods	C. C. Ortman	Baudette	1959
LeSueur	Ruth Brown	LeCenter	1963
Lincoln	Clinton C. Crumlett	Lake Benton	1963
Lyon	R. N. Anderson	Marshall	1959
McLeod	J. A. Morrison	Hutchinson	1959
Mahnomen	Jerome L. Kersting	Mahnomen	1959
Marshall	O. C. Toftner	Warren	1963
Martin	H. L. Cave	Fairmont	1963
Meeker	Reuben C. Erickson	Litchfield	1963
Mille Lacs	Leonard M. Paulson	Milaca	1963
Morrison	Charles A. Fortier	Little Falls	1959
Mower	Paul Kimball, Jr.	Austin	1959
Murray	G. J. Kolander	Slayton	1959
Nicollet	Sam Abrahamson	St. Peter	1959
Nobles	Vincent Hollaren	Worthington	1963
Norman	Olav E. Vaule	Ada	1959
Olmsted	Thomas J. Scanlan	Rochester	1963
Otter Tail	Frank C. Barnes	Fergus Falls	1959
Pennington	Herman A. Kjos	Thief River Falls	1963
Pine	George E. Sausen	Pine City	1963
Pipestone	Francis O'Neill	Pipestone	1963
Polk	Phillip A. Anderson	Crookston	1959
Pope	Gilman P. Gandrud	Glenwood	1963
Ramsey	Andrew A. Glenn	St. Paul	1963
Red Lake	Glen N. Fellman	Red Lake Falls	1959
Redwood	Donald Crooks	Redwood Falls	1963
Renville	George H. Jacobson	Olivia	1963
Rice	Robert W. Martin	Faribault	1963
Rock	Helga Skyberg	Luverne	1959
Roseau	E. A. Dubore	Roseau	1963
St. Louis	Arthur O. Anselmo	Duluth	1963
Scott	F. J. Connolly	Shakopee	1963
Sherburne	Robert A. Hastings	Elk River	1963
Sibley	William P. Scott	Arlington	1963
Stearns	Earl J. Meinz	St. Cloud	1963
Steele	Bernard McGovern	Owatonna	1963
Stevens	E. L. Cress	Morris	1963
Swift	C. A. Larson	Benson	1963
Todd	Henry F. Prinz	Long Prairie	1959
Traverse	Albin C. Hofstedt	Wheaton	1963
Wabasha	Kenneth Kabrenner	Wabasha	1963
Wadena	Lynn H. Pettit	Wadena	1963
Waseca	John H. McLoone	Waseca	1959
Washington	John T. McDonough	Stillwater	1963
Watowgan	James F. Crowley	St. James	1963
Wilkin	Leo A. Reuther	Breckenridge	1959
Winona	S. D. J. Bruski	Winona	1959
Wright	O. J. Anderson	Buffalo	1963
Yellow Medicine	Wm. Lee	Granite Falls	1963

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APPENDIX 5. UNITED STATES COURTS IN MINNESOTA

APPENDIX 5

UNITED STATES COURTS IN MINNESOTA

UNITED STATES CIRCUIT COURT OF APPEALS (Eighth Circuit) and UNITED STATES DISTRICT COURT

CIRCUIT JUSTICE

Charles E. Whittacker, Associate Justice, United States Supreme Court, Washington, D. C.

CIRCUIT JUDGES (Eighth Circuit)

Archibald K. Gardner (Chief Judge), Aberdeen, S. D. Harvey M. Johnsen, Omaha, Nebr.
John B. Sanborn, St. Paul, Minn. Charles J. Vogel, Fargo, N. D.
Joseph W. Woodrough, Omaha, Nebr. Martin D. Van Oosterhout, Sioux City, Iowa

CLERK OF CIRCUIT COURT Eugene C. Fisher, Acting, St. Louis, Mo.

DISTRICT JUDGES

Gunnar H. Nordbye, Minneapolis, Minn. Robert C. Bell, St. Paul, Minn.
Edward J. Devitt, St. Paul, Minn. Dennis F. Donovan, Duluth, Minn.

CLERK DISTRICT COURT Frank A. Massey, St. Paul, Minn.

CHIEF DEPUTY CLERK OF COURT Kathryn F. O'Connor, St. Paul, Minn.

DEPUTY CLERKS OF COURT

Lawrence R. Tapper, St. Paul, Minn. William H. Eckley, Minneapolis, Minn.
Catherine Murphy, St. Paul, Minn. Gladys A. M. Rippe, Minneapolis, Minn.
Marion G. Hilgert, St. Paul, Minn. Christine H. Orstad, Minneapolis, Minn.
Leona G. Stoddard, St. Paul, Minn. Genevieve A. Smith, Minneapolis, Minn.
Edward J. Drury, St. Paul, Minn. Helen M. Chase, Minneapolis, Minn.
Louise W. Smith, Duluth, Minn. Judith Palmer, Minneapolis, Minn.
Irya Tahtinen, Duluth, Minn. Hazel Gabrielson, Minneapolis, Minn.

UNITED STATES ATTORNEY George E. MacKinnon, St. Paul, Minn.

ASSISTANT UNITED STATES ATTORNEYS

J. Clifford Janes, St. Paul, Minn. Kenneth G. Owens, Minneapolis, Minn.
Hyam Segell, St. Paul, Minn. Connor F. Schmid, Minneapolis, Minn.

DEPARTMENT OF JUSTICE, BUREAU OF INVESTIGATION J. E. Milnes, Special Agent in Charge, Minneapolis, Minn.

UNITED STATES MARSHAL C. Enard Erickson, St. Paul, Minn.

CHIEF DEPUTY UNITED STATES MARSHAL Wm. Thompson, St. Paul, Minn.

TERMS OF COURT—DISTRICT OF MINNESOTA

First Division (Winona): Third Tuesday in May.
Second Division (Mankato): First Tuesday in June.
Third Division (St. Paul): First Tuesday in April and first Tuesday in November.
Fourth Division (Minneapolis): First Tuesday in March and fourth Tuesday in September.
Fifth Division (Duluth): First Tuesday in May and first Tuesday in December.
Sixth Division (Fergus Falls): Third Tuesday in June.

The State of Minnesota constitutes one judicial district, divided into six divisions. The clerk maintains offices in the third (St. Paul), and fourth (Minneapolis), fifth (Duluth) divisions only, and all papers and correspondence relative to cases in those divisions should be mailed to the divisional offices involved. All papers and correspondence relative to cases in the first, second, and sixth divisions should be mailed to the clerk's office at St. Paul. Special terms of court are held at St. Paul (third division) on the fourth Monday of each month except July and August; Minneapolis (fourth division) second Monday of each month except July and August; Duluth (fifth division) first Tuesday in May, first Tuesday in December, and first Friday of each other month except July and August. Special terms of court are held in the other divisions on the opening day of general terms in such divisions.

COUNTIES IN THE DISTRICT

First Division: Dodge, Fillmore, Houston, Mower, Olmsted, Steele, Wabasha, and Winona.
Second Division: Blue Earth, Brown, Cottonwood, Faribault, Freeborn, Jackson, Lac qui Parle, LeSueur, Lincoln, Lyon, Martin, Murray, Nicollet, Nobles, Pipestone, Redwood, Rock, Sibley, Waseca, Watonwan, and Yellow Medicine.

Third Division: Chisago, Dakota, Goodhue, Ramsey, Rice, Scott, and Washington.

Fourth Division: Anoka, Carver, Chippewa, Hennepin, Isanti, Kandiyohi, McLeod, Meeker, Renville, Sherburne, Swift, and Wright.

Fifth Division: Aitkin, Benton, Carlton, Cass, Cook, Crow Wing, Itasca, Kanabec, Koochiching, Lake, Mille Lacs, Morrison, Pine, and St. Louis.

Sixth Division: Becker, Beltrami, Big Stone, Clay, Clearwater, Douglas, Grant, Hubbard, Kittson, Lake of the Woods, Mahanomen, Marshall, Norman, Otter Tail, Pennington, Polk, Pope, Red Lake, Roseau, Stearns, Stevens, Todd, Traverse, Wadena, and Wilkin.

REFEREES IN BANKRUPTCY

James J. Giblin, St. Paul, Minn. George A. Helsey, Minneapolis, Minn.
First, Second, Third, and Sixth Divisions. Fourth and Fifth Divisions.

MASTERS IN CHANCERY

(Masters appointed by the court when deemed necessary)

UNITED STATES COMMISSIONERS

First Division: Richard H. Darby, Winona, Minn.
Second Division: Edward D. McLean, Mankato, Minn.
Third Division: William H. Eckley, Minneapolis, Minn.
Fourth Division: Charles O. Lundquist, Minneapolis, Minn.
Fifth Division: Harvey H. Palmer, International Falls, Minn.
Sixth Division: Frank C. Barnes, Fergus Falls, Minn.
Warren C. Isely, Humboldt, Minn.
Marcus A. Reed, Bemidji, Minn.
Wendell Y. Henning, St. Cloud, Minn.
Locke M. Perkins, Duluth, Minn.

APPENDIX 6

SUPREME COURT RULES

RULE I

CLERK—DUTIES OF. 1. The clerk shall keep a general docket or register in which he shall enter the title of all actions and proceedings including the names of the parties and the attorneys by whom they prosecute or defend, brief notes of all papers filed and all proceedings had therein, the issuing of writs and other process and the return thereof, and all orders and judgments.

2. He shall also keep a judgment book in which he shall enter all judgments, the names of the parties thereto, the date of the judgment, its number, the amount thereof if the recovery of money or damages is included therein, and the amount of costs and disbursements, which record shall be properly indexed.

3. He shall keep a court journal in which he shall enter from day to day brief minutes of all proceedings in court.

4. He shall file all papers presented to him; endorse thereon the style of the action, its number, the character of the paper and date of filing; and after filing no paper shall be taken from his office unless by order of the court or a judge thereof.

RULE II

CERTIORARI; MANDAMUS; TITLE. In this court the title of all cases under review shall be as in the court below. Writs shall issue in the name of the state upon the relation of the petitioner and the title shall be in the form indicated by the following example:

STATE OF MINNESOTA
IN SUPREME COURT

John Jones, Plaintiff and Relator,
vs. Defendant and Respondent,
Johnson Canning Co.,

WRIT

State upon the relation of John Jones to the
Court of.....County, Minnesota, and to the
Honorable.....one of the judges
thereof:

The petition shall definitely and briefly state the judgment, order, or proceeding which is sought to be reviewed and the errors which the relator claims and the writ shall direct a return of the proceedings. Upon receipt of a \$10.00 filing fee the clerk shall file the original petition and order for the writ. The original writ, together with copies of the petition and order shall be served upon the court or judge to whom it is directed and upon the adverse party in interest. The court or judge shall make return thereto. The attendance of counsel on return day is unnecessary.

In certiorari records and briefs shall be printed and served as prescribed by Rule VIII unless the order directing the writ or a subsequent order otherwise provides.

In mandamus records and briefs are not required to be printed, but if they are, the cost thereof may be included as a disbursement in the taxation of costs. If they are not printed, 3 typewritten copies of the petition and briefs shall be filed on or before the return day. No oral argument shall be permitted. Costs and disbursements may be taxed for or against the adversary parties but not for or against any court or judge thereof.

RULE III

CERTIORARI TO INDUSTRIAL COMMISSION, BOARD OF TAX APPEALS, DIVISION OF EMPLOYMENT AND SECURITY; FORMS; SETTLED CASE.

In applying to this court for a writ of certiorari to review a decision of the Industrial Commission the petitioner may use forms substantially as follows:

STATE OF MINNESOTA
IN SUPREME COURT

John Jones, Respondent,
vs. PETITION FOR WRIT OF CERTIORARI
Johnson Canning Co., et al,
Relators.
TO THE SUPREME COURT OF THE STATE OF
MINNESOTA:

The relators above named hereby petition the Supreme Court for a writ of certiorari to review a decision of the Industrial Commission filed....(date)...

upon the grounds that it is not in conformity with the terms of the Workmens Compensation Act and is unwarranted by the evidence.

Dated
(signed).....
Attorneys for relators.
(Address including zone number)

ORDER FOR WRIT OF CERTIORARI

Upon the filing of the foregoing petition, let a writ of certiorari issue as therein prayed for, returnable within 30 days of the issuance thereof.

Dated.....
(signed).....
Chief Justice

As the writ is taken out for service after the petition and order have been filed, it should be placed under a separate cover.

(TITLE) WRIT OF CERTIORARI

You are hereby ordered to return to this court within 30 days from date hereof the record, exhibits and proceedings in the above entitled matter to the end that the decision of the Industrial Commission filed.....(date).....may be reviewed by this court.

Let service of this writ and of the petition herein be made by delivering the original writ and copy of the petition to the secretary of the Industrial Commission and by delivering copies of the writ and petition herein to.....(names and addresses)....., attorneys for respondents.

WITNESS the Honorable Roger L. Dell, Chief Justice of the Supreme Court of the State of Minnesota, and the seal thereof, this.....(date).....

(signed).....
Clerk of Supreme Court

Upon the issuance of a writ the relator, unless otherwise ordered by this court, shall prepare and submit to the adverse parties a proposed settled case for their approval. If approved, a stipulation to that effect shall be entered into by all interested parties. A case, so stipulated to, when approved by the commission shall constitute a settled case. If the parties are unable to agree the relator shall, on not less than five days' notice, apply to the commission for an order settling the case. The party served may in like manner propose amendments thereto within three days thereafter. In either event, the stipulation with the commission's approval or the order of the commission settling the case shall be contained in the printed record. Such record shall be delivered to the commission within the time provided by Minnesota Statutes, Section 176.471, and such printed record, settled in the manner aforesaid, shall constitute the return to this court. All proceedings for the procurement and approval of a settled case shall be as nearly as may be, similar to proceedings on appeal from the district court.

On certiorari to the Division of Employment Security the proposed settled case or the stipulation for settled case shall be approved by the Director or an Assistant Director of the Division of Employment Security.

On certiorari to the board of tax appeals the proposed settled case or the stipulation for settled case shall be approved by a member of the board of tax appeals.

Printed records and briefs shall in all respects conform to Rule VIII of this court except that the printed record shall be served and filed within 30 days from the issuance of the writ.

RULE IV

MOTIONS; EIGHT DAYS' NOTICE. Motions for special relief will be heard on any day in chambers upon eight days' notice given the adverse party, and when not based upon the records and files shall be accompanied by the papers upon which they are founded. No oral argument shall be permitted. The original and three typewritten copies of motion papers and brief in support of or in opposition to the motion shall be filed. All papers, including briefs, which the moving party intends to submit to the court in support of the motion shall be served on opposing counsel at the time of service of the motion papers. All papers, including briefs, in opposition to the motion shall be served on counsel for the moving party within five days thereafter; and if counsel for the moving party wishes, he may serve a reply thereto within two days thereafter.

A \$10.00 filing fee is required for an order to show cause except when issued in a pending case where the statutory fee has been paid. The order to show cause shall fix a return day and shall specify the time for the service and filing of affidavits, counter affidavits

and briefs. The original and three copies of the petition, affidavits, and briefs must be filed. The order to show cause shall be filed immediately after issued and before it is taken out for service. The title of the case shall be as in the court below. No oral argument shall be permitted. The attendance of counsel on the return day is unnecessary.

RULE V

APPELLANT TO FILE ESSENTIAL PARTS OF ORIGINAL RECORD TEN DAYS BEFORE ARGUMENT; PLATS; EXHIBITS; CLERKS TO FURNISH LISTS OF PAPERS AND EXHIBITS; DEFECTIVE RETURN; PROCURING ADDITIONAL PAPERS. Appellant shall designate in writing to the clerk of the lower court what part of the original record he deems essential to the consideration of questions presented on the appeal, and cause return thereof to be made as required by Minnesota Statutes, Sec. 605.04, ten days before the day set for the argument of the cause in this court. When original papers have been prematurely sent to this court they will be returned to the lower court upon the written request of either party.

In cases involving accidents or tracts of land and other cases where a plat of the locus will facilitate an understanding of the facts or of the issues involved, counsel for appellant should assume personal responsibility for having in this court for the purpose of clarifying the oral argument a plat or diagram of sufficient size and distinctness to be visible to all members of this court when placed upon the court's easel. This applies whether or not a plat or diagram was used upon the trial or proceedings in the lower court.

Where practical, such as in accident cases, the requirement for a plat may be met by drawing, immediately prior to the presentation of argument, a suitable diagram on the courtroom blackboard. Dated October 27, 1953.

Counsel will also see that photographic exhibits shall be in court for the oral argument.

FAILURE TO HEED THIS ADMONITION WILL BE DEEMED SUFFICIENT GROUND FOR DENYING STATUTORY COSTS.

All exhibits sent to the clerk of this court shall have endorsed thereon the title of the case to which they belong. All exhibits will be returned to the clerk of the court below with the remittitur. All models will be so returned when necessary on a new trial, but where the decision of this court is final and no new trial is to be had, such models will be destroyed by the clerk of this court unless called for by the parties within 30 days after final decision is rendered.

Whenever a clerk of a lower court shall transmit to this court any original papers, files or exhibits as required by Minnesota Statutes, Sec. 605.04, he shall include therewith full and complete, detailed lists in duplicate of such papers, files and exhibits. The clerk of this court shall, upon receipt of such papers, files and exhibits, receipt to the transmitting clerk therefor.

If the return made by the clerk of the court below is defective and all papers, exhibits, orders or records necessary to an understanding and decision of the case are not transmitted, either party may, on an affidavit specifying the defect or omission, apply to a justice of this court for an order requiring the clerk of the lower court to make further return and supply the defect or omission without delay.

(Note—Lower court does not lose jurisdiction to settle case when appeal has been perfected. See *State ex rel Kelly v. Childress*, 127 Minn. 533, 149 N. W. 550.)

RULE VI

ENDORSEMENT OF RETURN BY CLERK OF THE LOWER COURT. The clerk of the court below shall endorse upon each return to this court the name and post office address of the judge presiding in the lower court and of the attorneys for the respective parties.

RULE VII

ATTORNEYS; GUARDIANS AD LITEM; CONTINUE SUCH ON APPEAL. The attorneys and guardians ad litem of the respective parties in the court below shall be deemed the attorneys and guardians of the same parties, respectively, in this court, until others are retained or appointed and notice thereof served on the adverse party.

RULE VIII

PRINTING, SERVICE AND FILING RECORDS AND BRIEFS; PENALTY. 1. The appellant or party removing a cause to this court shall, within 60 days from the date of service of the notice of appeal upon opposing counsel, serve upon the oppo-

site party the printed record and his brief, and file with the clerk of this court 15 copies of each thereof; and within 30 days from such service upon him the respondent shall serve his brief and file with the clerk 15 copies thereof; except that in all appeals from municipal courts the appellant or party removing a cause to this court shall have only 30 days from the date of the service of the notice of appeal upon opposing counsel within which to serve upon the opposite party and file the printed record and brief, and the respondent shall have only 20 days from such service upon him within which to serve and file his brief. Appellant may reply in typewritten or printed form within ten days thereafter. The reply shall be limited strictly to a concise answer to new points made by respondents. As to form and size typewritten records and briefs shall comply with these rules. The failure of appellant to comply with this rule in respect to printing and serving the record and his brief and filing the same with the clerk of this court within the time stated will be deemed an abandonment of the appeal, and the order or judgment appealed from will be affirmed or the appeal dismissed, as the court may deem proper.

In a criminal case where the trial court certifies a question to this court under the provisions of Minnesota Statutes, Section 632.10, the state shall furnish the record and the first brief in accordance with the preceding paragraph, except that the brief will contain no assignment of errors.

2. The record and briefs must be printed and the folios of the record numbered in the margin. The record shall consist of the pleadings, the findings or verdict, the order or judgment appealed from, the reasons stated by the trial court for the decision, if any, the notice of appeal and in cases where the sufficiency of the evidence is not involved, such abridgment of the settled case as will clearly and fully present the questions arising on the appeal. Even in cases where the sufficiency of the evidence is involved, only that pertinent to the issues to be presented need be printed. (For example, in personal injury cases where the amount of the recovery, if any, is not questioned, the medical and other testimony going only to the nature and extent of the injury should be omitted.) All matters in the return not necessary to a full presentation of the questions raised by the appeal shall be excluded from the printed record, and to that end the material testimony may be printed in narrative form, immaterial parts thereof omitted, and documentary evidence condensed. When the printed record is abridged, appellant shall list in the index the pages and parts of pages omitted from the settled case. At the point of omission in the printed record there shall be an indication as to the pages and parts of pages of the settled case not printed.

If the respondent deems the record so printed not sufficiently full to present properly the merits of the appeal, he may print a supplemental record, or instead in his brief refer to the folios or pages in the settled case, the original of which will be on file in this court, which he deems necessary and important.

3. The brief of appellant shall contain: (Follow skeleton outline of brief at end of these rules.)

(a) A subject index of the contents of the brief, with page references; and a table of the cases (alphabetically arranged), text books, and statutes cited, with references to the pages where they are cited.

(b) A summary of the nature and procedural history of the case stating the relief sought, the date of commencement of the action or proceeding, date of trial or hearing, date and nature of the order or judgment sought to be reviewed, and date of service of the notice of appeal. This statement must make it appear, in cases of appeal, that the order sought to be reviewed is appealable.

(c) A concise general statement of the question or questions involved omitting unnecessary details. This rule is not satisfied by stating the question as it would be stated for an assignment of error. It should be stated as a court, after reading the record and briefs, would state the broad question which is presented for decision. Each question shall be followed by a concise statement as to how the court below answered it, or modified the answer asserted by appellant to be the correct answer.

The questions and statements shall not ordinarily exceed 20 lines, must never exceed one page, and must be printed in type as large as 10 point without other matter appearing on the page.

(d) A concise statement of facts shown by the record so far as relevant to the grounds urged for reversal, modification or other relief. Where it is

claimed that a verdict, finding or decision is not sustained by the evidence, the evidence, if any, tending directly or by reasonable inference, to sustain such verdict, finding or decision, shall be summarized. All statements of fact shall indicate the folio and page of the printed record or settled case where same may be found.

(e) Errors assigned shall be separately and concisely stated and numbered, without repetition, and where a finding of fact is attacked as not sustained by the evidence, it shall be particularly specified.

(f) Citation of the cases claimed to be controlling and decisive of the issues. This does not mean a list of all cases cited. Ordinarily there will be only one or two that can be considered decisive.

(g) In appellant's brief the points urged for reversal, modification or relief shall be separately stated and numbered, and each point so stated and numbered shall be followed by the argument thereon. The law and facts presented on each point shall be clearly stated, with citation of the authorities and statutes relied upon. Quotations must be confined to what is presently relevant. Useless repetition is to be avoided. For example, if, on a given point, one authority is quoted, the others in accord should ordinarily be cited only, without further quotation.

4. It is the duty of counsel for appellant or moving party, in both brief and oral argument, to state the case and facts fairly, with complete candor, and as fully as necessary for consideration of the issues to be presented. In the oral argument the appellant shall precede his statement of facts with a summary of the questions to be raised so that as the facts are stated their relation to the questions presented may at once be obvious. Subject to the foregoing, the arrangement of the brief for respondent, and of the reply and supplemental briefs, if any, should so far as possible conform to that prescribed hereby for the brief of the appellant.

The respondent, if dissatisfied with the statement of facts by the appellant, may restate the facts with folio references. Where the appellant asserts that a verdict, finding or decision is not sustained by the evidence, the respondent shall state the evidence which he regards as tending directly or by reasonable inference to sustain the verdict, finding or decision.

5. Whenever the brief of the prevailing party or the record or supplemental record contains any unnecessary, irrelevant or immaterial matter, he shall not be allowed any disbursements for preparing or printing such unnecessary matter.

The party entitled to object to the taxation of disbursements in such case shall point out—specifying the pages or folios—the particular portions of the record, supplemental record or brief for which he claims the opponent is not entitled to tax disbursements.

6. Corrections on briefs and records must be made prior to filing. Failure to heed this admonition will be deemed sufficient ground for denying statutory costs.

RULE IX

SETTING OF CASES AND NOTICE; RESETTING. Upon the filing of the printed record and appellant's brief each case will be placed on the calendar for argument or submission on briefs, as the case may be, and the clerk will give prompt notice of the date thereof to the respective attorneys. A case may be reset by the court upon a showing of good reasons therefor.

RULE X

RECORD; PRINTING. Records and briefs shall be neatly and legibly printed in leaded small pica or long primer type with black ink on white or cream, opaque, unglazed paper, properly paged at the top and properly folioed at the side, with a margin on the outer edge of the printed page of 1½ inches. The printed page shall be 7 inches long and 3½ inches wide, and the paper page shall be 9 inches long and 7 inches wide. Each brief shall be over the name of the counsel preparing it. Each copy of such brief or record shall be stitched together and there shall be printed on the outside thereof its proper designation, the title of the cause, and on the record the names and addresses of the attorneys for all of the parties and on the brief only the names and addresses of attorneys preparing the same. Every record shall be accompanied by an adequate index of its contents, with particular reference to exhibits, which shall be so designated as to facilitate quick reference thereto.

One-half inch from the top of the cover page of each brief and printed record shall be printed the file number of the case in this court, in black-faced 18 point figures.

The prevailing party shall be allowed as a disbursement the reasonable amount which he has actually paid for printing record or brief.

RULE XI

DEFAULT OF APPELLANT; AFFIRMANCE OR DISMISSAL; CERTIFYING TO COURT BELOW. Respondent may apply to the court for judgment of affirmance or dismissal if the appellant shall fail or neglect to serve and file the printed record and his brief as required by these rules. No reversal will be ordered for the failure of the respondent to appear, unless the record presents reversible error. If appellant is in default for 30 days and respondent does not move for dismissal or affirmance this court will dismiss the appeal without notice and without the allowance of costs and disbursements. In all cases of dismissal of any appeal in this court the clerk shall issue a certified copy of the order of dismissal to the court below.

An appeal to the supreme court can only be dismissed by leave of the court or consent of the respondent. The respondent is entitled to a judgment finally disposing of the merits, and if there is an affirmance of an appeal from an order denying a new trial any questions which might have been raised on such an appeal will be the law of the case or res adjudicata on an appeal from the judgment. The theory of the rule requiring an appellant to make and serve his brief is that it contains his assignment of errors, and the right to claim error in a matter not appearing in such assignment is waived except objections to the jurisdiction of the court below over the subject matter. *Schleuder v. Corey*, 30 Minn. 501. But the dismissal of an appeal from the order denying a new trial does not have the same effect. *Adamson v. Sundby*, 51 Minn. 460. See also *School District v. Aiton*, 175 Minn. 346, 348; *Kozisek v. Brigham*, 183 Minn. 457, 459. See cases cited in *Shepherd's* citations under 30 Minn. 501.

RULE XII

CERTIFYING RECORD; TEMPORARY INJUNCTION IN "LABOR DISPUTE." Upon the certification of a record to this court for review under the provisions of Minnesota Statutes, Section 185.15, the case shall be set for hearing in this court on the first available date and the proceedings in the case shall be given precedence over all other matters except older matters of the same character; and the rules of this court requiring the printing of record and briefs shall not apply to such cases, but typewritten records and briefs of a like number and size as required for printed records may be filed in lieu thereof.

RULE XIII

ORAL ARGUMENT; WHEN ALLOWED. On oral argument the appellant shall open and be entitled to reply.

In the following actions no oral argument is allowed:

1. Actions for the recovery of money only, or for specific personal property, where the amount or the value of the property involved in the appeal shall not exceed \$500.
2. Appeals from orders involving only questions of practice, or forms or rules of pleading.
3. Appeals from the clerk's taxation of costs.
4. Appeals from municipal courts.

In the following actions appellant shall be entitled to 25 minutes in all and respondent to 15 minutes:

1. Actions for the recovery of money only, or for specific personal property, where the amount or value of the property involved in the appeal is more than \$500 but does not exceed \$1000.
2. Cases reviewing decisions of the Industrial Commission, Division of Employment Security, or other administrative bodies except the Board of Tax Appeals.
3. Cases to determine settlement for poor purposes.
4. Divorce cases where only alimony or custody, or both, are involved.

In all other cases appellant shall be entitled to 45 minutes in all and respondent to 30 minutes.

Application for leave to argue a case orally when oral argument is not otherwise permitted, or for an extension of the time allowed for oral argument as prescribed by this rule, may be made in writing at the time of filing the briefs.

Either party may submit a case on his part on his brief, and when no appearance is made on the day of argument, the printed record and briefs being on file, the case will be ordered so submitted.

When any member of the court is not present at the oral argument of a case, such case shall be deemed submitted to such member of the court on the record

and briefs therein and when during the consideration of a case there is a change in the personnel of the court the case shall be deemed submitted to the new member or members on the record and briefs.

RULE XIV

REMITTITUR AS MATTER OF COURSE; MAILING COPY OF DECISION OR ORDER; ENTRY OF JUDGMENT; TRANSMITTING REMITTITUR. Upon the reversal, affirmance, or modification of any order or judgment of a lower court by this court, there will be a remittitur to the lower court unless otherwise ordered. A remittitur shall contain a certified copy of the judgment of this court, sealed with the seal thereof, and signed by the clerk.

When a decision is filed or an order entered determining the cause, the clerk shall mail a copy thereof to the attorneys of the parties, and no judgment shall be entered until the expiration of 10 days thereafter, except that in criminal cases judgment may be entered immediately. The mailing of such copy shall constitute notice of the filing of the decision.

The remittitur shall be transmitted to the clerk of the court below when judgment is entered, unless written objection under Minnesota Statutes, Section 607.02, is made by the prevailing party and filed with the clerk of this court on or before the day set for the taxation of costs and disbursements.

RULE XV

COSTS AND DISBURSEMENTS; PREVAILING PARTY. Unless otherwise ordered the prevailing party shall recover costs as follows: 1. Upon a judgment in his favor on the merits, \$25.00; 2. Upon dismissal, \$10.00. (Who is prevailing party. See *Sanborn v. Webster*, 2 Minn. 277 (323); *Allen v. Jones*, 8 Minn. 172 (202).)

Costs and disbursements in all cases shall be taxed in the first instance by the clerk upon two days' notice, subject to review by the court, and inserted in the judgment. Costs and disbursements shall be taxed within 15 days after the filing of the decision.

Objections to taxation of costs and disbursements must be made in writing and filed. Appeals from the clerk's taxation of costs and disbursements must be served on opposing counsel and filed within six days from the date of the taxation by the clerk.

RULE XVI

JUDGMENT; ENTRY BY LOSING PARTY OR THE CLERK. In case the prevailing party shall neglect to have judgment entered within 15 days after notice of the filing of the opinion or order of the court, the adverse party, or the clerk of this court, may without notice, cause the same to be entered without inserting therein any allowance for costs and disbursements.

RULE XVII

JUDGMENT ROLL; PAPERS CONSTITUTING. In all cases the clerk shall attach together the bond and notice of appeal certified and returned by the clerk of the court below and a certified copy of the judgment of this court, signed by him; and these papers shall constitute the judgment roll.

RULE XVIII

EXECUTION; ISSUANCE AND SATISFACTION. Executions to enforce any judgment of this court may issue to the sheriff of any county in which a transcript of the judgment is filed and docketed. Such executions shall be returnable within 60 days from the receipt thereof by the officer. On the return of an execution satisfied in due form of law the clerk shall make an entry thereof upon the record.

RULE XIX

PROCESS AND WRITS OTHER THAN EXECUTIONS. All other writs and process issuing out of this court shall be signed by the clerk, sealed with the seal of the court, tested of the day when the same issued, and made returnable in accordance with the order of the court.

RULE XX

REHEARING; FILING APPLICATION. Applications for rehearing shall be made on petition setting forth the grounds on which they are made, and filed within ten days after the filing of the decision. They shall be served on the opposing party, who may answer within five days thereafter. A fee of \$5.00 shall accompany all petitions for rehearing.

Nine copies shall be filed. They may be either typewritten or printed, and whether typewritten or printed shall comply with the rules for printed briefs as to size. Typewritten copies must be legible.

The filing of a petition for rehearing stays the entry of judgment in civil cases until the filing of the order of the court thereon. It does not stay the taxation of costs.

RULE XXI

DISCIPLINE OF ATTORNEYS; ACCUSATION; SERVICE; ANSWER; DEFAULT; REFEREE; SETTLED CASE; REINSTATEMENT. Any complaint concerning professional misconduct on the part of any member of the Bar of the State of Minnesota, or any petition for reinstatement, shall be referred to the Practice of Law Committee of the Minnesota State Bar Association for investigation, disposition and report to this court, by such means and under such rules as said committee may from time to time promulgate.

The Practice of Law Committee, acting through its members or its duly constituted representative, is authorized and empowered to present to this court any order to show cause, petition, and accusation, or other pleading charging a member of the Bar of Minnesota with unprofessional conduct in a case where in its opinion and based upon the exercise of its discretion, disciplinary proceedings are warranted, and if this court authorizes disciplinary proceedings in a particular case, thereafter to prosecute and proceed with the handling of the same with diligence and in such manner as to it seems proper.

For the purposes of investigating, handling and prosecuting all complaints and disciplinary matters, including petitions for reinstatement, the State Board of Law Examiners is authorized and empowered to employ such persons as the Practice of Law Committee may from time to time recommend and request, said persons to be employed at a rate not to exceed \$25.00 per diem for a six hour day, plus actual expenses incurred; and the State Board of Law Examiners is authorized, empowered and directed, subject to required approval of vouchers by this court, to make these expenditures and disbursements from its funds now or hereafter to be on deposit to its credit with the State of Minnesota, and to pay therefrom also such other miscellaneous and necessary expenditures as the Practice of Law Committee or its chairman may from time to time incur and certify to as incurred while engaged in the undertaking above.

When a member of the bar of this state is charged with misconduct and a verified accusation and petition praying that he be disciplined is submitted to this court and an order is filed directing respondent to answer, such order and accusation shall be served on respondent by delivering copies thereof to him personally, and if he have a resident guardian appointed for such purpose, to him also; or to a person of suitable age and discretion residing at the house of the usual abode of respondent, whether within or without this state. Such service may be made by the sheriff of the county in which respondent is found; or by any person not a party to, or a complaining witness in such disciplinary proceeding. When respondent is served without the state he shall have 20 days exclusive of the day of service to comply with the order of this court.

When respondent cannot be found, and his place of residence is unknown, and the sheriff of the county in which respondent last resided or practiced law makes a return to that effect, the Practice of Law Committee of the Minnesota State Bar Association, acting through its members or its duly constituted representative, shall file in this court an affidavit setting forth such facts. After the lapse of 30 days the committee may apply to this court for an order suspending respondent from the practice of law. A copy of such order when made and filed shall be mailed to every district judge in this state. Within a reasonable time thereafter respondent may petition this court for vacation of such order and show cause why he should be allowed to answer the accusation.

After service of the accusation and order is made on respondent he shall file in duplicate in this court a plea of not guilty or a verified answer. The answer may contain:

1. A denial of each allegation of the accusation controverted by respondent, or an averment that he has no knowledge or information thereof sufficient to form a belief.
2. A brief statement of any new matter constituting a defense, or any matter in mitigation of discipline.

If the respondent fails to plead or file an answer, upon proof of such facts, he shall be found in default, and an order of discipline will be entered upon the assumption that he is guilty as charged.

When this court appoints a district judge as referee with directions to hear and report the evidence, the referee shall have his official court reporter (appointed pursuant to Minnesota Statutes, Section 486.01), make a stenographic report of all testimony

given and all proceedings had before him as in civil cases. The reporter shall be paid his necessary expense, but no compensation except as hereinafter provided. Upon request of any person interested and payment or tender of his fees therefor, the reporter shall furnish a transcript of such record as in civil cases, pursuant to Minnesota Statutes, Section 486.03, and shall be paid therefor the fee provided for in Minnesota Statutes, Section 486.06. The transcript of testimony shall be made upon paper 9 inches long and 7 inches wide to conform to the size of printed records and briefs in this court. It shall be the duty of the person ordering the transcript to see that the court reporter complies with this rule.

The referee shall make findings of fact which shall be conclusive, unless a case shall be settled in accordance with and within the time limited in Minnesota Statutes, Section 547.05. The party proposing such settled case shall first obtain and pay for a transcript of the testimony or the relevant portions thereof, and deliver the original to the referee and a copy to the adverse party.

All petitions for reinstatement to practice law of attorneys suspended or disbarred shall be served upon the Practice of Law Committee of the Minnesota State Bar Association, the Secretary of the State Board of Law Examiners, the President of the district bar association of the district in which respondent resides, and the President of the State Bar Association. The original petition with proof of service and one copy shall then be filed with the clerk of this court. Objections to the petition, if any, shall be served upon the respondent and filed in duplicate within 40 days after service of the petition.

There shall be a formal hearing before this court on every petition for reinstatement of a lawyer unless the same is waived by the Practice of Law Committee of the Minnesota State Bar Association.

Upon the filing of a verified petition for reinstatement of an attorney suspended or disbarred and after reference thereof to the Practice of Law Committee of the Minnesota State Bar Association and report to this court as herein provided, the court will then determine whether as reference should be had. In the event of a reference, the same procedure shall be followed as in disbarment proceedings.

After a settled case and the findings of fact are filed, the matter shall be heard by this court upon the record, oral arguments, and such printed briefs as the interested parties desire to file. On oral arguments, petitioner will be entitled to 45 minutes and respondent to 30 minutes.

RULE XXII

MODIFICATION AND SUSPENSION OF RULES. Any of these rules may be relaxed or suspended by the court in term or a judge thereof in vacation, in particular cases, as justice may require.

MEMO. 1. Rules do not apply in habeas corpus appeals. Minnesota Statutes, Section 589.30.

2. The use of the supreme court file number of the case on all papers, and when communicating with the court or clerk, will aid greatly in giving prompt service.

3. Rules governing applications for admission to ball when application to trial court is denied, see State v. Russell, 159 Minn. 290, 199 N. W. 750.

SKELETON OUTLINE OF BRIEF

Read Rule VIII, Sec. 3, Subd. (a), (b), (c), (d), (e), (f), (g).

SUBJECT INDEX

	Page
Procedural History of Case.....
Authorities Cited.....
Legal Issues or Questions Involved.....
Statement of Facts.....
Assignment of Errors.....
Citation of Cases Claimed to Be Controlling.....
Argument.....

PROCEDURAL HISTORY

- See Rule VIII, Sec. 3, Subd. (b).
 Tabulate information as follows:
1. Date of commencement of action:.....
 2. Date of commencement of trial:.....
 3. Date of order or judgment appealed from:.....
 4. Date of service of notice of appeal:.....
 5. Nature of action:.....
 6. Nature of order or judgment from which appeal is taken:.....
 7. Relief sought:.....
 8. In addition to above, give in concise form any other essential information as to procedural history.

AUTHORITIES CITED

1. Statutes cited:
2. Minnesota decisions:
3. Decisions of foreign jurisdictions:
4. Textbook and digest references:
 (Show page number where each case, statute, or text reference is cited in your brief.)

LEGAL ISSUES OR ABSTRACT QUESTIONS OF LAW INVOLVED

Do not confuse with assignment of errors. Several errors may involve only one question of law. See Rule VIII, Sec. 3, Subd. (c). See example below.

1. Is an oral lease of real estate for a term of one year, to commence in futuro, within the statute of frauds?
 Lower court held: In affirmative (or negative as case may be).
2. Is the taking of possession by the purchaser under oral contract for the purchase of land, coupled with the making of part payment of the purchase price, in reliance upon and with unequivocal reference to the vendor-vendee relationship, without proof of irreparable injury through fraud, sufficient to avoid the statute of frauds?
 Lower court held: In affirmative (or negative as case may be).

PLEASE NOTE, STATEMENT OF LEGAL QUESTIONS SHOULD RARELY EXCEED 20 LINES AND MUST NEVER EXCEED ONE PAGE, AND MUST BE PRINTED IN TYPE AS LARGE AS 10 POINT WITHOUT OTHER MATTER APPEARING ON THE PAGE.

STATEMENT OF FACTS

Be concise and follow instructions in Rule VIII, Sec. 3, Subd. (d).

ASSIGNMENT OF ERRORS

Errors should be separately and concisely stated and numbered, without repetition. Where a finding of fact is challenged as not sustained by the evidence, it shall be particularly specified.

CITATION OF CONTROLLING CASES

Appellant (or respondent as case may be) claims that the following case (or cases) is (are) controlling and decisive of the issues herein: (Do not here give a duplicate list of all the cases cited. Ordinarily there will be only one or two decisions that can be considered decisive.)

ARGUMENT

Divide your argument into divisions or sections to correspond to the issues or fundamental questions of law involved. Under each issue brief the point urged for reversal.

APPENDIX 7

DISTRICT COURT RULES

CODE OF RULES

for the

DISTRICT COURT OF MINNESOTA

As adopted by the District Judges pursuant to section 484.33, as amended.

PART I. GENERAL RULES

PART II. RULES FOR REGISTRATION OF LAND TITLES

PART I

General Rules

RULE 1

ACTIONS BY REPRESENTATIVES; ATTORNEY'S FEES. In actions for personal injury or death by wrongful act, brought by persons acting in a representative capacity, contracts for attorney's fees shall not be regarded as determinative of fees to be allowed by the court.

RULE 2

ACTIONS FOR DEATH BY WRONGFUL ACT. Every application for the appointment of a trustee of a claim for death by wrongful act under section 573.02, shall be made by the verified petition of at least one heir of the decedent. The petition shall show the dates and places of the decedent's birth and death; his address at the time of his death; the name, age and address of each of his heirs; and the name, age, occupation and address of the proposed trustee. The petition shall also show whether or not any previous application has been made in any court for the appointment of a trustee for such claim, and if a previous application has been made, the facts with reference thereto and its disposition shall also be stated. The written consent of the proposed trustee to act as such shall be endorsed on or filed with such petition.

The petition will be heard upon such notice, given in such form and in such manner and upon such persons as may be determined by the court, unless waived by all heirs or the court.

The petition, any order entered thereon, and the trustee's oath, will be entitled: "In the matter of the appointment of a trustee for the heirs of _____, decedent."

If the trustee, after his appointment and qualification, commences an action for death by wrongful act in the District Court of his appointment, the summons and complaint when filed will be given the same file number as the petition and order for the trustee's appointment. If the venue of such action be later changed to another county of the State of Minnesota, jurisdiction over the trust will thereupon be transferred in the same file to the District Court of that county.

If the trustee, after his appointment and qualification, commences an action in the District Court of a county other than that in which he was appointed, a certified copy of the petition, the order entered thereon and the oath shall be filed in the District Court where such action be commenced, at the time the summons and complaint are filed therein, and jurisdiction over the trust will thereupon be transferred to such District Court.

Application for the distribution of money recovered under section 573.02 shall be by verified petition of the trustee. Such petition shall show the amount which has been received upon action or settlement; a detailed statement of disbursements paid or incurred, if any; the amount, if any, claimed for services of the trustee and of his attorney; the amount of the funeral expenses and of demands for the support of the decedent; the name, age and address of each heir and the share to which each is entitled.

If an action were commenced, such petition shall be heard by the court in which the action was tried, or in the case of a settlement, by the court in which the action was pending at the time of settlement. If an action were not commenced, the petition shall be heard by the court in which the trustee was appointed.

The petition will be heard upon such notice, given in such form and in such manner and upon such persons as may be determined by the court, unless waived by all heirs or the court.

The court by order, or by decree of distribution, will direct distribution of the money to the persons

entitled thereto by law. Upon the filing of a receipt from each distributee for the amount assigned to him, the trustee shall be discharged.

The foregoing procedure will, so far as can be applicable, also govern the distribution of money recovered by personal representatives under the Federal Employers' Liability Act (45 U.S.C.A. 51) and under section 219.77.

RULE 3

ACTION ON BEHALF OF MINORS; SETTLEMENT. (a) In making application for the approval of a settlement of any action brought on behalf of a minor child, the parent or guardian ad litem shall present to the court:

(1) A verified petition, stating the age of the minor, the nature of the action, if for personal injuries to what extent the minor has recovered therefrom, the reasons justifying the proposed settlement, the expenses which it is proposed to pay out of the amount to be received, the nature and extent of the services rendered by the attorney representing the minor, whether or not an action has been commenced on behalf of the parent or guardian, and, if so, what settlement, if any, has been made in that action, with itemized expenses incurred on behalf of the minor;

(2) Satisfactory evidence that the settlement is for the best interest of the minor;

(3) If the action be for personal injuries, an affidavit of the attending physician showing the nature, extent, and probable duration of the injuries caused by the accident, and the extent of the recovery which has been made therefrom at the time of the presentation of the application.

The minor shall appear before the court at the time the application is made, and no order approving any settlement shall be made where the action is one for personal injuries until the court has seen and had an opportunity to examine the minor.

Before any parent or guardian ad litem in any such action shall receive any money, he shall file a bond in an amount and with such sureties as shall be approved by the court, running to the minor as obligee, and conditioned that he will duly account for and pay over the sum received for the benefit of such minor to said minor upon his coming of age, or to his general guardian during his minority, if one shall be appointed; provided, that upon petition of said parent, the court may, in its discretion, order that in lieu of such bond any money so received shall be deposited as a savings account in a banking institution or trust company, together with a copy of the court's order, and the deposit book filed with the clerk of court, subject to the order of the court; and no settlement or compromise of any such action shall be valid unless the same shall be approved by a judge of the court in which such action is pending.

Unless otherwise ordered, application for approval of such settlement may be made ex parte.

(b) In applications for approval of settlement of an action brought under section 540.06 or section 540.08 on behalf of a minor child or ward, when settlement is approved by the court, attorney fees will not be allowed in any amount in excess of 25 percent of the recovery unless there has been a trial on the merits in which event the court may allow a larger amount but not to exceed 33 1/3 percent of the recovery. No other deductions may be made from the settlement, except under special circumstances upon proper allowance by the judge approving the settlement.

(c) Stipulations for judgment shall be deemed settlements within the meaning of this rule. (Adopted at annual meeting of district court judges held in Minneapolis on July 5-6, 1932, and June 21, 1949.)

RULE 4

ATTORNEYS AS SURETIES. No practicing attorney shall be accepted as surety on a bond or undertaking required by law.

RULE 5

BANKS IN LIQUIDATION, SALE OF ASSETS, FINAL DIVIDENDS. Petitions for orders approving the sale or compounding of doubtful debts, or the sale of real or personal property, or authorizing a final dividend, of any bank, state or national, in liquidation, shall be heard after notice of all interested persons given as herein provided.

Upon the filing of the petition, the court shall enter an order reciting the substance of the petition and the time and place for hearing thereon, and advising all interested persons of their right to be heard.

A copy of the order shall be published once in a legal newspaper published near the location of the bank in liquidation, which publication shall be made at least ten days prior to the time fixed for the hearing; or the court may direct notice to be given by such other method as it shall deem proper. If it shall appear to the court that delay may prejudice the rights of those interested, the giving of notice may be dispensed with.

RULE 6

CONTINUANCE. No civil case on the general term calendar shall be continued by consent of counsel only, or otherwise than by order of the court for cause shown; provided that in counties having an assignment clerk the special rules of such county shall govern.

RULE 7

COSTS, GRANTING OR DENYING A MOTION. On granting or denying a motion the court may award costs, not exceeding \$25, which, in the discretion of the court, may be absolute or to abide the event of the action.

RULE 8

DEPOSITIONS. Commissions to take testimony without the state may be issued on notice and application to the court either in term time or in vacation. Within five days after the entry of the order for a commission the party applying therefor shall serve a copy of the interrogatories proposed by him on the opposite party. Within five days thereafter the opposite party may serve cross-interrogatories. After the expiration of the time for serving cross-interrogatories, either party may within five days give five days' notice of settlement of interrogatories before the court. If no such notice be given within five days, the interrogatories and cross-interrogatories, if any have been served, shall be settled by the court. When a commission is applied for and the other party wishes to join therein, interrogatories and cross-interrogatories to be propounded to his witnesses may be served and settled or adopted within the same time and in the same manner as those to the witnesses of the party applying. After the interrogatories are settled, they shall be engrossed and numbered by the party proposing the interrogatories in chief; and the engrossed copy or copies shall be signed by the officer settling the same, annexed to the commission and forwarded to the commissioner. If the interrogatories and cross-interrogatories are adopted without settlement, engrossed copies need not be made, but the originals or copies served may be annexed and forwarded immediately with the commission.

RULE 9

DIVORCE ACTIONS. (a) Every application for temporary alimony, support, custody of children, attorneys' fees and disbursements, or for similar relief prior to trial, the notice of hearing thereon, the affidavit opposing such application, and the order thereon shall be in the following form so far as may be applicable.

STATE OF MINNESOTA COUNTY OF _____

Plaintiff,

v.

APPLICATION FOR TEMPORARY ALIMONY, ETC.

Defendant.

DISTRICT COURT JUDICIAL DISTRICT _____ File No. _____

STATE OF MINNESOTA COUNTY OF _____

_____, the plaintiff-defendant herein, being first duly sworn, respectfully represents to the court that:

- 1. The parties were married on _____; the wife's age is _____; the husband's age is _____.
2. The parties have been separated _____ months, during which the husband has paid \$_____ to the wife.
3. (a) There are _____ children of the parties, aged _____, _____, _____, _____, years now in custody of the wife-husband at _____.
(b) For the best interests of the children, they should be in custody of the husband-wife.
(c) The husband-wife has _____ minor children of a prior marriage.

- 4. The property of the parties, its market value and encumbrances are:

Table with columns: Item, Market Value, Husband's, Wife's, Joint Tenancy, Encumbrances. Rows include Homestead, Other realty, Household goods, Automobiles, Stocks, bonds, notes, Cash and bank credits, Claims, accounts receivable, etc., Total.

- 5. (a) Unsecured debts of husband only not included above \$_____
(b) Unsecured debts of wife only not included above \$_____
(c) Unsecured joint debts not included above \$_____

- 6. The necessary weekly-monthly expenses are:

Table with columns: Item, Husband's, Wife's, Children's (If Separate). Rows include Rent, Realty taxes, Realty contract payments, Personality contract payments, Fuel, Food, Utilities, Insurance, Clothing, Transportation, Medical and Dental, Total.

- 7. The family home contains _____ bedrooms; is owned-rented by the parties; and is now occupied by _____.
8. (a) Husband's total weekly-monthly income after deductions is \$_____
(b) Wife's total weekly-monthly income after deductions is \$_____
(c) Children's total weekly-monthly income after deductions is \$_____
9. (a) A reasonable amount for support for _____ children is per week-month \$_____
(b) A reasonable amount for temporary alimony is \$_____ per week-month.
(c) The dates for payment should be _____.
(d) Husband's weekly-monthly necessary living expenses will be \$_____.
10. \$_____ has been paid on wife's attorney's fees and disbursements.
11. \$_____ has been paid on husband's attorney's fees and disbursements.
12. \$_____ is reasonable for wife's temporary attorney's fees plus \$_____ for disbursements.

13. Additional Material Facts:

WHEREFORE, the applicant prays for an order granting such relief prior to trial as may be just and lawful.

Subscribed and sworn to before me this _____ day of _____, 19_____

Plaintiff-Defendant Notary Public, _____ County, Minn. My commission expires _____ STATE OF MINNESOTA COUNTY OF _____

Plaintiff,

vs.

Defendant.

DISTRICT COURT JUDICIAL DISTRICT _____ File No. _____

Notice of Hearing Application for Temporary Alimony, etc.

To The Above Named Defendant-Plaintiff Notice is hereby given that the foregoing application will be heard and that the applicant will move,

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APPENDIX 7. DISTRICT COURT RULES

upon the grounds therein stated, for an order granting relief therein prayed for, before the above named court — at a Special Term thereof — in Chambers — in — Room No. —, Court House, —, Minnesota, on —, 19—, at — o'clock — M., or as soon thereafter as counsel can be heard.

Attorney for Plaintiff-Defendant
Address _____
Phone No. _____

Caveat. The application will not be heard until after it and proof of service of it and of the notice have been filed with the clerk, and the entire file presented to the court. Upon the initial filing, the clerk's file number must be obtained and thereafter typewritten on each subsequent document.

STATE OF MINNESOTA
COUNTY OF _____

_____, Plaintiff,
vs. _____ Defendant.

DISTRICT COURT
JUDICIAL DISTRICT
File No. _____
ORDER FOR

TEMPORARY ALIMONY, ETC.

An application having been duly made for relief prior to trial, such application having duly come on for hearing on —, 19—, before the undersigned judge of the above named court, and the matter having been duly submitted; —, Esq., appearing in support of the application and —, Esq., in opposition thereto;

It Is Ordered:

1. That the defendant-plaintiff pay to plaintiff-defendant, the following at the times, for the purposes, and in the manner specified:

\$ — for temporary attorney's fees payable —

\$ — for disbursements herein payable —

\$ — per week-month for alimony payable —

\$ — per week-month for support of the children payable —

2. That the custody of the minor children is awarded temporarily to the plaintiff-defendant, subject to reasonable visitation by the defendant-plaintiff —

3. That the plaintiff and defendant and their agents and servants are, and each is, enjoined and restrained from:

(a) doing, or attempting to do, any act of injuring, maltreating or vilifying the adverse party, or any of the children, or otherwise molesting any of them in any way.

District Judge

Dated —, 19—

(b) No action for divorce based upon incurable insanity shall be heard until a general guardian of the person of the defendant (or a guardian ad litem when the appointment of a general guardian appears impracticable) shall have been appointed, and service of the summons and notice of the pendency of the action shall have been made upon such guardian, upon defendant's nearest blood relative, and upon the superintendent of the institution in which the defendant is confined. If from the sheriff's return and the proofs submitted it shall appear to the satisfaction of the court that personal service cannot be made upon the nearest blood relative of the defendant, then upon order of the court the summons and notice of the pendency of the action shall be served upon such nearest blood relative in the manner and as directed by the court; and no hearing in any such case shall be had until after the lapse of 30 days from the time of such service.

(c) Orders for publication of summons in actions for divorce will be granted only upon an affidavit of the plaintiff made as provided by statute and showing specifically what efforts have been made to ascertain the residence of the defendant for the purpose of making personal service.

RULE 10

EX PARTE ORDERS. No order shall be made ex parte unless there shall be presented with the application therefor an affidavit showing whether any previous application has been made for the order requested, or for a similar order; and if there has been a previous application, to what court or judge it was

made, and the determination made thereof, and what new facts, if any, are shown upon such subsequent application that were not previously shown. For a failure to comply with the provisions of this rule, the order made on subsequent application may be vacated.

RULE 11

EXPERT WITNESS FEES. In taxation of costs in civil cases a fee of \$10 per day may be allowed for expert witnesses. Under special circumstances such fee may be increased in the discretion of the court, but not to exceed \$50 per day. The skill of the expert and the time required to attend court and testify may be considered by the judge in determining whether such special circumstances exist.

RULE 12

FILING PAPERS. (a) All affidavits, notices, and other papers designed to be used in any cause shall be filed with the clerk prior to the hearing of the cause unless otherwise directed by the court.

(b) All orders, together with the affidavits and other papers upon which the same are based, which orders are not required to be served, shall be filed forthwith in the office of the clerk. Orders required to be served shall be so filed within three days after the service thereof, and, unless seasonably served and filed, may be vacated.

(c) All orders and findings, whether prepared by the judge or by counsel by direction of the judge, shall be typewritten in manifold; and when the original is filed a copy shall be furnished to each attorney or firm of attorneys appearing in the case. The observance of this rule shall not be deemed a substitute for statutory notice of the filing of a decision or order.

(d) No papers on file in a cause shall be taken from the custody of the clerk otherwise than upon order of the court.

(e) When judgment is entered in an action upon a promissory note, draft, or bill of exchange under the provisions of section 544.07 such promissory note, draft, or bill of exchange shall be filed with the clerk and made a part of the files of the action.

RULE 13

FORM OF PAPERS. (a) On process or papers to be served the attorney or a party appearing in person, besides subscribing or indorsing his name, shall add thereto the name of the city, town, or village in which he resides, and the particular location of his place of business by street, number, or otherwise; and if he shall neglect to do so, papers may be served on him through the mail, by directing them according to the best information concerning his residence conveniently available.

(b) The attorney or other officer of the court who prepares any pleading, affidavit, case, bill of exceptions, or report, decree, or judgment, exceeding two folios in length, shall distinctly number and mark each folio of 100 words in the margin thereof, or shall number the pages and the lines upon each page; and all copies either for the parties or the court shall be numbered and marked so as to conform to the originals. All typewritten matter shall be carefully and legibly typed on plain, unglazed, white paper of good texture, made with well inked ribbon and carbon, and shall be double spaced. Any pleading, affidavit, bill of exceptions, or case not thus prepared may be returned by the party on whom the same is served or by the court.

(c) All pleadings and other papers filed shall be plainly endorsed on the outside thereof with the title of the case, matter, or proceedings in which they are so filed; and the name or character of the paper shall be endorsed thereon below the title, so that the same may be clearly identified without opening; and the clerk may refuse to receive for filing any paper not so endorsed.

RULE 14

FRAMING ISSUES. In cases where the trial of issues of fact by a jury is not required by section 546.03, if either party shall desire a trial by jury, such party shall, within ten days after issue joined, give notice of a motion to be made upon the pleadings that the whole issue, or any specific question of fact involved therein, be tried by a jury. With the notice of motion shall be served a distinct and brief statement of the questions of fact proposed to be submitted to the jury for trial, in proper form to be incorporated in the order, and the judge may settle the issues, or may appoint a referee to settle the same. The judge, in his discretion, may thereupon make an order for trial by jury, setting forth the questions of fact as settled, and such questions only shall be tried by the jury, subject to the right of the

court to allow an amendment of such issues upon the trial in like manner as pleadings may be amended upon trial.

RULE 15

GARNISHMENTS. (a) Garnishments or attachments shall not be discharged through a personal bond under section 571.30 without one day's written notice of the application therefor to the adverse party; but if a surety company's bond is given, notice shall not be required.

(b) Judgment against a garnishee shall be entered only upon notice to the garnishee and the defendant, if known to be within the jurisdiction of the court, showing the date and amount of the judgment against the defendant, and the amount for which plaintiff proposes to enter judgment against the garnishee after deducting such fees and allowances as the garnishee is entitled to receive. If the garnishee appears and secures a reduction of the proposed judgment, the court may make an appropriate allowance for fees and expenses incurred to such appearance.

RULE 16

ILLEGITIMACY PROCEEDINGS. Upon certification to and filing of record in the district court of any proceeding to determine the paternity of an illegitimate child, the clerk shall immediately notify by mail the director of social welfare of the pendency of the proceedings.

RULE 17

JUDGMENT, ENTRY BY ADVERSE PARTY. When a party is entitled to have judgment entered in his favor upon the verdict of a jury, report of a referee, or decision or finding of the court, and neglects to enter the same for ten days after the rendition of the verdict or notice of the filing of the report, decision, or finding; or, in case a stay has been ordered, for ten days after the expiration of such stay, the opposite party may cause judgment to be entered on five days' notice to the party entitled thereto.

RULE 18

MECHANIC'S LIEN, INTERVENTION. Leave to intervene in an action to foreclose a mechanic's lien shall be granted only on motion and notice to the owner of the land sought to be charged.

RULE 19

NE EXEAT. Upon the allowance of a writ of ne exeat the court shall require an undertaking or bond in the penal sum of not less than \$250.00, to be approved by the court. Such bond shall be conditioned upon payment to the party detained of such damages as he may sustain by reason of the writ, if the court shall eventually decide that the party applying was not entitled thereto.

RULE 20

NOTICE OF MOTION. Rule 20, to extent inconsistent, is superseded, in respect of Practice and Procedure in the District Courts, by Rule 7.02 of the Rules of Civil Procedure.

RULE 21

ORDER TO SHOW CAUSE. When a motion can be made upon notice, an order to show cause will not be granted, except upon showing of some exigency whereby delay for the time prescribed for the notice of motion will cause injury, or render the relief sought ineffectual.

Such exigency must also be stated in the order as ground for shortening the notice; and if on the hearing it appears that there was no such ground, the order may be discharged.

Such order must be accompanied by notice of motion setting forth the grounds on which the relief asked is sought, and substantially in the ordinary form of such notices, except that the time of hearing, if mentioned in the notice otherwise than by reference to the order, shall be the time fixed by the order, the only scope of the order in such case being to shorten and fix the time for hearing the motion.

RULE 22

PLEADINGS. (a) In all cases where application is made for leave to amend a pleading or for leave to answer or reply after the time limited by statute, or to open a judgment and for leave to answer and defend, such application shall be accompanied with a copy of the proposed amendment, answer, or reply, as the case may be, and an affidavit of merits and be served on the opposite party.

(b) In an affidavit of merits made by the party the affiant shall state that he has fully and fairly stated the facts in the case to his counsel, that he has a good and substantial defense or cause of action on the merits, as he is advised by his counsel after such statement and verily believes true; and he shall give the name and place of residence of such counsel.

An affidavit shall be made by counsel, who shall state therein that from the showing of the facts made to him by the party he verily believes that such party has a good and substantial defense or cause of action on the merits.

Pleadings. NOTE: Rule 22 (c), (d), to extent inconsistent, is superseded, in respect to Practice and Procedure in the District Courts, by Rules 7.01, 10.02, 12.02, of the Rules of Civil Procedure.

RULE 23

RECEIVERS. (a) All actions or proceedings for the sequestration of the property of corporations or for the appointment of receivers thereof, except actions or proceedings instituted by the attorney general in behalf of the state, shall be instituted in the county in which the principal place of business of said corporation is situated; provided, that if the action is not instituted in the proper county, for the convenience of witnesses and to promote the ends of justice, the venue may be changed by order of court.

(b) Receivers, trustees, guardians, and others appointed by the court to aid in the administration of justice shall be wholly impartial and indifferent to all parties in interest, and selected with a view solely to their character and fitness. Except by consent of all parties interested, or where it clearly appears that prejudice will otherwise result, no person who is or has been during the preceding year a stockholder, director, or officer of a corporation shall be appointed as receiver for such corporation. Receivers shall be appointed only upon notice to interested parties, such notice to be given in the manner ordered by the court; but if it shall be clearly shown that an emergency exists requiring the immediate appointment of a temporary receiver, such appointment may be made *ex parte*.

(c) Every receiver after his appointment shall give a bond to be approved by the court in such sum and conditioned as the court shall direct, and shall make and file with the clerk an inventory and estimated valuation of the assets of the estate in his hands; and, unless otherwise ordered, appraisers shall then be appointed and their compensation fixed by order of the court.

(d) Claims of creditors of corporations, the subject of sequestration or receivership proceedings, shall be duly verified and filed in the office of the clerk of court. The court, by order, shall fix the time for presentation, examination, and adjustment of claims and the time for objecting thereto, and the order shall be published as therein directed. Written objection to the allowance of any claim may be made by any party to the proceeding by serving a copy of such objection upon the claimant or his attorney. Where no objection is made within the time fixed by said order, the claim may stand admitted and be allowed without proof. Issues of law and fact shall be tried as in other cases.

(e) Every receiver shall file an annual inventory and report showing the condition of the estate in his hands and a summary of his proceedings to date. The clerk shall keep a list of receiverships and notify such receiver and the court when such reports are due.

(f) When an attorney has been appointed receiver, no attorney for such receiver shall be employed except upon the order of the court, which shall be granted only upon the petition of the receiver, stating the name of counsel whom he wishes to employ and showing the necessity for such employment.

(g) No receiver shall employ more than one counsel, except under special circumstances requiring the employment of additional counsel; and in such case only after an order of court made on a petition showing such circumstance, and on notice to the party or person on whose behalf or application the receiver was appointed. No allowance shall be made to any receiver for expenses paid or incurred in violation of this rule.

(h) No receiver or other trustee appointed by the court, nor any attorney acting for such receiver or trustee, shall withdraw or use any trust funds to apply on his compensation for services except on written order of court, duly made after such notice as the court may direct, and filed in the proceeding.

(i) All applications for the allowance of fees to receivers and their attorneys shall be accompanied by an itemized statement of the services performed and the amount charged for each item shown.

Compensation of receivers and their attorneys shall be allowed only upon the order of the court after such notice to creditors and others interested as the court shall direct, of the amounts claimed as compensation

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and of the time and place of hearing the application for their allowance.

(j) Every receiver shall take a receipt for all disbursements made by him in excess of \$1.00, shall file the same with his final account, and shall recite such filing in his verified petition for the allowance of such account.

RULE 24

RESTRAINING ORDER, BOND. Before any restraining order shall be issued, except in aid of writs of execution or replevin, or in actions for divorce, the applicant shall give a bond in the penal sum of at least \$250.00, executed by him or by some person for him as a principal, approved by the court and conditioned for the payment to the party restrained of such damages as he shall sustain by reason of the order, if the court finally decides that the applicant was not entitled thereto.

RULE 25

SERVICE, ADMISSION OF ATTORNEY. Rule 25 is superseded in respect of Practice and Procedure in the District Courts by Rule 5.02 of the Rules of Civil Procedure.

RULE 26

STAY. Rule 26 is superseded, in respect of Practice and Procedure in the District Courts by Rule 58.02 of the Rules of Civil Procedure.

RULE 27

TRIALS. (a) The presiding judge shall examine jurors in civil cases; his examination to be followed by such further inquiry by counsel as the judge may deem proper.

(b) In civil cases called for trial by jury the court at the request of any party to the action may direct the clerk to draw 18 names from the jury box in the first instance, and the said 18 shall then be examined as to their qualifications to sit as jurors in the action; and if any of them be excused another shall be called in his place until there shall be 18 jurors in the box qualified to sit in the action; and the parties shall have the right to exercise their peremptory challenges as to those 18. When the peremptory challenges have been exercised, of those remaining the 12 first called into the jury box shall constitute the jury. In appropriate cases this rule may be modified in accordance with sections 546.10 and 593.15.

(c) Counsel on each side, in opening his case to the jury, shall confine himself to stating the facts which he proposes to prove.

(d) On the trial of actions but one counsel on each side shall examine or cross-examine a witness, and one counsel only on each side shall sum up the case to the jury, unless the judge shall otherwise order.

(e) In criminal trials involving sex offenses or in which the evidence is likely to be of a scandalous nature the court may, with the consent of the defendant, exclude the general public from the court room.

(f) Exceptions to remarks by counsel either in the opening statement to the jury or in the closing argument shall be taken while such statement or argument is in progress unless the same is being taken down in full by the court reporter, in which case exceptions taken at the close of the statement or argument shall be deemed reasonable. The services of the court reporter shall be at the expense of the party desiring it, which shall not be taxable as costs. (Adopted at annual meeting of district court judges held in Minneapolis on July 5-6, 1932.)

RULE 28

TRUSTEES, ANNUAL ACCOUNT. Every trustee subject to the jurisdiction of the district court shall file an annual account, duly verified, of his trusteeship. Such account shall contain an itemized statement of all trust property in the hands or under the control of the trustee since the beginning of the trusteeship or since the time of last settlement; also a statement of all expenditures and investments and a statement in detail of what remains in the hands or under the control of the trustee, with the estimated value of each item thereof. There shall also be filed proof of mailing of such account or of the service thereof upon all beneficiaries or their natural or legal guardians.

The clerk shall keep a list of trusteeships and notify each trustee and the court when such annual accounts are overdue for more than 90 days.

Hearings upon annual accounts may be ordered upon the request of any interested party.

Upon the filing of a final account the court shall fix a time and place for the hearing and auditing thereof, and notice of such hearing shall be given to

all interested parties in conformity with Sec. 8100-13, Mason's 1940 Supplement. Like notice shall be given of hearings on annual or interim accounts.

RULE 29

VENUE, CHANGE. A change of venue shall not be granted under the provisions of section 542.11 unless the party applying therefor uses due diligence to procure the same within a reasonable time after issue has been joined in the action and the ground for the change has come to the knowledge of the applicant. Nor shall a change be granted where the other party will lose the benefit of a term, unless the party asking for such change shall move therefor at the earliest reasonable opportunity after issue has been joined and he has information of the ground of such change.

RULE 30

DIVORCE ACTIONS, SERVICE. In every action for divorce brought against a foreign national, in which summons and complaint are not served by handing the same to the defendant within the continental United States, the attorney for plaintiff shall be requested forthwith, upon the commencement of such action, to notify the nearest consul or vice-consul of the country of which defendant is a national of the title and venue of such action, the manner in which jurisdiction was acquired and the date thereof and shall upon request furnish a copy of such summons and complaint or permit a copy thereof to be made.

RULE 31

CIVIL JURY CASES IN WHICH INSURANCE COMPANY INTERESTED IN DEFENSE OR OUTCOME OF ACTION—EXAMINATION OF JURORS. In all civil jury cases, in which an insurance company or companies are not parties, but are interested in the defense or outcome of the action, counsel for such company or companies may, and upon request of the presiding Judge shall, disclose the name of such company or companies to opposing counsel, out of the hearing of the jury, as well as the name of the local agent of such companies. When so disclosed, no inquiry shall be permitted by counsel as to such names in the hearing of the jury, nor shall disclosure be made to the jury that such insurance company is interested in the action.

In the examination of the jurors by counsel as to their qualifications, the jurors may be asked collectively whether any of them have any interest as policyholders, stockholders, officers, agents or otherwise in the insurance company or companies interested, but such question shall not be repeated to each individual juror. If none of the jurors indicate any such interest in the company or companies involved, then no further inquiry shall be permitted with reference thereto.

If any of the jurors manifest an interest in any of the companies involved, then counsel may further inquire of such juror or jurors as to his or their interest in such company, including any relationship or connection with the local agent of such interested company, to determine whether such interests or relationship disqualifies such juror.

The presiding Judge, in his discretion, may examine the jurors on this feature of the case and not permit counsel to do so.

UNIFORM DECORUM IN THE DISTRICT COURT OF MINNESOTA COURTROOM

1. The flag of the United States shall at all times while court is in session be displayed on or in close proximity to the bench.

2. A courtroom is a temple of justice—unseemly conduct therein at any time is in poor taste. Tobacco in any form shall not be used; hats and overcoats should be removed at all times before entering the courtroom; dignity and solemnity of both judges and attorneys should be maintained in the courtroom at all times.

3. There shall be no unnecessary conversation, loud whispering, newspaper or magazine reading or other disconcerting or distracting activity by anyone in the courtroom during the progress of the trial.

OPENING AND SESSIONS OF COURT

4. At the opening of a term of court, the formality shall be as follows: Immediately before the scheduled time for opening, the sheriff or bailiff shall proceed from the judge's chambers, and by a rap of the gavel or other signal, direct all court officers and spectators to their seats. As the judge enters the courtroom, the bailiff shall require all present to arise and stand, and the bailiff shall say clearly and distinctly:

Hear Ye—Hear Ye—Hear Ye! The District Court of the ——— Judicial District, County of ———, State of Minnesota is about to open for ——— term of court. All persons having business before this Court please come forward, let your wants be known and you shall be heard. This Court is now open. Judge ——— presiding.

All may then be seated and the business of the court will proceed.

(The procedure above outlined may be modified by the judge entering and standing in lieu of the judge being seated, and by the use of the usual "Hear Ye," prevailing in the different districts.)

5. In reconvening court in the morning and after the noon recess, the bailiff shall give warning by gavel or otherwise, and as the judge enters, cause all to stand until he is seated.

(The above rule (to) or (to not) apply to mid-morning and mid-afternoon recesses of the court at election of presiding judge.)

THE JURY

6. When trial is to a jury, the jurors shall take their respective places in the jury box before the judge enters the courtroom. In reconvening after a recess, it is the duty of the bailiff to give warning and assemble the jurors when court is reconvened.

7. When a jury has been selected and is to be sworn, the presiding judge or clerk shall request the jurors to arise, and on the oath being administered, everyone in the courtroom, including attorneys, except the presiding judge shall stand.

THE BAILIFF

8. It shall be the duty of the bailiff to maintain order at all times as litigants, witnesses and the public assemble in the courtroom and during the progress of the trial and during recesses of the court. This includes the duty to admit persons to the courtroom and direct them to seats, and to refuse admittance to the courtroom in such trials where the courtroom is occupied to its full seating capacity.

THE CLERK

9. When the witness is sworn, the clerk shall have the witness give the reporter his or her full name, and after being sworn, courteously invite him or her to be seated on the witness stand.

10. The clerk shall be alert, stand erect and administer the oath to jurors and witnesses in a slow, clear, and dignified manner. Witnesses when sworn should stand near the bench or witness stand, and the swearing of witnesses should be an impressive ceremony and not a mere formality.

THE LAWYER

11. The lawyers should advise their clients and witnesses of the formalities of the court, thereby avoiding embarrassment to them and the court as well.

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

13. Except when making objections, lawyers should arise and remain standing while addressing the court or the jury. In addressing the court, the lawyer should refer to the judge as "Your Honor" or "The Court."

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

15. Lawyers shall be seated or stand at the counsel table while examining witnesses, except when identifying or examining exhibits, or because of physical defects of the witness, or other emergency, a modification of the procedure is required.

16. Lawyers during trial shall not exhibit undue familiarity with witnesses, jurors or opposing counsel, and the use of first names shall be avoided. In arguments to the jury, no juror should be singled out and addressed individually by name.

Canon Number 23 of Canons of Professional Ethics, American Bar Association, provides: "All attempts to curry favor with juries by fawning, flattery or pretended solicitude for their personal comfort are unprofessional. Suggestions of counsel, looking to the comfort or convenience of jurors, and propositions to dispense with argument, should be made to the Court out of the jury's hearing. A lawyer must never converse

privately with jurors about the case; and both before and during the trial he should avoid communicating with them, even as to matters foreign to the cause."

17. All lawyers, jurors, litigants and court officials shall wear coats while in attendance upon court, provided judicial discretion may be exercised otherwise in certain situations.

18. Lawyers shall state objections without argument. If there is to be an argument or offer of proof, the same shall be made out of the hearing of the jury.

19. When addressing the jury, the lawyers shall first address the court, who shall recognize the lawyer by "Mr. Smith" or "Counsel."

20. In examination of a witness, the lawyer should not indulge in personalities, but should treat the witness with courtesy and respect.

Canon No. 18 of Canons of Professional Ethics, American Bar Association, provides: "A lawyer should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence or prejudices of a client in the trial or conduct of a cause. The client cannot be made the keeper of the lawyer's conscience in professional matters. He has no right to demand that his counsel shall abuse the opposite party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking in his own behalf."

21. The lawyers as far as possible shall refrain from interrupting each other, speaking at the same time or arguing across the counsel table. Unless observed, this will make a poor record for review later. Lawyers should instruct their witnesses to testify slowly and clearly so that the court and jury will hear their testimony, and should caution witnesses not to chew gum when testifying.

22. A lawyer or a party shall not thank the jury or the court for a favorable verdict that has been returned. It is the duty of the court to see that no demonstration occurs in the courtroom in connection with the rendering of a verdict.

THE JUDGE

23. The judge shall at all times be dignified, courteous, respectful and considerate of the lawyers, the jury and witnesses.

Canons number 9 and 10 of Canons of Judicial Ethics, American Bar Association, provide:

"9. A judge should be considerate of jurors, witnesses and others in attendance upon the court."

"10. A judge should be courteous to counsel, especially to those who are young and inexperienced, and also to all others appearing or concerned in the administration of justice in the court."

"He should also require, and, so far as his power extends, enforce on the part of clerks, court officers and counsel civility and courtesy to the court and to jurors, witnesses, litigants and others having business in the court."

24. Pursuant to resolution of the Minnesota District Judges' association, the judge shall wear a robe at all trials and court appearances, except that under certain circumstances, in the exercise of his discretion, the judge may dispense with the wearing of a robe in a court appearance.

25. The judge shall be punctual in convening court, and prompt in the performance of his judicial duties in the courtroom.

Canon number 7 of Canons of Judicial Ethics, American Bar Association, provides: "A judge should be prompt in the performance of his judicial duties, recognizing that the time of litigants, jurors and attorneys is of value and that habitual lack of punctuality on his part justifies dissatisfaction with the administration of the business of the court."

26. During the presentation of the case, the judge shall maintain absolute impartiality, and shall neither by word or sign indicate that he favors any party to the litigation.

27. The judge should refrain so far as possible from intervening in the examination of witnesses or argument of counsel; however, the judge shall intervene on his own motion to prevent a miscarriage of justice.

Canon number 15 of Canons of Judicial Ethics, American Bar Association, provides:

"A judge may properly intervene in a trial of a case to promote expedition, and prevent unnecessary waste of time, or to clear up some

obscurity, but he should bear in mind that his undue interference, impatience, or participation in the examination of witnesses, or a severe attitude on his part toward witnesses, especially those who are excited or terrified by the unusual circumstances of a trial, may tend to prevent the proper presentation of the cause, or the ascertainment of the truth in respect thereto."

"Conversation between the judge and counsel in court is often necessary, but the judge should be studious to avoid controversies which are apt to obscure the merits of the dispute between litigants and lead to its unjust disposition. In addressing counsel, litigants or witnesses, he should avoid a controversial manner or tone."

"He should avoid interruptions of counsel in their arguments except to clarify his mind as to their positions, and he should not be tempted to the unnecessary display of learning or a premature judgment."

28. The judge shall have the duty to see that each witness is sworn separately and that the oath is administered to witnesses in a manner calculated to impress them with the importance and solemnity of the oath taken.

29. The judge shall be impersonal in addressing the lawyers and other officers of the court by addressing the lawyers as "Counsel" or "Mr. Smith;" the bailiff as "Mr. Bailiff;" the clerk as "Mr. Clerk" or "Madame Clerk;" or the reporter as "Mr. Reporter" or "Madame Reporter."

30. The judge shall be responsible for order and decorum in the court and shall see to it at all times that parties and witnesses in the case are treated with proper courtesy and respect. Lecturing, browbeating, badgering or shouting at a witness shall not be allowed.

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

32. If in a trial the lawyers get into a personal colloquy or wrangle across the counsel table, it is the duty of the trial judge to interrupt; a simple suggestion that counsel request a ruling from the court, or a reminder that the reporter can report only one at a time, or the mere suggestion that each give the other the opportunity to speak, usually has the desired effect.

33. The judge shall exercise extreme care so as not to say anything before the jury or parties to an action that is critical of a lawyer or that may be embarrassing to him before his client or the jury. It is always well for the judge to remember that the lawyer is also an officer of the court. If the judge has a suggestion to make to the lawyer of a critical nature, he may call a recess or call the lawyer to the bench and speak to him in an undertone not audible to the jury.

34. The judge shall at all times exercise the highest degree of patience; it is better to lose time than to lose patience. The silent judge makes the better judge; a judge seldom regrets what he failed to say during a trial but many times he regrets and wishes he could recall some things he did say.

Canon number 5 of Canons of Judicial Ethics, American Bar Association, provides: "A judge should be temperate, attentive, patient, impartial, and, since he is to administer the law and apply it to the facts, he should be studious of the principles of the law and diligent in endeavoring to ascertain the facts."

35. The judge should exercise caution not to comment favorably or adversely upon the verdict of a jury during a court term; it may indirectly influence the action of the jury in the remaining cases to be tried.

36. The juror is always interested in what has happened to a case he is hearing. If a case is disposed of by motion, settlement or otherwise, it is a good practice to explain to the jury what has transpired. The explanation with proper comments from the court can do much to alleviate the criticism that is frequently made of our jury trial procedure.

PART II RULES FOR REGISTRATION OF LAND TITLES PROCEEDINGS FOR INITIAL REGISTRATION

RULE 1

APPLICATION, INDORSEMENTS. Applications, approved as to form by the examiner, shall be presented in duplicate. There shall be indorsed thereon the name and address of the applicant's attorney, or of the applicant if he appears in person.

RULE 2

ABSTRACTS OF TITLE. The abstract when filed shall show the record of the patent or other conveyance from the United States, the record of the certified copy of the application, and all judgments, federal and state, taxes, assessments, and tax sales.

RULE 3

TITLE BASED UPON AN ADJUDICATION NOT FINAL, OR UPON ESTOPPEL. When the title of the applicant or the release or discharge of any encumbrance thereon, is based upon an adjudication not final, or upon estoppel, and there remains a right of appeal or contest, all parties having such right of appeal or contest shall be made parties defendant.

RULE 4

TITLE DERIVED THROUGH DECREE OR ADJUDICATED TAX SALE. Title based upon a judgment or decree of court in an action, or upon an adjudicated tax or local assessment sale, shall be registered only after the expiration of six months from the date of the judgment or decree; but this shall not apply to cases where in the action in which the judgment or decree was entered, or in the proceeding to register the title, the summons was served personally upon the parties who could alienate the fee title.

RULE 5

EXAMINER'S REPORT; PETITION AND ORDER FOR SUMMONS. The examiner's report shall specify the names of all parties he deems necessary parties defendant. Petitions for summons shall set forth such names and the names of such other parties as the applicant deems to be necessary, and the names, if known to the applicant, or ascertainable by him upon reasonable inquiry, of the successors in interest of such persons known to the applicant to be deceased. Where the place of residence of a defendant is unknown to the applicant, the petition shall so recite and shall set out the facts relating to the search for such defendant by the applicant.

RULE 6

PAPERS TO BE FILED, EFFECT OF NOTICE AND APPEARANCE. If a defendant, in addition to appearing or filing his answer, as by statute required, shall serve a copy thereof upon the applicant or his attorney, he shall be entitled to notice of all subsequent proceedings.

RULE 7

AFFIDAVIT OF NO ANSWER AND CLERK'S CERTIFICATE OF DEFAULT. The default of defendants who fail to appear and answer shall be shown by the certificate of the clerk entitled and filed in the action, and by the affidavit of the applicant's attorney, if he appears by attorney; otherwise by the applicant's affidavit.

RULE 8

HEARINGS IN DEFAULT CASES, FILING NOTE OF ISSUE AND PAPERS. Initial applications, where no issue has been joined, shall be heard by the court at any special term, unless by local rules adopted for any particular county or district, or by special order, other days have been designated for such hearings; or they may be heard by an examiner, to whom the matter has been specially referred, as referee. In counties where the examiner checks the proceedings in advance of the hearings, the note of issue and all papers necessary to complete the files shall be filed and all documentary evidence proposed to be used by the applicant or petitioner shall be delivered to the examiner at least three days before the hearing, together with the proposed order for judgment and decree.

RULE 9

ISSUES RAISED BY ANSWER, REPLY. All facts alleged in an answer, which are not in accordance with the allegations of the applicant, shall be considered at issue without reply by the applicant. If the answer sets up rights admitted in the application, or in a reply of the applicant, the hearing may proceed as in case of a default, and the registration shall be subject to such rights.

RULE 10

TRIAL OF CONTESTED ISSUES. In all cases where the answer raises an issue which is undisposed of by stipulation or otherwise, the matter shall be noted for trial at the general term. The procedure and the method of determination shall be the same as in the trial of similar issues in civil actions or proceedings.

RULE 11

INTERLOCUTORY DECREE ESTABLISHING BOUNDARIES. When the applicant seeks to fix and establish the boundary lines of the land, he shall have the premises surveyed by a competent surveyor and shall cause to be filed in the proceeding a plat of the survey showing the correct boundaries of the premises. He shall furnish the examiner with such abstracts of title of adjoining lands as the latter shall require in determining the necessary parties defendant in the fixing and establishing of such boundaries. The hearing upon such application may be separate from or in connection with the hearing upon the application to register, but before any final adjudication of registration, the court by order shall fix and establish such boundaries and direct the establishment of "Judicial Landmarks" in the manner provided by section 559.25. In the decree of registration thereafter entered, and in certificates of title thereafter issued, the description of the land shall contain appropriate reference to such "Judicial Landmarks."

RULE 12

PROTECTION OF INTERESTS ACQUIRED PENDENTE LITE; PROVISION FOR IMMEDIATE REGISTRATION AFTER HEARING. At the time of the hearing of the application for judgment, the applicant shall satisfy the court by continuation of abstract and other proper proof, of changes, if any, in the title, or in the encumbrances thereon arising since the filing of the application. When the decree is signed, the applicant shall forthwith file the same with the clerk, together with a receipt of the registrar showing payment of all sums due him for the registration of the decree, and the issuance of a certificate of title in pursuance to said decree, and thereupon the clerk shall certify a copy of the decree and file the same for registration with the registrar.

PROCEEDINGS SUBSEQUENT TO INITIAL REGISTRATION

RULE 13

TITLE OF PROCEEDINGS. Proceedings subsequent to the initial registration under sections 508.44, 508.45, 508.53, 508.59, 508.61, 508.67, 508.68, 508.69, 508.70, 508.71, and 508.73 shall be commenced by filing with the clerk a verified petition by a party in interest, which shall be entitled:

"In the Matter of the Petition of.....
in Relation to (description of property) registered in Certificate of Title No..... for (relief sought)."

The petition shall allege the facts justifying the relief sought, the names of all interested parties as shown by the certificate of title, and their interests therein.

RULE 14

TRIAL AND HEARING. In proceedings where no notice is required and in proceedings where the required process of notice has been served and the time for appearance has expired without any issue having been raised, the proceedings shall be noted for trial and heard the same as in proceedings upon default for initial registration. Issues raised in these proceedings shall be noted for trial and disposed of the same as similar issues in other civil proceedings.

RULE 15

NEW CERTIFICATES, AMENDMENTS, ETC. In proceedings under sections 508.44, 508.45, 508.53, 508.59, 508.61, 508.67, 508.68, 508.69, 508.70, 508.71, and 508.73, the petition for relief, duly verified, before being presented, shall be approved as to form by the examiner of titles. The examiner shall make such examination as to the truth of the allegations contained in the petition as to him may seem necessary, or as directed by the court. In all cases where notice is necessary and the manner thereof is not prescribed by statute, it shall be by an order to show cause, which shall designate the respondents, the manner of service, and the time within which service shall be made. Any final order or decree directed in such proceeding shall be approved as to form by the examiner before presentation to the court.

RULE 16

NEW DUPLICATE CERTIFICATE. Every petition for a new duplicate shall be filed with the clerk and show by a receipt of the registrar of titles indorsed thereon that a duplicate original has been

delivered to him. Thereupon the court shall issue a citation addressed "To Whom It May Concern," fixing a time and place of hearing and prescribing the mode of service. No order shall be made for a new duplicate except upon hearing and due proof that the duplicate theretofore issued has been lost or destroyed or cannot be produced. If it shall appear at the hearing that there are any known parties in interest to whom notice should be given, the hearing shall be continued and an order entered accordingly.

SPECIAL RULES APPLICABLE TO PARTICULAR DISTRICTS

FIRST JUDICIAL DISTRICT

RULE 1

SPECIAL TERMS. Special terms will be held in Duluth every Saturday, except on holidays and during the months of July and August, at 9:30 a. m. for the hearing of issues of law, applications, motions, and all matters except the trial of issues of fact.

Special terms will be held at Virginia at 9:30 a. m. on the second and fourth Fridays of each month, except the month of August.

Special terms will be held at Hibbing at 9:30 a. m. on the first and third Fridays of each month, except the month of August.

RULE 2

DIVORCE CASES, DEFAULT, SETTING. Divorce cases in which the time for answering has expired and default has been made and in which the summons and complaint, with proof of service, have been filed with the Clerk of Court in the City of Duluth, shall, upon filing a note of issue, be placed upon the court calendar in their order and set for trial for any court day during the week, excepting Saturday, at 9:30 o'clock in the forenoon.

Except as above, divorce cases in which the defendant does not appear will be placed upon the general term calendar upon filing notes of issue with the Clerk as in other cases.

RULE 3

DESIGNATION OF CASE ON NOTE OF ISSUE. Attorneys are hereby required to designate upon each note of issue filed in the office of the clerk of the court whether the case mentioned therein is triable by the court or by the jury.

RULE 4

PETIT JURY; CALL OF CALENDAR. The calendar for each term will be called on Monday, the opening day, and the remainder of the week will be devoted to hearing of calendar motions, conducting pretrial conferences where requested or ordered by the Court, and hearing of such other matters as may be set at the call of the calendar.

The petit jury will be summoned to appear at Virginia at 9:30 a. m. on the first Monday after the first day of the term.

The petit jury will be summoned to appear at Hibbing at 9:30 a. m. on the first Monday after the first day of the term, and at Ely at 1:30 p. m. on the first Monday after the first day of the term.

RULE 5

EXHIBITS. All exhibits introduced in evidence by any party in the trial of an action shall be marked by the stenographer and left in the custody of the stenographer until the close of the trial of the cause; and when the trial of any cause is completed, the stenographer shall deliver all exhibits as evidence in the case to the clerk of the court, and the clerk shall cause the same to be filed and kept in a proper and safe place, and shall cause to be made and shall keep a proper index or reference book wherein shall be kept a list of all such exhibits, with reference to their place of deposit, so that they can be readily found by any parties interested therein; and no person shall be permitted to remove any of the exhibits from this depository except upon the written order of the court, provided that all attorneys and interested parties shall have an opportunity to examine the same in the office of the clerk under reasonable provisions to be provided therefor.

RULE 6

JUDGMENT, FILING OF EXECUTION. All persons other than the person in whose favor a judgment is entered in any action or proceeding, or his successor in interest, or his attorney of record therein, who shall apply for the issuing of an execution on such judgment within the period of two years after the entry thereof, and all persons other than the person in whose favor a judgment is entered, or his successor in interest, applying for such execution after the expiration of such period, shall file with the clerk of court where such judgment is entered, at the time

of making such application, written authority from the owner of such judgment, duly executed and acknowledged by him, and authorizing the person so making the application to appear and act in the matter. No execution shall issue in such case until this authority shall be filed as herein provided.

RULE 7

PETITION; HOW SUBSCRIBED. Except where the petitioner is appearing for himself as the owner of the registered premises toward which a petition is directed, which fact shall be specifically set forth therein, all petitions for orders which will in any manner affect or change or amend the registered title to lands in the First Judicial District shall be subscribed by an attorney or attorneys duly admitted to practice in the State of Minnesota.

RULE 8

WRONGFUL DEATH CLAIMS; MINORS OR INCOMPETENTS. Petitions for settlement of wrongful death claims or for settlement of claims on behalf of minors or incompetents under Rules 2 and 3, will not be entertained unless subscribed by an attorney or attorneys duly admitted to practice in the State of Minnesota representing either the claimant or the defendant, and unless presented in person by such attorney or attorneys.

SECOND JUDICIAL DISTRICT

RULE 1

RESETTING OF CASES. Application for the resetting of any case shall be made to the court not less than eight days prior to the date set for trial, except for reasons arising within said period of eight days. Such application shall be made upon affidavit and written notice, served upon opposing counsel at least two days prior to the hearing. When the reason for the application arises within the period of eight days, an order to show cause shall be applied for with reasonable promptness. Applications for resetting will be granted only upon a legal showing which would, under the practice heretofore existing, have entitled the moving party to a continuance.

RULE 2

SETTING OF CASES FOR TRIAL BY COURT. The clerk of court shall set for trial all causes triable by the court without a jury. Such causes shall be set in the order of the time of the filing of the notes of issue and in accordance with the requirements of section 546.05.

RULE 3

CRIMINAL CASES. TRANSCRIPT IN NARRATIVE FORM. NO CHARGE AGAINST COUNTY FOR TRANSCRIPTS FURNISHED COUNSEL. The synopsis required under sections 640.10 and 640.11 shall be furnished in condensed narrative form by the stenographer acting on the trial. Carbon copies thereof shall be furnished without charge to the court acting on the trial and the county attorney. No charge of any kind against the county shall be permitted for copies of transcripts of the testimony of witnesses furnished by the stenographer to counsel for either side during or after trial and attached for convenience of the stenographer as a part of the synopsis required by statute.

RULE 4

DIVORCE CASES. DEFAULT. SETTING. Divorce cases in which the time for answering has expired and default has been made and in which the summons and complaint with proof of service have been filed with the clerk, shall upon filing a note of issue containing the title of the cause, a statement of the foregoing facts, and the address of counsel, be placed upon the court calendar in their order and set for trial for Monday of each week, but at a time not earlier than 30 days after the filing of the note of issue.

RULE 5

EXHIBITS. (a) **Custody.** Unless otherwise directed by the court, the exhibits used upon the trial of causes shall be placed in the custody of the court reporter.

When a jury agrees upon a verdict and the verdict is sealed, the bailiff in charge shall before the jury separates take possession of the exhibits sent out with the jury, and immediately upon the reception of the verdict by the court he shall deliver them to the reporter; in case the verdict is not sealed, the bailiff immediately upon the reception of the verdict shall take possession of the exhibits and deliver them to the reporter.

(b) **Disposition.** At the expiration of a period of six months from and after the final determination of any cause tried in this court, the court reporter shall, in writing and by mail, notify and require attorneys

who have engaged in such cause forthwith to remove from his office and custody, and from the custody of the court, any exhibits (not a part of the permanent record) offered in such cause by and on behalf of and belonging to the parties for whom they have appeared respectively therein; and unless such exhibits are so removed within 30 days from and after such giving of such notice, the court reporter may and shall destroy or otherwise dispose of them, as he may see fit.

All exhibits offered in any cause tried in this court shall be offered and received conditionally and subject to the right of destruction or other disposition, in accordance with the terms of this rule.

RULE 6

JUVENILE COURT; WOMAN ASSISTANT; PROBATION OFFICER; REFEREE; DUTIES. A woman assistant of the probation officer shall be designated as a referee by the judges of this court to investigate all cases involving immorality or improper conduct on the part of girls coming before the juvenile branch of this court. She shall examine any such girl brought before the court and shall appear with her before the judge thereof and shall make such report to him and perform such other duties as the court may require.

RULE 7

NATURALIZATION; HEARINGS. The following days are hereby fixed as the stated days on which final action shall be had upon all petitions for naturalization:

The third Wednesday of each month (except July, August, and September), in each odd-numbered year.
The third Wednesday in each of the months of January, February, March, May, June, November, and December, and the last Wednesday in the month of July in each even-numbered year.

When any of such days falls on a legal holiday, the final action shall be had on the following day. The date of hearing may be changed by order of court. In no case shall final action be had upon such petitions until at least 90 days have elapsed after filing and posting the notice of such petition.

RULE 8

SPECIAL TERMS. A special term of this court shall be held each Friday that is not a legal holiday, at two o'clock in the afternoon, except during the time the court is in recess or vacation.

HEARING OF MOTIONS, ADOPTIONS AND OTHER PROCEEDINGS. Please be advised that the trial of District Court Jury cases in Ramsey County will hereafter continue through the afternoon on Fridays.

It is therefore ordered that all motions, adoptions, and other proceedings heretofore heard at special term be returnable before the Judge in Chambers, except in the following cases:

1. Motions for a new trial.
2. Motions to amend an order, judgment or decree.
3. Motions affecting trusts where there has been at least one previous hearing subsequent to qualifying.

The above matters may be returnable at special term on Friday afternoon if they involve a judge other than the Judge in Chambers. However, motions which must be heard by a Judge who is actually trying a jury case on Friday afternoon will be referred at special term to such Judge for hearing at the convenience of counsel and the Court.

RULE 9

TRIAL; TIME FOR ARGUMENT. In the argument of any case, neither counsel will be allowed more than one hour.

RULE 10

REGISTRATION OF LAND TITLES

(a) **Manner of Service.** Upon defendants residing or found within the state, the summons shall be served by the sheriff of the county wherein the defendants reside or are found.

(b) **Summons; Manner of Service Without the State.** When the sheriff has duly returned that the defendant cannot be found within his county, the applicant shall cause the summons to be personally served on the defendant without the state, if such personal service is practicable. Such service and proof thereof shall be made in the manner and as provided by statute for service of a summons upon defendants within the state, and such service without the state shall be in addition to the service by publication and mailing required by law. When personal service is impracticable, as made to appear to the satisfaction of the court by the affidavit of the applicant or his attorney showing the facts in that regard, the court

by order may dispense with such personal service.

(c) **Decrees Shall Specify Liens for Tax or Local Assessments.** Decrees in registration proceedings by which the title of the applicant to such land is adjudged to be subject to certain liens arising from tax or local assessment sales shall specify such liens. The decree shall provide that upon the filing with the registrar of the official receipt showing the redemption from or payment of any such lien or liens, the registrar shall cancel the memorial or memorials thereof.

(d) **Storing Duplicate Certificates.** The registrar is authorized to place in storage in a suitable place in the court house at St. Paul, Minnesota, all duplicate certificates of title which have been canceled five years or more.

(e) **Hearings; Note of Issue; Filing Papers.** Initial applications and proceedings subsequent to the initial application where no issue has been raised, shall be heard by the court at special term. All such matters shall be upon a special calendar, which shall be called at ten o'clock in the morning. In the months of July, August, and September such hearings shall be had at such times as the court may determine. During the term time, notes of issue and all necessary moving papers shall be filed at least three days before the hearing. The examiner shall attend and participate in all hearings. He shall advise the court and approve all orders and decrees as requested.

RULE 11

ASSIGNMENT CLERK. (a) The clerk shall assign a duly appointed deputy clerk from his office to have charge of the assignment of civil jury cases to the several judges for trial. Such deputy shall be designated as the assignment clerk and shall act under the general instructions of the judge presiding at jury call.

(b) It shall be the duty of the assignment clerk to set for trial each day that the court is in session a sufficient number of cases to keep the courts occupied, and shall be required to have mailed to all attorneys postal cards notifying them as to the days their cases are set for trial at least 15 days in advance.

(c) The clerk shall assign deputy clerks to assist the assignment clerk in such number as from time to time the work may require.

(d) Attorneys shall be required to answer the call of the calendar on the morning of the day their cases are set for trial.

(e) Application for resetting of any cause shall be made to the court in chambers, as per Rule 1.

(f) All cases reported ready for trial shall be placed on the active list, and when the case next in order on such active list is about to be assigned to a court room for trial the assignment clerk shall notify the attorneys by telephone to report at once to the court to whom such case has been assigned for trial.

(g) Attorneys shall be required to keep the assignment clerk informed of their telephone number, and when they have cases on the active list they shall be required to hold themselves within telephone call of their offices, and report to the trial court within 15 minutes after such notification, in person or by representative.

(h) The time at which the assignment clerk has notified the attorneys shall be indicated on the records of the assignment clerk.

(i) Each case in its order shall be assigned by the assignment clerk to the trial court next ready for a case and thereupon shall be tried, dismissed, or stricken, unless for good cause, arising after the closing of court on the preceding day, the case is continued or returned to the assignment clerk. The cause for continuance under this rule must be entered on the records of the assignment clerk together with the names of the parties seeking and obtaining such continuance. In subsequent applications for continuance such records shall be examined as to former proceedings and no case shall be continued or reset for trial more than three times.

(j) In all cases the party filing a note of issue shall at the same time file such of his pleadings and other papers as have been served by him in the cause as have not been theretofore filed. All other parties to the cause shall file their pleadings and other papers served by them forthwith upon receipt of the notice of the date of trial. All pleadings must be on file in the office of the clerk of the district court before any case is assigned for trial under penalty of dismissal, continuance, striking from the calendar, or such other terms as the court may see fit to impose. If defend-

ant has failed to comply with this rule by the time the case reaches the clerk for assignment, it shall be assigned and tried as a default case.

(k) Cases will not be assigned when any attorney therein is actually engaged in another court in a trial.

(l) When an attorney has a case on the active list and is personally engaged in actual trial in another court, he shall notify the assignment clerk, and cases in which he is such attorney shall be taken from the active list and held in order until such attorney is released from the case in which he is then engaged. Immediately upon becoming released from such case the attorney shall notify the assignment clerk and such cases as are held and ready for trial shall then be placed again on the active list and sent to the court for trial in regular order.

(m) When a case is assigned for trial it must be ready for immediate trial. All motions, demurrers, or other proceedings as to pleadings shall be heard prior to the time of trial, at special term.

(n) When a trial is for good reason interrupted and the case is to be returned to the assignment clerk, he shall make such record of its return and for such date as the court may direct.

(o) When the parties to any suit which has reached the active list have settled or dismissed the same, the attorneys shall at once notify the assignment clerk and cause an entry of such settlement or dismissal to be made and entered upon the records.

PRETRIAL CONFERENCE UNDER RULE 16 OF RULES OF CIVIL PROCEDURE

On all jury cases set for trial on and after January 7, 1952, a pretrial conference will be held by the Judge in charge of the jury calendar, or other Judges whom he may call upon to assist, on the date indicated as the date set for trial. At that conference all interested parties must be represented by the counsel who will try the case, or if such counsel is unable to be present, by other attorneys authorized to act in all matters within the purview of Rule 16. After the conference, the Judge will, so far as possible, set each case for trial on a date certain, or strike the same from the calendar, dismiss it or continue it generally, as the circumstances may require.

The holding of such conference, and the attendance by counsel, is obligatory unless prior to the date set both counsel advise the Court that they have voluntarily conferred, and inform the Court as to the result of such conference. If the Court is satisfied that nothing more will be gained by a conference in the presence of the Court, further pretrial conference may be dispensed with by the Court.

ORDER FOR PRETRIALS

A pretrial conference will be held in all cases on the Jury Calendar where the notes of issue were filed in the years 1948, 1949 and 1950, pursuant to the unanimous decision of the Judges of the District Court for the Second Judicial District.

Notice of the pretrial conference will be given to the attorneys, and the attorney who expects to try the case will be present, or if he is unable to be there, some lawyer designated by him with full authority to act shall be present.

At the pretrial conference the Court will endeavor to secure a stipulation between the parties stating the real issues to be tried, and determining by stipulation any other matters that may tend to shorten the time of trial.

At the pretrial conference a date will be fixed for the trial of said case on a definite date. In the event the judge is engaged in the trial of a case on that date the trial will commence upon the completion of the case then being tried.

In the event the attorney for either side fails to be present at the date of the pretrial conference, the case will either be dismissed, stricken from the calendar or set down for trial.

On the date set for trial the case will either be tried or dismissed.

Pretrials of such cases will be held by Judge Albin S. Pearson at his order and direction.

THIRD JUDICIAL DISTRICT

RULE 1

SPECIAL TERMS. Special terms of court in the Third Judicial District of Minnesota for the hearing of issues of law, applications, motions, orders to show cause, default cases and summary matters except trial of issues of fact, are hereby fixed as follows:

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APPENDIX 7. DISTRICT COURT RULES

(a) All terms of court at the County of Anoka shall be held in the court house in the City of Anoka, Minnesota, on the first and third Mondays of each month.

(b) All terms of court at the County of Washington shall be held at the court house in the City of Stillwater, Minnesota, on the 2nd Monday of each month.

(c) All terms of court at the County of Chisago shall be held at the court house in the Village of Center City on the fourth Mondays of February, June and August.

(d) All terms of court for the counties of Isanti, Kannabec, Pine, Sherburne and Wright shall be held in the Court House in the county seat of each of said counties respectively by appointment.

(e) In the event any day set for holding any of the above terms is a legal holiday, such special terms shall be held on the Saturday next following.

RULE 2

CALL OF CALENDAR. The call of the calendar shall be had at the hour of 10:00 o'clock a.m., on the opening day of each General Land Special Term. Counsel shall advise the court as to the nature of the case, including motions to dismiss, strike, change the order on the calendar, and such other motions as are proper to the determination of the issues to remain on the calendar for disposition.

In the event of any default, the case will be forthwith called for trial and the court will exercise the same powers as in the event of a default. Where no response is made by either party to a case, the case shall be stricken from the calendar, and shall not be reinstated on the calendar unless directed by the court. Appearance by Counsel under this rule will not be required in cases where pre-trial notice has been given by the Clerk of Court.

RULE 3

PRE-TRIAL. Pursuant to Rule 16, Rules of Civil Procedure for the District Courts of Minnesota, a pre-trial calendar is hereby established. All jury actions, and such other actions as the Court may order, shall be placed on such calendar for consideration.

Pre-trial hearings of the cases on the pre-trial calendar shall be held on the first day of each general term of court and on such following day or days as may be necessary and desirable.

In all causes on such calendar, the Clerk of Court shall mail to all parties and their attorneys, notice of hearing to be held at a time to be fixed by said clerk, not less than seven (7) nor more than thirty (30) days after the date of mailing. On the date and hour so fixed, only those attorneys (representing all the parties) who are familiar with the cause and are fully authorized to make binding stipulations therein will be permitted to appear, and such attorneys are required to appear together with their complete files. In the event of any default, the Court will exercise the same powers as in the event of a default.

RULE 4

DIVORCE, DEFAULT, SETTING. Default divorce actions may be placed on special term calendars for hearing sixty (60) days after the time to answer has expired and upon filing a note of issue with the clerk. Any divorce action may be advanced for trial in hardship and emergency cases upon order of the Court issued upon written application and sufficient proof.

RULE 5

PHOTOGRAPHS. The taking of photographs in the court rooms or within 40 feet of the entrance of any court room or of a prisoner in the jail or on his way to or from any session of court is forbidden, and a violation of this rule by any person will be summarily dealt with by the court.

RULE 6

REGISTRATION OF LAND TITLE RULE

Cases in which the Registrar may act without special order of the Court.

In the following cases, a special order of the Court need not be required unless it shall be requested by the Registrar or Examiner:

When the inchoate interest of a spouse of the registered owner has terminated by death, the Registrar may receive and enter as a memorial, a duly certified copy of the official death certificate and an affidavit of identity of such deceased spouse.

When the interest of a joint tenant has terminated by death, the Registrar may receive and enter as a memorial, a duly certified copy of the official death certificate and an affidavit of identity to-

gether with a tax waiver as authority for entry of a new certificate in favor of the survivor or survivors in joint tenancy;

When the registered owner has married since the issuance of the certificate, the Registrar may receive and enter as a memorial a duly certified copy of the marriage license and return;

When the interest of a life tenant has been terminated by death, the Registrar may receive and enter a memorial of a duly certified copy of the official death certificate and an affidavit of identity of the decedent with the life tenant named in the certificate of title; and in such case the memorial of the certificate and affidavit shall be treated as evidence of the discharge of the life tenancy.

FOURTH JUDICIAL DISTRICT

RULE 1

FILING OF PLEADINGS. In all cases the party filing a note of issue shall at the same time file such of his pleadings and other papers as have been served by him in the cause and have not been theretofore filed. All parties to the cause shall file their pleadings and other papers served by them before the date of trial, and not later than five days after receipt of notice of such date. For failure to observe this rule, the clerk shall assess \$1.00 as special costs against each delinquent party.

RULE 2

SETTING OF CASES. (a) The clerk of this court shall, for each general term thereof, prepare a calendar of civil causes, court and jury, and shall enter upon such calendar: (1) All causes which shall have been continued to such term, in the order in which the same shall have appeared upon the calendar of the term from which the continuance was had; (2) all other civil causes, originally commenced in the district court, in which notes of issue shall have been filed with said clerk, prior to such term, or during the continuance thereof, as provided by Minnesota Statutes, Section 546.05, the same to be so entered in the order of the dates of filing of said notes of issue; and (3) all other actions and proceedings, originally commenced in the district court, or appealed or transferred thereto and required by law to be placed upon said calendar, the same to be entered thereon at the time and in the manner prescribed by law, upon compliance being had with the provisions of the respective statutes relating thereto, as modified by said Minnesota Statutes, Section 546.05.

(b) The clerk shall also, for each general term thereof, prepare a calendar, which shall be known as the default divorce calendar, and shall enter therein: (1) Default divorce cases, which shall have been continued to such term, in the order in which the same shall have appeared upon the calendar of the term from which the continuance was had; (2) all other default divorce cases, in which notes of issue shall have been filed, prior to such term, or during the continuance thereof; Provided, however, that no default divorce case shall be entered for trial at an earlier date than thirty (30) days after the time to answer has expired and affidavit of no answer and note of issue has been filed.

(c) No contested case shall be advanced upon the calendar of this court for trial out of its regular order except under the following conditions: At or before the time each Judge takes his assignment as Judge in Chambers, the Presiding Judge shall appoint two Judges who shall act with said Judge in Chambers in passing upon any motion or request for the advancement of any contested case for trial, and no case shall be so advanced except upon order signed by said three Judges. During the summer vacation, all motions and requests for such advancement shall be passed upon by the two Judges on duty, and no case shall be so advanced unless said order be signed by both Judges.

RULE 3

RESETTING OF CASES. (a) Application for the resetting of any cause shall be made to the court not less than eight days prior to the date of trial except for reasons arising within the period of eight days. This application shall be made upon affidavit and written notice, served upon opposing counsel at least two days prior to the hearing. When the reason for the application arises within the period of eight days an order to show cause shall be applied for with reasonable promptness. Applications for resettlings will be granted only upon a legal showing which would, under the practice heretofore existing, have entitled the moving party to a continuance. No such applica-

tion shall be made later than the date when said case is set for trial. Not more than three re-settings or continuances in any case shall be granted.

(b) Except as provided in subdivision (c) hereof, a case may be re-set or continued only upon stipulation filed by 12 o'clock noon of the day prior to the date when said case is set for trial. There shall not be more than three re-settings upon stipulation except as provided in subdivision (c) hereof.

(c) After a case has been assigned to a Judge for trial, an application for re-setting or continuance may be based only on an emergency arising since the case was called on the calendar. Such motion or application shall be made immediately upon the discovery of such emergency and shall be heard and determined forthwith by the Judge in Chambers.

RULE 4

SPECIAL TERM. Special term shall be held every day except Sundays and holidays. The preliminary call of the calendar will be followed at once by the peremptory call, at which hearing will be had and causes finally disposed of as reached. No hearing will be set down for the afternoon, or continued beyond the morning session unless for urgent reasons. Only causes properly on the calendar when the court opens will be heard, unless they have been omitted by mistake or inadvertence of the clerk. All pleadings, orders, notices, affidavits and other papers proper to be filed must be, to entitle them to be read, filed with the clerk before the day on which the special term is held, unless for some reason other than neglect, the paper could not have been sooner filed, or unless the occasion for the use of the paper arises at the hearing from some cause not previously apparent. The strict enforcement of the provisions of this rule may be relaxed in favor of attorneys from other counties.

RULE 5

ASSIGNMENT OF CASES. (a) The clerk shall assign a duly appointed deputy clerk from his office who shall be designated as the assignment clerk and he shall act under the general instructions of the Judge presiding in chambers in connection with the assignment of civil cases to the several judges for trial.

(b) It shall be the duty of the assignment clerk to set for trial each day that the court is in session a sufficient number of cases to keep the courts occupied, and he shall mail to all attorneys postal cards notifying them as to the day their cases are set for trial, 15 days in advance. Attorneys so notified shall at once inform the clerk whether such case or cases are for trial, and unless so informed within five days after the mailing of such notice it shall be deemed that the case has been settled or abandoned, and the clerk shall then omit it from the calendar and may substitute another case in lieu thereof.

(c) The clerk shall assign to each trial court room a deputy clerk who shall be in constant attendance during the sessions of the court, and whose first duty shall be the clerical details or/and pertaining to the trial work.

(d) The clerk shall assign deputy clerks to assist the assignment clerk in such number as from time to time the work may require.

(e) In all cases where there is more than one attorney of record for a party, the name of the attorney who will try the case for any such party shall be given to the assignment clerk in writing within five days after receipt of the 15-day notice set forth in subdivision (b).

In all cases where an attorney other than the attorney of record will try the case the name of such attorney shall be given to the assignment clerk and to all opposing counsel in writing not later than 5 days after receipt of the 15-day notice set forth in subdivision (b). Such cases will be sent out in their regular order. No trial shall be delayed by failure to observe the foregoing requirements.

(f) Except as provided in subdivision (g) hereof, a case may be reset or continued only upon stipulation filed by 12 o'clock of the day prior to the date when the case is set for trial or upon application to the judge in chambers, as set forth in rule 3. No such application shall be made later than the date when the case is set for trial and shall be based either upon notice of motion or order to show cause, stating the grounds for such application. If the Judge is satisfied that there is just cause for granting the application for the resetting or continuance, such application shall be decided forthwith by the court. Not more than three resettings or continuances of any case shall be granted, except as provided in subdivision (g) herein or upon stipulation of the parties.

(g) After a case has been assigned to a Judge for trial, an application for resetting or continuance may be based only on an emergency arising since the case was called on the calendar. Such motion or application shall be made immediately upon the discovery of such emergency and shall be heard and determined forthwith by the judge in chambers.

(h) All cases reported ready for trial shall be placed on the active list and assigned by the Judge in chambers to a court room for trial in the order in which they appear on such list. The assignment clerk shall notify the attorneys by telephone to report at once to the court to which such case has been assigned.

(i) Attorneys shall be required to keep the assignment clerk informed of their telephone number and when they have cases on the active list they shall be required to hold themselves within telephone call of their offices, and report to the trial court within 15 minutes after such notification in person or by representative.

(j) The time at which the assignment clerk has notified the attorneys shall be indicated on the records of the assignment clerk.

(k) Each case in its order shall be assigned by the judge in chambers to the first judge available and thereupon it shall be tried, dismissed, or stricken, unless it is reset or continued because of an emergency arising since the case was called on the calendar.

No case shall be kept on the active list more than 30 days after it has been called for trial on the calendar. It must be tried, dismissed, or stricken within the 30 days.

Without any exception, save as herein specified, cases shall be assigned to the judge trying civil cases who first reports to the assignment clerk that he is ready for a new case. To fill time not otherwise occupied default divorce cases may be assigned out of their regular order to any judge on his request, such cases always retaining their calendar order relative to each other. The judge having the juvenile court assignment may select cases of such probable length as not to interfere with his juvenile court work.

(l) All pleading must be on file in the office of the clerk of the district court as provided in rule 1 before any case is assigned for trial, under penalty of dismissal, continuance, striking from the calendar, or such other terms as the court may see fit to impose.

(m) Cases will not be assigned when any attorney therein is actually engaged in another court.

(n) When an attorney who is going to try a case or cases on the active list is actually engaged in another court he shall file a statement with the assignment clerk setting forth the court wherein he is engaged and his cases shall be held until he is released from the case in which he is then engaged. Immediately upon becoming released from such case the attorney shall notify the assignment clerk, who shall forthwith notify the judge in chambers and such cases as are held shall then be assigned to a judge for trial in regular order.

(o) When a case is reached for trial and a jury is not available the assignment clerk may assign a court case. When juries are available jury cases shall be given such preference as shall be deemed expedient.

(p) When a case is assigned for trial it must be ready for immediate trial. All motions, demurrers, or other proceedings as to pleadings shall be heard prior to the time of trial by the court in chambers.

(q) When a trial is for good reason interrupted and the case is to be returned to the assignment clerk, he shall make such record of its return and forthwith place such case again upon the calendar for trial, for such date as the court may direct.

(r) When the parties to any suit which has reached the active list have settled or dismissed the same, the attorneys shall at once notify the assignment clerk and cause an entry of such assignment or dismissal to be made and entered upon the records. Failure to comply with this rule may be treated as a contempt of court.

(s) If any Judge shall feel for personal reasons or otherwise that he cannot try a particular case assigned to him he shall so report to the Judge in Chambers.

(t) The assignment clerk shall never under any consideration assign cases to Judges other than in their regular order, and in the regular order in which the Judges notify him that they are ready for cases, except as hereinbefore provided.

(u) When an attorney withdraws from the case or is discharged by his client he shall notify the as-

signment clerk, and all opposing counsel in writing within five days thereafter that he no longer appears for such party and shall give the assignment clerk and all opposing counsel the name of the attorney succeeding him and the postal address of said client.

(v) If a party to an action is a non-resident or is out of the city or liable to be out of the city at intervals, upon receipt of the postal card notice the attorney so notified shall at once inform the assignment clerk and all opposing counsel in writing of such fact and upon written notice to the opposing parties apply to the Court in Chambers for a setting for a day certain.

(w) After a case has been set for trial, upon the 15-day notice set forth in subdivision (b) hereof, no further time shall be allowed for the taking of depositions or for submission of interrogatories to any of the parties to said action, except where the necessity for depositions or submission of interrogatories did not arise until after receipt of said notice.

(x) In the event that a litigant is in service and wishes to avail himself of relief under the Sailors and Soldiers Relief Act, the attorney shall notify the assignment clerk, and all opposing counsel, within five days after the receipt of the 15-day notice.

RULE 6

DEFAULTS. (a) Divorce cases, in which the time for answering has expired, and default has been made, and in which the summons and complaint, with proof of service thereof, have been filed with the clerk, shall, upon filing with the clerk a note of issue, containing the title of the cause, a statement of the foregoing requisites, and the address of counsel, be placed upon the calendar and set for trial as provided for in rule 2.

(b) All causes, other than divorce and tax cases, requiring the taking of testimony, in which the time for answering has expired and default has been made, and in which the summons and complaint, with proof of service, have been filed with the clerk, shall, upon filing with the clerk a note of issue containing the title of the cause, a statement of the foregoing requisites, and the address of counsel, be placed upon a special calendar and set for trial at chambers or special term for such date as may be specified by the party filing the note of issue.

RULE 7

CLERK'S FEE. All clerk and trial fees must be paid before the jury is sworn.

RULE 8

EXHIBITS. (a) All exhibits offered in evidence shall be placed in the custody of the clerk of the court who shall be responsible for their care and production and delivery to the party to whom the same may belong for a period of 48 hours following a verdict in cases of trial by jury or rendition of decision by the court without a jury. After the expiration of the 48 hours the care and responsibility for such exhibits shall be upon the parties themselves. Upon surrendering the custody of any such exhibits, the clerk shall take a receipt therefor from the party to whom delivered.

(b) Exhibits in criminal cases shall be kept by the clerk for six months after verdict of the jury, unless surrender of the same shall be directed by written order of the judge before whom the case was tried.

RULE 9

FINDINGS IN DIVORCE CASES. (a) In divorce cases upon signing the findings, the judge so signing shall deliver the same to the clerk for filing.

(b) No judgment will be entered for unpaid alimony ex parte. Judgment can be entered only upon Notice of Motion duly made and placed upon the Special Term Calendar. If personal service cannot be had such service shall be made as the Court shall direct.

(c) No change of venue to other jurisdictions shall be granted in divorce cases except upon statutory grounds.

RULE 10

EXPERT WITNESS FEES. In taxation of costs in all civil cases a fee not exceeding \$10.00 per day may be allowed for expert witnesses, except under special circumstances such fee may be increased, but not to exceed \$50.00 per day.

In criminal cases a fee not exceeding \$25.00 per day may be allowed for expert witnesses; provided that under special circumstances such fee may be increased, but not to exceed \$50.00 per day.

RULE 11

FEES IN CONDEMNATION PROCEEDINGS. Each commissioner in condemnation proceedings shall be allowed a fee not to exceed the sum of \$15.00 per day.

RULE 12

ORDERS IN SUPPLEMENTARY PROCEEDINGS. Orders in supplementary proceedings shall provide that in the examination of the judgment debtor the referee shall not grant more than two continuances.

RULE 13

GARNISHMENT DISCLOSURE. All orders of reference in garnishment matters shall provide for the disclosure being taken at the office of the clerk of the district court, except by agreement of all parties that it be taken elsewhere.

RULE 14

RECEIVERS AND TRUSTEES. (a) All applications for allowance of fees to assignees, receivers, and attorneys, which allowance is asked to be made from the funds of any insolvent estate or estate in the hands of any receiver for settlement, shall be heard by the full bench, or a division thereof consisting of at least three judges, on the last Saturday of each month. Four copies of the account shall be delivered to the clerk together with the application.

(b) In any case where an order for compensation to a receiver, or attorneys, would appear necessary or expedient, in the exercise of sound discretion, for the preservation of the estate, pending the next full bench meeting when the matter may be presented, the judge to whom the application is made, may by written order make such interim allowance.

(c) In receivership matters all interlocutory motions and orders shall be referred to and considered by the judge who appointed the receiver in the first instance.

(d) Every receiver or trustee in submitting his final account shall disclose to the court as a part thereof the status of the property of the estate as to unpaid or delinquent taxes, both personal and real, and the same shall be paid by him to the extent that the funds in his hands permit over and above the costs and expenses of the receivership and debts due to the United States.

(e) Every trustee of an express trust whose appointment has been confirmed pursuant to the provisions of M.S. 501.33, shall render to the Court at least annually a verified account containing a complete inventory of the trust assets and itemized principal and income accounts.

A hearing shall be held on such annual accounts at least once every 5 years upon notice as set forth in Minnesota Statutes, Chapter 501.

Where the sureties on a trustee's bond are unincorporated, the trustee or trustees shall certify under oath which shall be attached to the annual account that each surety is living, is a resident of this state, is not under disability, and is worth the amount in which he or she justified in said trust.

(f) Before the Court shall consider any application for the appointment of a Trustee pursuant to the provisions of M.S.A. 501.33, such applicant shall first file a certified copy of the will or other written instrument and if based upon a will shall file and exhibit to the Court a certified copy of a partial or final decree of distribution from the Court wherein said will was probated.

RULE 15

PROBATION RULE. (a) In all cases where persons are placed on probation after conviction for crime, such persons shall not be permitted to leave the State of Minnesota without express leave of the court, and leave shall in no case be granted within six (6) months after date of conviction.

(b) When a probation officer requests that probation shall be revoked he shall state his reasons in a written statement and present the same to the Judge who placed the party on probation, or his successor in office.

RULE 16

JURY SERVICE. (a) Application for excuse from jury duty shall be made or referred to the judge to whom the juror has been ordered to report.

(b) No person shall serve as a member of the grand jury or petit jury who has served within two years as a member of the grand or petit jury either in the United States District Court or the District Court of Minnesota, or as petit juror in the Municipal Court.

(c) Each judge shall select eight (8) names for the grand jury panel before December 1st of each year.

(d) Any person whose name is drawn for grand jury service shall serve for the period drawn or be excused. In no case shall the service of such person be continued until a later date or have his name replaced in the jury box.

RULE 17

CRIMINAL PROCEDURE. (a) Every person in custody charged with crime shall be arraigned in district court within 48 hours after the filing of the information or indictment against him.

(b) When juries are in attendance, the trial of every person charged with crime shall be set for not later than eight days after arraignment.

(c) No case on the calendar for trial shall be continued except upon an order of the court, based on an affidavit showing substantial cause.

(d) All cases shall be tried in the order in which they stand on the calendar, except for good cause shown.

(e) When upon a trial the jury disagrees, the case, unless otherwise disposed of, shall be reset for trial not more than 14 days after such disagreement.

(f) When a bail bond has been defaulted it shall not be reinstated without personal appearance of the defendant within ten days, unless it is shown by affidavit that the defendant had a sufficient excuse for his non-appearance, and the court is satisfied that the state has not been deprived of material evidence by reason of the delay.

(g) Except for the formal approval of bail bonds, orders in pending criminal cases shall be made only by the judge in charge of the criminal calendar.

(h) Motions to dismiss and nolle criminal cases in which there has been a mis-trial or in which a new trial has been granted, shall be made before the judge who presided at the former trial.

(i) Motions to reinstate defaulted bail shall be made before the judge who ordered the default.

(j) In all criminal cases where bonds for personal surety are presented for approval, the judge in charge of the criminal calendar shall require that said surety personally appear before him and justify the approval of any such bond.

RULE 18

ACTIONS ON BEHALF OF MINORS; SETTLEMENT. Where Rule 3 (a) (1) of the general rules of the district court of Minnesota, as amended in 1932, refers to actions brought on behalf of a minor or to actions brought by a parent or guardian, it shall also be understood as applying to claims made on behalf of a minor and to claims made by a parent or guardian where no action has been commenced. In any proceeding for a settlement of a minor's claim, the petition shall be filed before an order is made, and the order made therein shall be filed forthwith.

(b) All claims of minors in personal injury suits are to be settled and approved in open court, and a record kept by the reporter.

(c) The maximum fee to be allowed for attorneys for services rendered in minors' cases shall not be greater than twenty-five per cent of the amount recovered, save and except where the case is tried, but in no event shall the fee be greater than thirty-three and one-third per cent.

RULE 19

SERVICE OF NOTICE. Before service of notice shall be made pursuant to Section 543.17 Minnesota Statutes, 1945, Rules Civ.Proc. rules 5.02, 86.01, 86.02, or Section 481.12 Minnesota Statutes, 1945, M.S.A., on the Clerk of the Court or by mail, the relevant facts must be shown by affidavit and an order of the Court procured and filed authorizing such service.

RULE 20

PRELIMINARY EXAMINATION OF VENIREMEN. (a) A questionnaire in the form provided in paragraph (d) hereof shall be delivered to each venireman with his summons for jury service.

(b) These questionnaires when executed and returned shall be delivered forthwith by the clerk to the judge to whom the veniremen are required to report, who will promptly examine them, and whenever a statutory disqualification appears will notify the venireman that he is excused from jury service.

(c) When a jury is drawn and examined on his voir dire, his executed questionnaire shall be in the hands of the judge for inspection by counsel on either side.

(d) The questionnaire shall be in the following form:

QUESTIONNAIRE FOR PETIT JURORS

- Q. What is your name? (Print plainly)
A.
Q. When and where were you born?
A.
(Give exact date)
Q. Where do you now live?
A. Tel.
(Give street address, if any)

- Q. Are you a citizen of the United States?
A.
Q. What is your occupation, trade, or profession?
A.
Q. If employed, state name of employer?
A.
Q. Are you single, married, widowed, or divorced?
A.
Q. If married, what is your spouse's occupation or profession?
A.
Q. Are you now a qualified voter in this state?
A.
Q. How long have you lived in Hennepin county?
A.
Q. Have you made or has there been made in your behalf any application to be selected and returned as a juror?
A.
Q. Have you ever been convicted of a felony?
A.
Q. If so, have your civil rights been restored?
A.
Q. Are you now under indictment in any court?
A.
Q. Have you defects in your hearing?
A.
Q. Have you any defects in your vision?
A.
Q. When were you last a juror and in what court?
A.
Q. Have you ever been discharged (not excused) from jury service?
A.
Q. If so, for what cause?
A.
Subscribed and sworn to before me
This.....day of....., 19... Sign here

RULE 21

AFFIDAVITS OF PREJUDICE. Where an affidavit of prejudice has been filed, the judge against whom the affidavit is filed shall name the judge to whom the case is to be sent by written order, filed with the Clerk.

RULE 22

PHOTOGRAPHS IN COURT ROOM. No photographs shall be taken of or in any court room, except in non-judicial proceedings, and then only with the consent of the Judge.

Except as provided hereinabove, no photographic, broadcasting, tape or wire recording equipment shall be brought into or used in any court room, except tape recording machines used by an official court reporter in recording testimony.

RULE 23

LAND TITLE CALENDAR. There is hereby created what shall be known as a Land Title Calendar. Upon that calendar shall be placed the default Torrens cases which have heretofore been noted upon the Torrens Calendar and the default title cases which have heretofore been placed upon the General Term Calendar. Cases placed upon the Land Title Calendar shall be heard each Tuesday by the Examiner of Titles or Deputy Examiner as Referee, and the Judge in Chambers shall from time to time enter upon said calendar appropriate orders of reference referring said cases to said referees for hearing.

RULE 24

REGISTRATION OF LAND TITLE RULES

(a) Manner of Service, Defendants Within the State. Upon defendants residing or found within the state, the summons shall be served as in the manner provided for service in other civil actions except that, when practicable, the service shall be made by personally handing to and leaving with the defendant a true copy thereof.

(b) Manner of Service, Non-Resident Defendants. The recitals of the order for summons, to the effect that a defendant's address is outside the state or that his address is unknown shall constitute prima facie evidence that the defendant is not a resident of the state and cannot be found therein, and service shall be made accordingly as provided by statute for service upon non-residents, except as to any such defendants upon whom personal service is secured within the state.

(c) Liens for Tax Or Local Assessment Sales. Decrees in either initial or subsequent proceedings in which the title of the applicant is adjudged to be subject to certain liens arising from tax or local assessment sales shall specify such liens and shall provide that upon the filing with the registrar of the official receipt showing redemption from or payment

of any such lien, the registrar shall cancel the memorial thereof. When the auditor's certificate upon any deed thereafter presented for registration shall show taxes to have been "paid by sale," any registration shall be made subject to the sales outstanding against the premises conveyed. The registrar shall note upon any residue certificate a statement that the premises therein described are subject to any taxes which may have accrued subsequent to the date of the original registration.

(d) **Hearings.** All hearings where no issue has been joined shall be had before the court at special term thereof on Wednesday of each week, and note of issue, together with all other papers relating to such registration, shall be filed with the clerk on or before the preceding Monday. In all cases where an answer is filed and not otherwise disposed of by order of the court, notice of trial shall be served and note of issue filed for the general term of court as in civil actions.

(e) **Cases in Which the Registrar May Act Without Special Order of Court.** In the following cases the special order of court need not be required unless it shall be requested by the registrar or examiner:

When the inchoate interest of a spouse of the registered owner has been terminated by death, the registrar may receive and enter as a memorial a duly certified copy of the official death certificate and an affidavit of identity of such deceased spouse; and in case such deceased spouse is a joint tenant, the registrar may issue a new certificate to the survivor or survivors in joint tenancy;

When the registered owner has married since the issuance of the certificate, the registrar may receive and enter as a memorial a duly certified copy of the marriage license and return;

When the interest of a life tenant has been terminated by death the registrar may receive and enter a memorial of a duly certified copy of the official death certificate and an affidavit of identity of the decedent with the life tenant named in the certificate of title; and in such case the memorial of the certificate and affidavit shall be treated as evidence of the discharge of the life tenancy.

Also, the provisions of rule (e) relative to accepting an official death certificate and an affidavit of identity as authority for entry of a new certificate in favor of the survivor or survivors in joint tenancy is declared to include joint tenancies consisting of persons other than husband and wife.

(f) **Practice in Relation to State Tax Deeds.** Excepting those cases where a certificate of title is outstanding in favor of the State of Minnesota, when a deed from the State of Minnesota in favor of the registered owner is offered for registration, it shall be registered as a memorial upon the certificate of title as evidence of discharge of any claim of title by the State of Minnesota evidenced by the prior memorial of an auditor's certificate of forfeiture to the state; and the same practice shall be followed in those cases where subsequent to or concurrent with a repurchase from the State of Minnesota by the registered owner, the latter shall have conveyed either by quitclaim deed or warranty deed the affected premises and the deed from the State of Minnesota in favor of the registered owner is dated subsequent to the date of conveyance of the registered owner or subsequent to the entry of the certificate in favor of the registered owner's grantee, in which case the fact that the repurchase from the State of Minnesota was concurrent with or prior to the date of the deed by the registered owner making such purchase shall be evidenced by an endorsement to that effect upon the state deed made by the county auditor, one of his deputies, or the county land commissioner.

(g) **Amendment to Rule 16 of District Court Rules.** Rule 16 in the Minnesota District Court rules pertaining to registration of land titles is amended as to proceedings in Hennepin county by omission of the provision that petitions for a new duplicate certificate shall show by a receipt of the registrar of titles endorsed thereon that duplicate of the petition has been delivered to him.

(h) **Deeds From Federal Housing Administrator.** In the registration of deeds or other instruments hereinafter listed for titles or interests registered in the name of an individual as Federal Housing Administrator, the registrar of titles shall be guided by Section 204 (g) of the National Housing Act as amended by the act of June 3, 1939, which confers upon any assistant administrator the power to convey and to execute in the name of the administrator deeds of conveyance, deeds of release, assignments of mortgages, satisfactions of mortgages, and any other

written instrument relating to real property or any interest therein which has been acquired by the administrator; and that the registrar of titles shall accept the statement of the certificate of acknowledgment attached to any such instrument as evidence of the official character of the administrator or the assistant administrator executing the instrument.

(i) The Registrar of Titles is authorized to receive for registration of memorials upon any outstanding certificate of title an official birth certificate pertaining to a registered owner named in said certificate of title showing the date of birth of said registered owner, providing there is attached to said birth certificate an affidavit of an affiant who claims therein to be familiar with the facts recited, stating that the party named in said birth certificate is the same party as one of the owners named in said certificate of title; and that thereafter the Registrar of Titles shall treat said registered owner as having attained the age of majority at a date 21 years after the date of birth shown by said certificate.

(j) The Registrar of Titles may receive official certificates of death issued by the War Department, Navy Department and every military department of the United States Government in lieu of a certificate of death.

RULE 25

NOTICES OF BRINGING IN ADDITIONAL PARTIES. Any moving party in third party proceedings shall notify the assignment clerk of the names of the additional parties and their attorneys, and such notice shall be served upon the assignment clerk immediately after filing the order making the party an additional party.

RULE 26

GOOD BEHAVIOR. Unless otherwise directed by the court, whenever any person is committed to either the Minneapolis City Workhouse, the Minneapolis Women's Detention Home or County Jail, the superintendent in charge of either of said institutions shall give credit to such person of one day for each week of seven days for good behavior. Otherwise, such person shall serve his or her full time as imposed by the Court. In the event that any person is committed to either the Minneapolis City Workhouse or the Minneapolis Women's Detention Home and is thereafter placed on probation, if such person is thereafter re-committed because of violation of the terms thereof, such person shall not be entitled to credit for good behavior as hereinbefore set forth and shall serve his or her full time as imposed by the court.

RULE 27

MANDAMUS ACTION, TRIAL. After return is made in a Mandamus action it shall be referred to the assignment clerk for immediate trial, if in general term, otherwise at the first open date when a Judge is available.

RULE 28

PRE-TRIAL PROCEDURE. Any civil action may be pre-tried upon the request of the attorney for any party.

After notice to all attorneys in any case a request for pre-trial shall be given to the Clerk of District Court, Assignment Department. Those requests received by 4:00 P. M. Monday shall be assigned to one of the judges of the District Court for hearing at 9:00 A. M. on the following Friday. The Assignment Clerk shall forthwith notify the attorneys for the parties as to the time and the judge who will hear the matter.

The notice of assignment, together with the file, shall be given by the Clerk to the judge to whom it is assigned not later than Tuesday morning.

Except upon order of the Court, no application for pre-trial hearing will be accepted later than ten days after reception of the notice setting the case for trial.

RULE 29

THIRD PARTY PLAINTIFF OR DEFENDANT. When an application is made to the Court to bring in a third party plaintiff or defendant and an order therefor issued, the Court shall require the moving party to file said order forthwith and serve a copy thereof on the impleaded party. Said order shall further require the moving party to serve upon said impleaded party a Note of Issue in the event an answer is served by said party, and further require the filing of said Note of Issue in the office of the Clerk of the District Court and to simultaneously deposit a copy of said Note of Issue with the Assignment Clerk of said office.

RULE 30

DEPOSITION, NOTICE; FILING. Before any deposition is taken, the notice for taking the same shall be filed.

**FIFTH JUDICIAL DISTRICT
ADOPTED FEBRUARY 21, 1948**

RULE 1

SPECIAL TERMS. Four special terms shall be held in each county of this district during the summer months, one commencing on the fourth Monday in June, one commencing on the second Monday in July, one commencing on the fourth Monday in August, and one commencing on the second Monday in August, but no contested fact issue shall be heard at such special terms. Each of the Judges of the district shall hold one of these weekly cycles, assignment to be made by the senior Judge of the district by order filed not later than June 1st of each year. The Judge to whom the special terms for the designated week have been assigned shall determine the sequence thereof by an order to be filed in the offices of the respective Clerks of Court not less than fifteen (15) days prior to the time so fixed for such special term, which said order shall state the date for all special terms of that week.

RULE 2

DIVORCE JUDGMENT, REOPENING. Proceedings to reopen and to modify judgment in divorce matters, whether pertaining to alimony and property settlement or to the custody, maintenance and support of minor children, shall be heard by the Judge upon whose order such decree was docketed if said Judge then continues to hold judicial office in this district, unless he be then incapacitated or otherwise disqualified.

RULE 3

DIVORCE, TRIAL. No action for divorce or separate maintenance shall be heard upon its merits within thirty (30) days following service of summons, and in all default proceedings a stenographic record shall be taken and transcribed by the official Reporter, a minimum fee of Five (\$5.00) Dollars to be paid such Reporter by the moving party. All matters to be heard at any special term shall be filed with the clerk and placed upon a typewritten calendar for said term.

RULE 4

ADOPTION. In adoption proceedings a child under fourteen (14) years of age shall be present before the Court, and if such child be over fourteen years of age he or she shall consent in writing. If one to be adopted shall be an adult, he or she shall join as a party to the proceeding and be a resident of the county in which the action is brought. An adult, to be adopted, shall appear before the Court in person or by counsel, but if not personally present to testify, then his or her deposition or verified consent shall be presented in manner provided by law. If the petition of an adult seeks also a change of name, it shall conform to Section 259.10.

RULE 5

MINORS, APPROVAL OF SETTLEMENT. Applications for the approval of settlement, in actions brought on behalf of minor children, shall bear the indorsement of counsel for such minor and shall disclose whether or not counsel therein is in fact retained by or to be compensated, directly or indirectly, by a person whose interests are adverse to said minor.

RULE 6

MINOR SETTLEMENT, DEPOSIT. Whenever the Court shall approve settlement on behalf of a minor and order that in lieu of bond any money so received be deposited as a savings account in a banking institution or trust company, or that it be invested in approved securities, the account so established shall continue until said minor shall have become of lawful age, or until a general guardian shall have been duly appointed and qualified, whereupon the Court may order payment by said depository of said trust fund to the lawful owner or guardian, as the case may be, a copy of any subsequent order relating thereto and be furnished said depository, the deposit book or other securities to be filed with the Clerk of Court.

RULE 7

TERM CALENDAR. The printed general term calendar shall not be distributed to the jury panel.

RULE 8

PRE-TRIAL CONFERENCE. After the filing of a note of issue and not less than ten (10) days before the opening of a general term, any party to any action desiring a pre-trial conference pur-

suant to Rule 16 of the Rules of Civil Procedure for the District Courts, shall make a written request therefor addressed to the Judge assigned to preside at the general term at which such action is pending. The Judge, in the exercise of discretion, may thereupon make and file an order directing the attorneys to appear at a time and place therein specified, to consider matters contemplated by said rule.

RULE 9

ORDER FOR PLACING CASES ON PRINTED CALENDAR. Upon the filing of the Note of Issue required by Rule 38.03 of the Rules of Civil Procedure, the Clerk shall enter the cause on the calendar according to the time of filing of the Note of Issue.

No civil action shall be added to the printed Calendar at the call thereof except for cause or excusable neglect and then only if:

- all the pleadings have been filed with the Clerk prior to the motion and
- if all parties to the action join in said motion. (Such motion shall be in writing and the essential facts shall be set forth by affidavit attached thereto.)

RULE 10

NONRESIDENT ATTORNEY. An attorney or counsellor at law residing in a sister state or territory wherein he or she is duly licensed to practice, when present before the court and desirous of conducting or participating in the trial of a proceeding here pending and in which he is authorized to represent one or more of the litigants, may, pursuant to section 481.02 and subject to our Rules of Civil Procedure, on motion duly made of record by a member of the bar of this state associated in said cause and to continue present throughout said trial as one of counsel for said litigant, at the court's discretion be permitted to take part in and to conduct the presentation of such cause, to all intents and purposes as though duly licensed to practice his profession in this state.

RULE 11

EXHIBITS. All exhibits received in evidence upon the trial of causes shall remain thenceforth in the custody of the court reporter until submitted to a jury; provided that when a cause is taken under advisement by the court such exhibits shall be retained by the clerk of court subject to further order. Upon the return of a sealed verdict, or immediately upon the reception of a verdict, or upon the discharge of a jury because of inability to agree, the bailiff in charge shall return all exhibits to the clerk, who shall receive and safely retain them subject to further order. Six months after final disposition of any cause tried in said court and after written notice to counsel, the clerk shall destroy or otherwise dispose of all exhibits, except public records, pertaining to said cause then remaining in his custody, the purpose of this rule being that all exhibits in any cause tried in the District Court of the Fifth Judicial District of the State of Minnesota shall be received subject to the right of destruction or other disposition in conformity with the terms hereof. Six years after final disposition of the cause in which they were made and filed, the clerk may destroy the court reporter's shorthand notes then in his custody.

SEVENTH JUDICIAL DISTRICT

RULE 1

NONRESIDENT ATTORNEY. No attorney not a resident of and duly admitted to practice in this state shall be permitted to appear or present any matter or conduct the trial of any proceeding in the District Court of the Seventh Judicial District; except that, in any proceeding commenced and conducted by a resident attorney of the state, and upon his motion, the Court may grant to an attorney duly admitted and licensed in another state the privilege and permission to appear and participate in the presentation or trial of that particular proceeding as an associate of the attorney of record, when, in the opinion of the Court, the interests of justice so require.

RULE 2

DIVORCE, DEFAULT. In all default divorce cases, the testimony and proceedings shall be reported and transcribed by the court reporter, and the transcript filed with the records in the case. For transcribing the record, the reporter shall be paid a fee of \$5, which may be taxed as costs in the action.

In all such cases, it shall be the duty of the judge hearing the case to see that his findings of fact, conclusions of law and order for judgment are filed with the clerk within three days after the hearing, and that judgment be promptly entered therein.

**NINTH JUDICIAL DISTRICT
RULE 1**

CALL OF CALENDAR. Hereafter and until the further order of this Court the call of the calendar shall be had at ten o'clock in the forenoon on the opening day of each General Term.

RULE 2

PETIT JURY. Hereafter and until the further order of this Court the petit jury be summoned to appear at ten o'clock in the forenoon on the first Monday following the opening day of each General Term.

RULE 3

MOTIONS. All motions made on the call of the calendar be heard on the opening day of each General Term, and that motions made upon notice for hearing at the term be set for the opening day, and all motions made shall be heard in the order in which they appear.

Default cases shall be heard after hearing of motions.

RULE 4

TRIALS, TIMES OF OPENING AND CLOSING. Hereafter and until the further order of this Court, at all regular jury terms held in this Court, Court shall open at 9:30 o'clock in the forenoon and close at 4:30 o'clock in the afternoon, with an intermission of one hour and thirty minutes at noon and a fifteen-minute recess in the forenoon and afternoon of each day, subject, however, to the right of the presiding Judge to change the times of opening and closing as conditions may require, or as such Judge may deem feasible under the circumstances.

No Court shall be held on Saturdays unless the presiding Judge deems it necessary or expedient.

RULE 5

The foregoing Rules are in addition to the Code of Rules which are applicable to the District Court throughout the State.

TENTH JUDICIAL DISTRICT

RULE 1

SPECIAL TERMS. Special terms of Court shall be held in each County of the District as follows: Houston County—1st Thursday of each month. Olmsted County—1st and 3rd Fridays of each month. Wabasha County—3rd Monday of each month. Winona County—2nd and 4th Mondays of each month.

(NOTE: Special term days scheduled for Monday falling on a legal holiday will be held the Tuesday following. Other Special Term days falling on a legal holiday will be held on the day preceding the holiday.)

RULE 2

APPOINTMENTS. Appointments for hearings shall be obtained from the Clerk of Court who shall make a schedule of the hearings set.

RULE 3

FILING. All affidavits, pleadings and papers to be considered by the Court at a hearing shall be filed before the day of hearing.

TWELFTH JUDICIAL DISTRICT

RULE 1

CALL OF CALENDAR. The call of the calendar shall be had at the hour of 10:00 o'clock a.m. on the opening day of each General and Special Term. At the call, counsel shall announce the nature of the disposition to be made of the case, including motions to dismiss, strike, change the order on the calendar or such other motions as are proper to be noticed at said time.

RULE 2

PRE-TRIAL. The first week will be devoted to the calling of the calendar, hearing motions and pre-trial conferences.

The Court may, in its discretion, direct the attorneys for the parties to appear before it for a pre-trial conference pursuant to Rule 16, Rules of Civil Procedure.

The order of pre-trial shall be fixed by the Clerk under direction of the Court, and all parties to any actions pending and their respective attorney or attorneys shall be prepared to proceed in the order designated. Only those attorneys, representing all the parties, who are familiar with the cause and are fully authorized to make binding stipulations therein will be permitted to appear, having with them their complete files. Failure to comply herewith will authorize such disposition as to the Court seems just under the circumstances.

RULE 3

PETIT JURY. The petit jury will be summoned to appear on the Monday following the first day of the term in each county, but in the event pre-trial

of cases is not to be held by the Court, then the jury shall appear at 10:00 o'clock a.m. on Wednesday following the call of the calendar.

RULE 4

TRIAL OF CASES. All court and jury cases are set for trial on the first day of the General Term. The trial of all jury cases shall begin as herein stated and the trial of court cases shall immediately follow the completion of the jury cases. Trial of all cases begins at 10:00 o'clock a.m. unless otherwise announced by the Court.

RULE 5

STAY OF PROCEEDINGS. A stay of proceedings shall be had in accordance with Rule 58.02, Rules of Civil Procedure.

RULE 6

GENERAL TERMS. General Terms of the Court will be held as provided in Minnesota Statutes, Section 484.16, as amended.

RULE 7

SPECIAL TERMS. Special Terms of court will be held as follows:

- GLENCOE, McLeod County.
3rd Monday in January
4th Monday in June
- CHASKA, Carver County.
1st Monday in February
2nd Monday in July
- LeCENTER, LeSueur County.
4th Monday in January
4th Monday in July
- GAYLORD, Sibley County.
2nd Monday in February
3rd Monday in July
- SHAKOPEE, Scott County.
2nd Monday in January
3rd Monday in June

Special Term Calendar. In each county of the district, the Clerk of Court shall keep a special term calendar on which he shall enter all actions or proceedings noticed for such special term according to the date of issue or service of motion. Notes of issue of all matters to be heard at a special term shall be filed with the Clerk one (1) day before the term. This rule shall not apply to cases noticed for a general term or continued for trial to a special term which shall be placed on the special term calendar without further notice.

RULE 8

EXTRA SPECIAL TERMS. Extra Special Terms for hearing of all matters except issues of fact shall be held as follows:

- GLENCOE, McLEOD COUNTY, 2nd and 4th Fridays of the month, commencing at 10:00 o'clock a.m.;
- SHAKOPEE, SCOTT COUNTY, 1st and 3rd Fridays of the month, commencing at 10:00 o'clock a.m.; unless said day is a legal holiday, and in that event said Extra Special Term shall be held on the preceding day.

RULE 9

SERVICE OF BRIEFS. In all cases tried to the Court without a jury, if submitted on briefs, the party having the burden of proof shall have twenty (20) days within which to serve his brief after the submission of the case, and the other party shall have twenty (20) days within which to serve his brief from and after the service of the brief on him, and the party serving the first brief shall have ten (10) days in which to reply to the answer brief on him. At the expiration of fifty (50) days the case will be considered as submitted to the Court for its decision whether briefs have been served or not; provided, that where a transcript of the evidence is to be furnished, the time for serving briefs shall commence to run from the date of delivery of the transcript by the Court Reporter. Time for service of briefs may be shortened or lengthened at the discretion of the Court.

RULE 10

SETTLEMENT IN ACTION. No approval of settlement in any action shall be made by the Court without representation by counsel of all parties concerned in the action.

RULE 11

REPORTS OF TRUSTEES AND RECEIVERS. All reports of Trustees and Receivers shall be heard at the General Court Term in the respective counties, or at Special or Extra Special Terms of this court.

RULE 12

REGISTRATION OF LAND TITLE RULE. Cases in which the Registrar may act without special order of the Court:

In the following cases a special order of the Court need not be required unless it shall be requested by the Registrar or Examiner:

(a) When the inchoate interest of a spouse of the registered owner has terminated by death, the Registrar may receive and enter as a memorial, a duly certified copy of the official death certificate and an affidavit of identity of such deceased spouse;

(b) When the interest of a joint tenant has terminated by death, the Registrar may receive and enter as a memorial a duly certified copy of the official death certificate and an affidavit of identity together with tax waiver as authority for entry of a new certificate in favor of the survivor or survivors in joint tenancy;

(c) When the registered owner has married since the issuance of the certificate, the Registrar may receive and enter as a memorial a duly certified copy of the marriage license and return;

(d) When the interest of a life tenant has been terminated by death, the Registrar may receive and enter a memorial of a duly certified copy of the official death certificate and an affidavit of identity of the decedent with the life tenant named in the certificate of title; and in such case the memorial of the certificate and affidavit shall be treated as evidence of the discharge of the life tenancy.

RULE 13

CONDUCT. The regular convening hours of the court shall be 10:00 o'clock a.m. and 1:30 o'clock p.m. The court will recess at 12:00 o'clock noon each day, and adjourn for the day at 5:00 o'clock p.m. Regular convening, recessing and adjourning hours may be varied by special directions of the Court.

All persons entering the courtroom while court is in session shall immediately be seated and shall conduct themselves in a quiet and orderly manner.

Counsel shall at all times be courteous to each other, and may approach the Judge's desk, while court is in session, with opposing counsel to discuss any point of law pertinent to the matter being tried.

The examination of witnesses by counsel shall be conducted in a courteous manner; but one counsel on each side shall be permitted to examine witnesses unless by permission of the Court.

Counsel will observe the assignment of cases and keep advised on the progress of business in court and be ready when cases are reached. No arrangement as to time or order of trial will be recognized unless approved by the Court.

RULE 14

ISSUANCE OF EXECUTION. Before the Clerk of this court shall issue an execution upon any judgment for any person save the judgment creditor or the assignee of such judgment creditor, the person applying therefor must file with the Clerk of this court proper written authority to make such application and to act for and instead of such judgment creditor or assignee, as the case may be.

The execution shall be endorsed in writing by the party thus applying therefor before such execution is delivered to the sheriff.

RULE 15

RIGHT RESERVED. The Court shall reserve the right to relax the provisions of any of the foregoing rules in the interest of justice.

MUNICIPAL COURTS

Rules of Civil Procedure for the Municipal Courts are printed in Minnesota Reports, Volume 237, as a supplement thereto.

MINNESOTA STATUTES 1957

4657 APPENDIX 8. RULES, CIVIL PROCEDURE, DISTRICT COURT

APPENDIX 8

RULES OF CIVIL PROCEDURE FOR THE DISTRICT COURT OF MINNESOTA

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RULES OF CIVIL PROCEDURE

for the

DISTRICT COURTS OF MINNESOTA

I. SCOPE OF RULES—ONE FORM OF ACTION

RULE 1

SCOPE OF RULES

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 to secure the just, speedy, and inexpensive determination of every action.

RULE 2

ONE FORM OF ACTION

There shall be one form of action to be known as "civil action."

II. COMMENCEMENT OF THE ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS

RULE 3

COMMENCEMENT OF THE ACTION; SERVICE OF THE COMPLAINT

3.01 Commencement of the Action.

A civil action is commenced against each defendant when the summons is served upon him or is delivered to the proper officer for such service; but such delivery shall be ineffectual unless within 60 days thereafter the summons be actually served on him or the first publication thereof be made.

3.02 Service of Complaint

A copy of the complaint shall be served with the summons, except when the service is by publication as provided in Rule 4.04.

RULE 4

PROCESS

4.01 Summons; Form.

The summons shall be signed by the plaintiff or his attorney, contain the name of the court and the names of the parties, be directed to the defendant, state the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address, and the time within which these rules require the defendant to appear and defend, and shall notify him that, in case of his failure to do so, judgment by default will be rendered against him for the relief demanded in the complaint.

4.02 By Whom Served.

The sheriff of the county in which the defendant is found may make service of summons and other process, and fees and mileage shall be allowed therefor.

Any person not a party to the action may make service of a summons.

4.03 Personal Service

Service of summons within the state shall be made as follows:

(a) **Upon an Individual.** Upon an individual by delivering a copy to him personally or by leaving a copy at his usual place of abode with some person of suitable age and discretion then residing therein.

If the individual has, pursuant to statute, consented to any other method of service or appointed an agent to receive service of summons, or if a statute designates a state official to receive service of summons, service may be made in the manner provided by such statute.

If the individual is confined to a state institution, by serving also the chief executive officer at the institution.

If the individual is an infant under the age of 14 years, by serving also his father or mother, and if he have neither within the state, then a resident guardian if he have one known to the plaintiff, and if he have none, then the person having control of such defendant, or with whom he resides, or by whom he is employed.

(b) **Upon Partnerships and Associations.** Upon a partnership or association which is subject to suit under a common name, by delivering a copy to a member or the managing agent of the partnership or association. If the partnership or association has, pursuant to statute, consented to any other method of service or appointed an agent to receive service of summons, or if a statute designates a state official to receive service of summons, service may be made in the manner provided by such statute.

(c) **Upon a Corporation.** Upon a domestic or foreign corporation, by delivering a copy to an officer or managing agent, or to any other agent authorized expressly or impliedly or designated by statute to receive service of summons, and if the agent is one authorized or designated under statute to receive service any statutory provision for the manner of such service shall be complied with. In the case of a transportation or express corporation, the summons may be served by delivering a copy to any ticket, freight, or soliciting agent found in the county in which the action is brought, and if such corporation is a foreign corporation and has no such agent in the county in which the plaintiff elects to bring the action, then upon any such agent of the corporation within the state.

(d) **Upon the State.** Upon the state by delivering a copy to the attorney general, a deputy attorney general or an assistant attorney general.

(e) **Upon Public Corporations.** Upon a municipal or other public corporation by delivering a copy

- (1) To the chairman of the county board or to the county auditor of a defendant county.
- (2) To the chief executive officer or to the clerk of a defendant city, village or borough.
- (3) To the chairman of the town board or to the clerk of a defendant town.
- (4) To any member of the board or other governing body of a defendant school district.
- (5) To any member of the board or other governing body of a defendant public board or public body not hereinabove enumerated.

If service cannot be made as provided in this Rule 4.03 (e), the court may direct the manner of such service.

4.04 Service by Publication; Personal Service out of State

The summons may be served by three weeks' published notice in any of the cases enumerated hereafter, when an affidavit of the plaintiff or his attorney shall have been filed with the court, stating the existence of one of such cases and that he believes the defendant is not a resident of the state, or cannot be found therein, and either that he has mailed a copy of the summons to the defendant at his place of residence or that such residence is not known to him. The complaint shall be filed with such affidavit. The service of the summons shall be deemed complete 21 days after the first publication. Personal service of such summons without the state, proved by the affidavit of the person making the same sworn to before a person authorized to administer an oath, shall have the same effect as the published notice herein provided for.

Such service shall be sufficient to confer jurisdiction:

(1) When the defendant is a resident individual having departed from the state with intent to defraud his creditors, or to avoid service, or keeps himself concealed therein with like intent;

(2) When the plaintiff has acquired a lien upon property or credits within the state by attachment or garnishment, and

(a) The defendant is a resident individual who has departed from the state, or cannot be found therein, or

(b) The defendant is a nonresident individual, or a foreign corporation, partnership or association;

(3) When the action is for divorce or separate maintenance and the court shall have ordered that service be made by published notice;

(4) When the subject of the action is real or personal property within the state in or upon which the defendant has or claims a lien or interest, or the relief demanded consists wholly or partly in excluding him from any such interest or lien;

(5) When the action is to foreclose a mortgage or to enforce a lien on real estate.

4.041 Additional Information to be Published

In all cases where publication of summons is made in an action in which the title to, or any interest in or lien upon, real property is involved or affected or is brought in question, the publication shall also contain a description of the real property involved, affected or brought in question thereby, and a statement of the object of the action.

4.042 Service of the Complaint

If the defendant shall appear within ten days after the completion of service by publication, the plaintiff, within five days after such appearance, shall serve the complaint, by copy, on the defendant or his attorney. The defendant shall then have at least ten days in which to answer the same.

4.043 Service by Publication; Defendant May Demand; Restitution

If the summons be served by publication, and the defendant receives no actual notification of the action, he shall be permitted to defend upon application to the court before judgment and for sufficient cause; and except in an action for divorce, the defendant, in like manner, may be permitted to defend at any time within one year after judgment, on such terms as may be just. If the defense be sustained, and any part of the judgment has been enforced, such restitution shall be made as the court may direct.

4.044 Nonresident Owner of Land Appointing an Agent

If a nonresident person or corporation owning or claiming any interest or lien in or upon lands in the state appoints an agent pursuant to § 557.01 service of summons in an action involving such real estate shall be made upon such agent or his principal in accordance with Rule 4.03, and service by publication shall not be made upon the principal.

4.05 Process Other Than Summons and Subpoena; Service of

Process other than summons and subpoena shall be served as directed by the court issuing the same.

4.06 Return

Service of summons and other process shall be proved by the certificate of the sheriff making it, by the affidavit of any other person making it, by the written admission of the party served, and, if served by publication, by the affidavit of the printer or his foreman or clerk. The proof of service in all cases other than by published notice shall state the time, place, and manner of service. Failure to make proof of service shall not affect the validity of the service.

4.07 Amendments

The court in its discretion and on such terms as it deems just may at any time allow any summons or other process or proof of service thereof to be amended, unless it clearly appears that substantial rights of the person against whom the process issued would be prejudiced thereby.

RULE 5

SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

5.01 Service; When Required; Appearance

Every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties affected thereby,

but no service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 4. A party appears when he serves or files any paper in the proceeding.

5.02 Service; How Made

Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service upon the party himself is ordered by the court. Written admission of service by the party or his attorney shall be sufficient proof of service. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, by leaving it with the clerk of court. Delivery of a copy within this rule means: Handing it to the attorney or to the party; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing.

5.03 Service; Numerous Defendants

If the defendants are numerous, the court, upon motion or of its initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading with the court and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the courts directs.

5.04 Filing

(1) All pleadings, affidavits, bonds, and other papers in an action shall be filed with the clerk, unless otherwise provided by statute or by order of the court.

(2) All pleadings shall be so filed on or before the second day of the term at which the action is noticed for trial; otherwise the court may continue the action or strike it from the calendar.

(3) All affidavits, notices and other papers designed to be used in any cause shall be filed prior to the hearing of the cause unless otherwise directed by the court.

**RULE 6
TIME**

6.01 Computation

In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Sundays and holidays shall be excluded in the computation.

6.02 Enlargement

When by statute or by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may, at any time in its discretion, (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under Rules 4.043, 59.03, 59.05, and 60.02 except to the extent and under the conditions stated in them.

6.03 Unaffected by Expiration of Term

The continued existence or the expiration of a term of court does not affect or limit the period of time provided for the doing of any act or the taking of any proceeding, or affect the power of the court to do any act or take any proceeding in any action which has been pending before it.

6.04 For Motions; Affidavits

A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than five days before the

time specified for the hearing, unless a different period is fixed by these rules or by order of the court. Such an order may for cause shown be made on ex parte application. A motion may be supported by papers on file by reference; supporting papers not on file shall be served with the motion; and, except as otherwise provided in Rule 59.04, opposing affidavits may be served not later than one day before the hearing, unless the court permits them to be served at some other time.

6.05 Additional Time After Service by Mail

Whenever a party has the right or is required to do some act or take some proceeding within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, three days shall be added to the prescribed period.

III. PLEADINGS AND MOTIONS

RULE 7

PLEADINGS ALLOWED; FORM OF MOTIONS

7.01 Pleadings

There shall be a complaint and an answer; a reply to a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a third-party complaint, if leave is given under Rule 14 to summon a person who was not an original party; and a third-party answer, if a third-party complaint is served. No other pleading shall be allowed, except that the court may order a reply to an answer or a third-party answer. Demurrers, pleas, and exceptions for insufficiency of a pleading shall not be used.

7.02 Motion and Other Papers

(1) An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

(2) The rules applicable to captions, signing, and other matters of form of pleadings apply to all motions and other papers provided for by these rules.

RULE 8

GENERAL RULES OF PLEADING

8.01 Claims for Relief

A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain (1) a short and plain statement of the claim showing that the pleader is entitled to relief and (2) a demand for judgment for the relief to which he deems himself entitled, and if a recovery of money be demanded the amount shall be stated. Relief in the alternative or of several different types may be demanded.

8.02 Defenses; Form of Denials

A party shall state in short and plain terms his defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If he is without knowledge or information sufficient to form a belief as to the truth of an averment, he shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, he shall specify so much of it as is true and material and shall deny only the remainder. Unless the pleader intends in good faith to controvert all the averments of the preceding pleading, he may make his denials as specific denials of designated averments or paragraphs, or he may generally deny all the averments except such designated averments or paragraphs as he expressly admits; but, when he does so intend to controvert all its averments, he may do so by general denial subject to the obligations set forth in Rule 11.

8.03 Affirmative Defenses

In pleading to a preceding pleading, a party shall set forth affirmatively accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, rescission, statute of frauds, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense. When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court on terms, if justice so requires, shall treat the pleading as if there had been a proper designation.

8.04 Effect of Failure to Deny

Averments in a pleading to which a responsive pleading is required, other than those as to amount of damage, are admitted when not denied in the

responsive pleading. Averments in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

8.05 Pleading to be Concise and Direct; Consistency

(1) Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleading or motions are required.

(2) A party may set forth two or more statements of a claim or defense alternatively or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as he has regardless of consistency and whether based on legal or on equitable grounds or on both. All statements shall be made subject to the obligations set forth in Rule 11.

8.06 Construction of Pleadings

All pleadings shall be so construed as to do substantial justice.

RULE 9

PLEADING SPECIAL MATTERS

9.01 Capacity

It is not necessary to aver the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of a partnership or an organized association of persons that is made a party. When a party desires to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued or the authority of a party to sue or be sued in a representative capacity, he shall do so by specific negative averment, which shall include such supporting particulars as are peculiarly within the pleader's knowledge.

9.02 Fraud, Mistake, Condition of Mind

In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be averred generally.

9.03 Conditions Precedent

In pleading the performance or occurrence of conditions precedent, it is sufficient to aver generally that all conditions precedent have been performed or have occurred. A denial of performance or occurrence shall be made specifically and with particularity.

9.04 Official Document or Act

In pleading an official document or official act, it is sufficient to aver that the document was issued or the act done in compliance with law; and in pleading any ordinance of a city, village, or borough or any special or local statute or any right derived from either, it is sufficient to refer to the ordinance or statute by its title and the date of its approval.

9.05 Judgment

In pleading a judgment or decision of a domestic or foreign court, judicial or quasi-judicial tribunal, or of a board or officer, it is sufficient to aver the judgment or decision without setting forth matter showing jurisdiction to render it.

9.06 Time and Place

For the purpose of testing the sufficiency of a pleading, averments of time and place are material and shall be considered like all other averments of material matter.

9.07 Special Damages

When items of special damage are claimed, they shall be specifically stated.

9.08 Unknown Party; How Designated

When a party is ignorant of the name of an opposing party and so alleges in his pleading, the opposing party may be designated by any name, and when his true name is discovered the process and all pleadings and proceedings in the action may be amended by substituting the true name.

RULE 10

FORM OF PLEADINGS

10.01 Caption; Names of Parties

Every pleading shall have a caption setting forth the name of the court and the county in which the action is brought, the title of the action, and a designation as in Rule 7. In the complaint the title of the action shall include the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties.

10.02 Paragraph; Separate Statements

All averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a

statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

10.03 Adoption by Reference; Exhibits

Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part of the statement of claim or defense set forth in the pleading.

RULE 11

SIGNING OF PLEADINGS

Every pleading of a party represented by an attorney shall be personally signed by at least one attorney of record in his individual name and shall state his address. A party who is not represented by an attorney shall personally sign his pleading and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certification by him that he has read the pleading; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a pleading is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken, as provided in Rule 12.06, as sham and false and the action may proceed as though the pleading had not been served. An attorney may be subjected to appropriate disciplinary action for a willful violation of this rule or for the insertion of scandalous or indecent matter in a pleading.

RULE 12

DEFENSES AND OBJECTIONS; WHEN AND HOW PRESENTED; BY PLEADING OR MOTION; MOTION FOR JUDGMENT ON PLEADINGS

12.01 When Presented

Defendant shall serve his answer within 20 days after service of the summons upon him unless the court directs otherwise pursuant to Rule 4.043. A party served with a pleading stating a cross-claim against him shall serve an answer thereto within 20 days after the service upon him. The plaintiff shall serve his reply to a counterclaim in the answer within 20 days after service of the answer or, if a reply is ordered by the court, within 20 days after service of the order, unless the order otherwise directs. The service of a motion permitted under this rule alters these periods of time as follows unless a different time is fixed by order of the court: (1) If the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 10 days after service of notice of the court's action; (2) If the court grants a motion for a more definite statement, the responsive pleading shall be served within 10 days after the service of the more definite statement.

12.02 How Presented

Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: (1) Lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; (5) failure to state a claim upon which relief can be granted; and (6) failure to join an indispensable party. A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, he may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense that the pleading fails to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.

12.03 Motion for Judgment on the Pleadings

After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on such

motion, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided for in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.

12.04 Preliminary Hearing

The defenses and relief enumerated in Rules 12.02 and 12.03, whether made in a pleading or by motion, shall be heard and determined before trial on application of any party unless the court orders that the hearing and determination thereof be deferred until the trial.

12.05 Motion for More Definite Statement, or Paragraphing and for Separate Statement

If a pleading to which a responsive pleading is permitted violates the provisions of Rule 10.02, or is so vague and ambiguous that a party cannot reasonably be required to frame a responsive pleading, he may move for a compliance with Rule 10.02 or for a more definite statement before interposing his responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 10 days after service of notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

12.06 Motion to Strike

Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 20 days after the service of the pleading upon him, or upon the court's own initiative at any time, the court may order any pleading not in compliance with Rule 11 stricken as sham and false, or may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent or scandalous matter.

12.07 Consolidation of Defenses

A party who makes a motion under this rule may join with it the other motions herein provided for and then available to him. If a party makes a motion under this rule and does not include therein all defenses and objections then available to him which this rule permits to be raised by motion, he shall not thereafter make a motion based on any of the defenses or objections so omitted, except as provided in Rule 12.08.

12.08 Waiver of Defenses

A party waives all defenses and objections which he does not present either by motion as hereinbefore provided or, if he has made no motion, in his answer or reply, except (1) that the defense of failure to state a claim upon which relief can be granted, the defense of failure to join an indispensable party, and the objection of failure to state a legal defense to a claim may also be made by a later pleading, if one is permitted, or by motion for judgment on the pleadings or at the trial on the merits and except (2) that, whenever it appears by suggestion of parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action. If made at the trial, the objections or defenses shall be disposed of as provided in Rule 15.02 in the light of any evidence that may have been received.

RULE 13

COUNTERCLAIM AND CROSS-CLAIM

13.01 Compulsory Counterclaims

A pleading shall state as a counterclaim any claim which at the time of serving the pleading the pleader has against any opposing party, if it arises out of the transaction that is the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction, except that such a claim need not be so stated if at the time the action was commenced the claim was the subject of another pending action.

13.02 Permissive Counterclaims

A pleading may state as a counterclaim any claim against an opposing party not arising out of the transaction that is the subject matter of the opposing party's claim.

13.03 Counterclaim Exceeding Opposing Claim

A counterclaim may or may not diminish or defeat the recovery sought by the opposing party. It may claim relief exceeding in amount or different in kind from that sought in the pleading of the opposing party.

13.04 Counterclaim Against the State of Minnesota
 These rules shall not be construed to enlarge beyond the limits now fixed by law the right to assert counterclaims or to claim credits against the State of Minnesota or an officer or agency thereof.

13.05 Counterclaim Maturing or Acquired After Pleading

A claim which either matured or was acquired by the pleader after serving his pleading may, with the permission of the court, be presented as a counterclaim by supplemental pleading.

13.06 Omitted Counterclaim

When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, he may by leave of court set up the counterclaim by amendment.

13.07 Cross-Claim Against Co-Party

A pleading may state as a cross-claim any claim by one party against a co-party arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein or relating to any property that is the subject matter of the original action. Such cross-claim may include a claim that the party against whom it is asserted is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant.

13.08 Additional Parties May Be Brought In

When the presence of parties other than those to the original action is required for the granting of complete relief in the determination of a counterclaim or cross-claim, the court shall order them to be brought in as defendants as provided in these rules.

13.09 Separate Trials; Separate Judgment

If the court orders separate trials as provided in Rule 42.02, judgment on a counterclaim or cross-claim may be rendered in accordance with the terms of Rule 54.02 even if the claims of the opposing party have been dismissed or otherwise disposed of.

RULE 14

THIRD-PARTY PRACTICE

14.01 When Defendant May Bring in Third Party

Before the service of his answer a defendant may move ex parte or, after the service of his answer, on notice to the plaintiff, for leave as a third-party plaintiff to serve a summons and complaint upon a person not a party to the action who is or may be liable to him for all or part of the plaintiff's claim against him. If the motion is granted the summons and third-party complaint, together with a copy of the plaintiff's complaint, shall be served, and the person so served, hereinafter called the third-party defendant, shall make his defenses to the third-party plaintiff's claim as provided in Rule 12 and his counterclaims against the third-party plaintiff and cross-claim against other third-party defendants as provided in Rule 13. The third-party defendant may assert against the plaintiff any defenses which the third-party plaintiff has to the plaintiff's claim. The third-party defendant may also assert any claim against the plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff. The plaintiff may assert any claim against the third-party defendant arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff, and the third-party defendant thereupon shall assert his defenses as provided in Rule 12 and his counterclaims and cross-claims as provided in Rule 13. A third-party defendant may proceed under this rule against any person not a party to the action who is or may be liable to him for all or part of the claim made in the action against the third-party defendant.

14.02 When Plaintiff May Bring in Third Party

When a counterclaim is asserted against a plaintiff, he may cause a third party to be brought in under circumstances which under Rule 14.01 would entitle defendant to do so.

RULE 15

AMENDED AND SUPPLEMENTAL PLEADINGS

15.01 Amendments

A party may amend his pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, he may so amend it at any time within 20 days after it is served. Otherwise a party may amend his pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10

days after service of the amended pleading, whichever period may be longer, unless the court otherwise orders.

15.02 Amendments to Conform to the Evidence

When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that admission of such evidence would prejudice him in maintaining his action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

15.03 Relation Back of Amendments

Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading.

15.04 Supplemental Pleadings

Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit him to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. If the court deems it advisable that the adverse party plead thereto, it shall so order, specifying the time therefor.

RULE 16

PRE-TRIAL PROCEDURE; FORMULATING ISSUE

In any action, the court may in its discretion direct the attorneys for the parties to appear before it for a conference to consider:

- (1) The simplification of the issues;
- (2) The necessity or desirability of amendments to the pleadings;
- (3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
- (4) The limitation of the number of expert witnesses;
- (5) The advisability of a preliminary reference of issues to a referee;
- (6) Such other matters as may aid in the disposition of the action.

The court shall make an order which recites the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and which limits the issues for trial to those not disposed of by admissions or agreements of counsel; and such order when entered controls the subsequent course of the action, unless modified at the trial to prevent manifest injustice. The court in its discretion may establish by rule a pre-trial calendar on which actions may be placed for consideration as above provided and may either confine the calendar to jury actions or to nonjury actions or extend it to all actions.

IV. PARTIES

RULE 17

PARTIES PLAINTIFF AND DEFENDANT; CAPACITY

17.01 Real Party in Interest

Every action shall be prosecuted in the name of the real party in interest; but an executor, administrator, guardian, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute, may sue in his own name without joining with him the party for whose benefit the action is brought.

17.02 Infants or Incompetent Persons

Whenever an infant or incompetent person has a representative, such as a general guardian, committee, conservator, or other like fiduciary, the representative may sue or defend on behalf of the infant or incompetent person. When an infant or incompetent person is not represented in an action by such duly appointed representative, he must appear by guardian ad litem, who shall be appointed by the court in which the action is pending, or by a judge thereof. Such guardian shall be a resident of this state and file with the clerk his consent to such appointment before the same shall take effect, and

in case of the plaintiff such consent shall be so filed before the issuing of the summons in the action. Before he shall receive any money or other property of the party, such guardian shall also file a bond, as security therefor, in such form and with such sureties as the court shall prescribe and approve. The appointment of such guardians shall be made as follows:

(1) If the party be an infant of the age of 14 years, and under no legal disability except his minority, upon the application of such infant;

(2) In all other cases, upon the application of the general guardian, or of a relative or friend of such party;

(3) When no such application has been made by or in behalf of a party defendant before answer or default, then upon the application of the plaintiff or his attorney. In such cases, if the defendant is in default, the court shall allow his guardian ad litem a reasonable time to answer;

(4) In proceedings commencing otherwise than by the service of summons, application may be made forthwith by the petitioner or moving party with regard to any infant or incompetent person affected by the proceeding;

(5) When application is properly made by an infant in his own behalf, or by the general guardian of an infant or incompetent person, no notice shall be required. In other cases, notice of such application, designating the time and place of hearing, shall be given to the general guardian of such party or person or to such relative, advisor or friend as the court shall designate. The court may also require that like notice be given to such party or person himself. The court shall specify the time and manner of giving such notices.

RULE 18

JOINDER OF CLAIMS AND REMEDIES

18.01 Joinder of Claims

The plaintiff in his complaint or in a reply setting forth a counterclaim and the defendant in an answer setting forth a counterclaim may join either as independent or as alternative claims as many claims either legal or equitable or both as he may have against an opposing party provided they do not require separate places of trial. There may be a like joinder of claims when there are multiple parties if the requirements of Rules 19, 20, and 22 are satisfied. There may be a like joinder of cross-claims or third-party claims if the requirements of Rules 13 and 14, respectively, are satisfied.

18.02 Joinder of Remedies; Fraudulent Conveyances

Whenever a claim is one heretofore cognizable only after another claim has been prosecuted to a conclusion, the two claims may be joined in a single action; but the court shall grant relief in that action only in accordance with the relative substantive rights of the parties. In particular, a plaintiff may state a claim for money and a claim to have set aside a conveyance fraudulent as to him, without first having obtained a judgment establishing the claim for money.

RULE 19

NECESSARY JOINDER OF PARTIES

19.01 Necessary Joinder

Subject to the provisions of Rules 19.02 and 23, persons having a joint interest which is not also a several interest shall be made parties and be joined on the same side as plaintiffs or defendants. When a person who should join as a plaintiff refuses to do so, he may be made a defendant.

19.02 Effect of Failure to Join

When persons who are not indispensable, but who ought to be parties if complete relief is to be accorded between those already parties, have not been made parties and are subject to the jurisdiction of the court as to service of process, the court shall order them summoned to appear in the action. The court in its discretion may proceed in the action without making such persons parties if its jurisdiction over them can be acquired only by their consent or voluntary appearance, but the judgment rendered therein does not affect the rights or liabilities of absent persons.

19.03 Names of Omitted Persons and Reasons for Nonjoinder to be Plead

In any pleading in which relief is asked, the pleader shall set forth the names, if known to him, of persons who ought to be parties if complete relief is to be accorded between those already parties, but who are not joined, and shall state why they are omitted.

RULE 20

PERMISSIVE JOINDER OF PARTIES

20.01 Permissive Joinder

Persons may join in one action as plaintiffs if they assert jointly, severally, or in the alternative any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of fact or law common to all of them will arise in the action. All persons may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all of them will arise in the action. A plaintiff or defendant need not be interested in obtaining or defending against all the relief demanded. Judgment may be given for one or more of the plaintiffs according to their respective rights to relief, and against one or more defendants according to their respective liabilities.

20.02 Separate Trials

The court may make such order as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom he asserts no claim and who asserts no claim against him, and may order separate trials or make other orders to prevent delay or prejudice.

RULE 21

MISJOINDER AND NONJOINDER OF PARTIES

Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or added by order of the court on a motion of any party or of its own initiative at any stage of the action and on such terms as are just. Any claim against a party may be severed and proceeded with separately.

RULE 22

INTERPLEADER

Persons having claims against the plaintiff may be joined as defendants and required to interplead, in an action brought for that purpose, when their claims are such that the plaintiff is or may be exposed to multiple liability. A defendant exposed to similar liability may obtain such interpleader by way of cross-claim or counterclaim. If such a defendant admits he is subject to liability, he may, upon paying the amount claimed or delivering the property claimed or its value into court or to such person as the court may direct, move for an order to substitute the claimants other than the plaintiff as defendants in his stead. On compliance with the terms of such order, the defendant shall be discharged and the action shall proceed against the substituted defendants. It is not ground for objection to such joinder or to such motion that the claims of the several claimants or the titles on which their claims depend do not have a common origin or are not identical with but are adverse to and independent of one another, or that the plaintiff avers that he is not liable in whole or in part to any or all of the claimants. The provisions of this rule do not restrict the joinder of parties permitted in Rule 20.

RULE 23

CLASS ACTIONS

23.01 Representation

If persons constituting a class are so numerous as to make it impracticable to bring them all before the court, such of them, one or more, as will fairly insure the adequate representation of all may, on behalf of all, sue or be sued, when the character of the right sought to be enforced for or against the class is

- (1) joint, or common, or secondary in the sense that the owner of a primary right refuses to enforce that right and a member of the class thereby becomes entitled to enforce it;
- (2) several, and the object of the action is the adjudication of claims which do or may affect specific property involved in the action; or
- (3) several, and there is a common question of law or fact affecting the several rights and a common relief is sought.

23.02 Secondary Action by Shareholders

In an action brought to enforce a secondary right on the part of one or more shareholders in a corporation or members in an unincorporated association because the corporation or association refuses to enforce rights which may properly be asserted by it, the complaint shall set forth with particularity the efforts of the plaintiff to secure from the managing directors or trustees and, if necessary, from the shareholders or members such action as

he desires, and the reasons for his failure to obtain such action or the reason for not making such effort.

23.03 Dismissal or Compromise

A class action shall not be dismissed or compromised without the approval of the court. If the right sought to be enforced is one defined in Rule 23.01(1), notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs. If the right is one defined in Rule 23.01(2) or (3), notice shall be given only if the court requires it.

RULE 24

INTERVENTION

24.01 Intervention of Right

Upon timely application anyone shall be permitted to intervene in an action (1) when the applicant has such an interest in the matter in litigation that he may either gain or lose by the direct legal effect of the judgment therein whether or not he were a party to the action; or (2) when the representation of the applicant's interest by existing parties is or may be inadequate and the applicant is or may be bound by a judgment in the action; or (3) when the applicant is so situated as to be adversely affected by a distribution or other disposition of property which is in the custody or subject to the control or disposition of the court or an officer thereof.

24.02 Permissive Intervention

Upon timely application anyone may be permitted to intervene in an action when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement, or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

24.03 Procedure

A person desiring to intervene shall serve a motion to intervene upon all parties affected thereby. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought.

24.04 Notice to Attorney General

When the constitutionality of an act of the legislature is drawn in question in any action to which the state or an officer, agency or employe of the state is not a party, the party asserting the unconstitutionality of the act shall notify the attorney general thereof within such time as to afford him an opportunity to intervene.

RULE 25

SUBSTITUTION OF PARTIES

25.01 Death

(1) If a party dies and the claim is not extinguished or barred, the court may order substitution of the proper parties. The motion for substitution may be made by the successors or representatives of the deceased party or by any party and, together with the notice of hearing, shall be served on the parties as provided in Rule 5 and upon persons not parties in the manner provided in Rule 4 for the service of process.

(2) In the event of the death of one or more of the plaintiffs or of one or more of the defendants in an action in which the right sought to be enforced survives only to the surviving plaintiffs or only against the surviving defendants, the action does not abate. The death shall be indicated upon the record and the action shall proceed in favor of or against the surviving parties.

25.02 Incompetency

If a party becomes incompetent, the action shall not abate because of the disability, and the court upon motion served as provided in Rule 25.01 may allow it to be continued by or against his representative.

25.03 Transfer of Interest

In case of any transfer of interest, the action may be continued by or against the original party, unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party. Service of this motion shall be made as provided in Rule 25.01.

25.04 Public Officers; Death or Separation from Office

When any public officer is a party to an action and during its pendency dies, resigns, or otherwise ceases to hold office, the action may be continued and maintained by or against his successor, if within 6 months after the successor takes office it is satisfactorily shown to the court that there is a substantial need for so continuing and maintaining it. Substitution pursuant to this rule may be made when it is shown by supplemental pleading that the successor of any officer adopts or continues or threatens to adopt or continue the action of his predecessor. Before a substitution is made, the party or officer to be affected, unless expressly assenting thereto, shall be given reasonable notice of the application therefor and accorded an opportunity to object.

V. DEPOSITIONS AND DISCOVERY

RULE 26

DEPOSITIONS PENDING ACTION

26.01 When Deposition May be Taken

Any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for the purpose of discovery or for use as evidence in the action or for both purposes. After commencement of the action, the deposition may be taken without leave of court, except that leave, granted with or without notice, must be obtained if notice of the taking is served by the plaintiff within 20 days after commencement of the action. The attendance of witnesses may be compelled by the use of subpoena as provided in Rule 45. Depositions shall be taken only in accordance with these rules. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

26.02 Scope of Examination

Unless otherwise ordered by the court as provided by Rule 30.02 or 30.04, the witness may be examined regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the examining party or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts. It is not ground for objection that the testimony will be inadmissible at the trial if the testimony sought appears reasonably calculated to lead to the discovery of admissible evidence. The production or inspection of any writing obtained or prepared by the adverse party, his attorney, surety, indemnitor, or agent in anticipation of litigation or in preparation for trial, or of any writing that reflects an attorney's mental impressions, conclusions, opinions, or legal theories, or, except as provided in Rule 35, the conclusions of an expert, shall not be required.

26.03 Examination and Cross-Examination

Examination and cross-examination of witnesses may proceed as permitted at the trial under the provisions of Rule 43.02.

26.04 Use of Depositions

At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence, may be used against any party who was present or represented at the taking of the deposition or who had due notice thereof in accordance with any one of the following provisions:

- (1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness on material matters only.
- (2) The deposition of a party or of any one who at the time of taking the deposition was a managing agent or employe of the party or an officer, director, managing agent or employe of the state or any political subdivision thereof or of a public or private corporation, partnership, or association which is a party may be used by an adverse party for any purpose.
- (3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds: (a) that the witness is dead; or (b) that the witness is at a greater distance than 100 miles from the place of trial or hearing, or is out of the state, unless it appears that the absence of the witness was procured by the party offering the deposition; or (c) that the witness

is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (d) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (e), upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witness orally in open court, to allow the deposition to be used.

- (4) If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce all of it which is relevant to the part introduced, and any party may introduce any other parts.

Substitution of parties does not affect the right to use depositions previously taken; and, when an action in any court of the United States or of any state has been dismissed and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor.

26.05 Objections to Admissibility

Subject to the provisions of Rule 32.03, objection may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of evidence if the witness were then present and testifying.

26.06 Effect of Taking or Using Depositions

A party shall not be deemed to make a person his own witness for any purpose by taking his deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition as described in Rule 26.04(2). At the trial or hearing, any party may rebut any relevant evidence contained in a deposition whether introduced by him or by any other party.

26.07 Depositions in Arbitration

The deposition of a witness whose testimony is wanted for use as evidence in a controversy submitted to arbitrators may be taken if the witness is at a greater distance than 100 miles from the place of hearing, or is about to go out of the state, not intending to return in time for the hearing, or is unable to attend or testify because of age, sickness, or infirmity. The deposition shall be taken in accordance with Rules 26.04(4), 26.05, 27.01, 27.03, 27.05, 27.06, 28, 29, and 32. Rules 37.01 and 37.02 shall likewise apply to the taking of such depositions insofar as the provisions thereof are applicable. The attendance of witnesses may be compelled by use of subpoena as provided in Rule 45. By leave of court, the deposition of a person confined in prison may be taken on such terms as the court prescribes.

RULE 27

DEPOSITIONS BEFORE ACTION OR PENDING APPEAL

27.01 Before Action

(1) **Petition.** A person who desires to perpetuate his own testimony or that of another person regarding any matter may file a verified petition in the district court of the county of the residence of an expected adverse party. The petition shall be entitled in the name of the petitioner and shall show (a) that the petitioner expects to be a party to an action but is presently unable to bring it or cause it to be brought, (b) the subject matter of the expected action and his interest therein, (c) the facts which he desires to establish by the proposed testimony and his reasons for desiring to perpetuate it, (d) the names or a description of the persons he expects will be adverse parties and their addresses so far as known, and (e) the names and addresses of the persons to be examined and the substance of the testimony which he expects to elicit from each, and shall ask for an order authorizing the petitioner to take the deposition of the persons to be examined named in the petition, for the purpose of perpetuating their testimony.

(2) **Notice and Service.** The petitioner shall thereafter serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court, at a time and place named therein, for the order described in the petition. At least 20 days before the date of hearing the notice shall be served either within or without the state

in the manner provided in Rule 4.03 for service of summons; but if such service cannot with due diligence be made upon any expected adverse party named in the petition, the court may make such order as is just for service by publication or otherwise, and shall appoint, for persons not served in the manner provided in Rule 4.03, an attorney who shall represent them, and, in case they are not otherwise represented, shall cross-examine the deponent. If any expected adverse party is a minor or incompetent, the provisions of Rule 17.02 apply.

(3) **Order and Examination.** If the court is satisfied that the perpetuation of testimony may prevent a failure or delay of justice, it shall make an order designating and describing the persons whose depositions may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The deposition may then be taken in accordance with these rules; and the court may make orders of the character provided for by Rules 34 and 35. For the purpose of applying these rules to depositions for perpetuating testimony, each reference therein to the court in which the action is pending shall be deemed to refer to the court in which the petition for such deposition was filed.

(4) **Use of Deposition.** If a deposition to perpetuate testimony is taken under these rules or if, although not so taken, it would be admissible in evidence in the courts of the state in which it is taken, it may be used in any action involving the same subject matter subsequently brought in this state, in accordance with the provisions of Rule 26.04.

27.02 Pending Appeal

If an appeal has been taken from a judgment of a district court, or before the taking of an appeal if the time therefor has not expired, the district court in which the judgment was rendered may allow the taking of the deposition of witnesses to perpetuate their testimony for use in the event of further proceedings in the district court. In such case, the party who desires to perpetuate the testimony may make a motion in the district court for leave to take the depositions, upon the same notice and service thereof as if the action was pending in the district court. The motion shall show (1) the names and addresses of persons to be examined and the substance of the testimony which he expects to elicit from each, and (2) the reasons for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken and may make orders of the character provided for by Rules 34 and 35, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in the district court.

27.03 Perpetuation by Action

This rule does not limit the power of the court to entertain an action to perpetuate testimony.

RULE 28

PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN

28.01 Within the United States

Within the United States or within a territory or insular possession subject to the dominion of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held, or before a person appointed by the court in which the action is pending. A person so appointed has power to administer oaths and take testimony.

28.02 In Foreign Countries

In a foreign state or country depositions shall be taken (1) on notice before a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or (2) before such person or officer as may be appointed by commission or under letters rogatory. A commission or letters rogatory shall be issued only when necessary or convenient, on application and notice, and on such terms and with such directions as are just and appropriate. Officers may be designated in notices or commissions either by name or descriptive title and letters rogatory may be addressed "To the Appropriate Judicial Authority in (here name the country)."

28.03 Disqualification for Interest

No deposition shall be taken before a person who is a relative or employe or attorney or counsel of

any of the parties, or is a relative or employe of such attorney or counsel, or is financially interested in the action.

**RULE 29
STIPULATION REGARDING THE TAKING OF DEPOSITIONS**

If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner, and when so taken may be used like other depositions.

**RULE 30
DEPOSITIONS UPON ORAL EXAMINATION
30.01 Notice of Examination; Time and Place**

A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. On motion of any party upon whom the notice is served, the court may for cause enlarge or shorten the time.

30.02 Orders for the Protection of Parties and Witnesses

After notice is served for taking a deposition by oral examination, upon motion seasonably made by any party or by the person to be examined and upon notice and for good cause shown the court in which the action is pending may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed the deposition shall be opened only by order of the court, or that secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court; or the court may make any other order which justice requires to protect the party or witness from annoyance, expense, embarrassment or oppression. The power of the court under this rule shall be exercised with liberality toward the accomplishment of its purpose to protect parties and witnesses.

30.03 Record of Examination; Oath; Objections

The officer before whom the deposition is to be taken shall put the witness on oath and shall, personally, or by some one acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise. All objections made at the time of examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim.

30.04 Motion to Terminate or Limit Examination

At any time during the taking of the deposition, on motion of any party or of the witness and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the witness or party, the court in which the action is pending or the court in the district where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in Rule 30.02. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or witness, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. In granting or refusing such order, the court may impose upon either party or upon the witness the requirement to pay such costs or expenses as the court may deem reasonable.

30.05 Submission to Witness; Changes; Signing

When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him, unless

such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness, or the fact of the refusal to sign, together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress under Rule 32.04 the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

30.06 Certification and Filing by Officer; Copies; Notice of Filing

(1) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope indorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly file it with the court in which the action is pending or send it by registered mail to the clerk thereof for filing, or, if the deposition was taken under Rule 26.07, deliver or mail it to an arbitrator.

(2) Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the witness.

(3) The party taking the deposition shall give prompt notice of its filing to all other parties.

30.07 Failure to Attend or to Serve Subpoena; Expenses

(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by him and his attorney in so attending, including reasonable attorney's fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him, and the witness because of such failure does not attend, and if another party attends in person or by attorney because he expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by him and his attorney in so attending, including reasonable attorney's fees.

**RULE 31
DEPOSITIONS OF WITNESSES UPON WRITTEN INTERROGATORIES**

31.01 Serving Interrogatories; Notice

A party desiring to take the deposition of any person upon written interrogatories shall serve them upon every other party with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom the deposition is to be taken. Within 10 days thereafter, a party so served may serve cross interrogatories upon the party proposing to take the deposition. Within 5 days thereafter, the latter may serve redirect interrogatories upon a party who has served cross interrogatories. Within 3 days after being served with redirect interrogatories, a party may serve recross interrogatories upon the party proposing to take the deposition.

31.02 Officers to Take Responses and Prepare Record

A copy of the notice and copies of all interrogatories served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by Rules 30.03, 30.05, and 30.06, to take the testimony of the witness in response to the interrogatories and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the interrogatories received by him.

31.03 Notice of Filing

When the deposition is filed, the party taking it shall promptly give notice thereof to all other parties.

31.04 Orders for the Protection of Parties and Witnesses

After the service of interrogatories and prior to the taking of the testimony of the witnesses, the court in which the action is pending, on motion promptly made by a party or witnesses, upon notice

and good cause shown, may make any order specified in Rule 30 which is appropriate and just or an order that the deposition shall not be taken before the officer designated in the notice or that it shall not be taken except upon oral examination.

RULE 32

EFFECT OF ERRORS AND IRREGULARITIES IN DEPOSITIONS

32.01 As to Notice

All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

32.02 As to Disqualification of Officer

Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

32.03 As to Taking of Deposition

(1) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(2) Errors and irregularities occurring at the oral examination in the manner of taking deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless reasonable objection thereto is made at the taking of deposition.

(3) Objections to the form of written interrogatories submitted under Rule 31 are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross or other interrogatories and within 3 days after service of the last interrogatories authorized.

32.04 As to Completion and Return of Deposition

Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer under Rules 30 and 31 are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

RULE 33

INTERROGATORIES TO PARTIES

Any party may serve upon any adverse party written interrogatories to be answered by the party served or, if the party served is the state or any political subdivision thereof or a public or private corporation or a partnership or association, by any officer or managing agent, who shall furnish such information as is available to the party. Interrogatories may be served after commencement of the action and without leave of court, except that, if service is made by the plaintiff within 10 days after such commencement, leave of court granted with or without notice must be first obtained. The interrogatories shall be answered separately and fully in writing under oath. The answers shall be signed by the person making them; and the party upon whom the interrogatories have been served shall serve a copy of the answers on the party submitting the interrogatories within 15 days after the service of the interrogatories, unless the court, on motion and notice and for good cause shown enlarges or shortens the time. Within 10 days after service of interrogatories a party may serve written objections thereto, together with a notice of hearing the objections at the earliest practicable time. Answers to interrogatories to which objection is made shall be deferred until the objections are determined.

Interrogatories may relate to any matters which can be inquired into under Rule 26.02, and the answers may be used to the same extent as provided in Rule 26.04 for the use of the deposition of a party. Interrogatories may be served after a deposition has been taken, and a deposition may be sought after interrogatories have been answered, but the court, on motion of the witnesses or the party interrogated, may make such protective order as justice may require. The number of interrogatories or of sets of interrogatories to be served is not limited except as justice requires to protect the party from annoyance, expense, embarrassment, or oppression. The provisions of Rule 30.02 are applica-

ble for the protection of the party from whom answers to interrogatories are sought under this rule.

RULE 34

DISCOVERY AND PRODUCTION OF DOCUMENTS AND THINGS FOR INSPECTION, COPYING, OR PHOTOGRAPHING

Upon motion of any party showing good cause therefor and upon notice to all other parties, and subject to the provisions of Rule 30.02, the court in which an action is pending may (1) order any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged, which constitute or contain evidence relating to any of the matters within the scope of the examination permitted by Rule 26.02 and which are in his possession, custody, or control; or (2) order any party to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated object or operation thereon within the scope of the examination permitted by Rule 26.02. The order shall specify the time, place, and manner of making the inspection and taking the copies and photographs and may prescribe such terms and conditions as are just.

RULE 35

PHYSICAL AND MENTAL EXAMINATION OF PERSONS

35.01 Order of Examinations

In an action in which the mental or physical condition or the blood relationship of a party, or of a person under control of a party, is in controversy, the court in which the action is pending may order him to submit to a mental or physical or blood examination by a physician. The order may be made only on motion for good cause shown and upon notice to the party or person to be examined and to all other parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is made.

35.02 Report of Findings

(1) If requested by the person examined, the party causing the examination to be made shall deliver to him a copy of a detailed written report of the examining physician setting out his findings and conclusions. After such request and delivery, the party causing the examination to be made shall be entitled, upon request, to receive from the adverse party a like report of any examination, previously or thereafter made, of the same mental or physical or blood condition. If the adverse party refuses to deliver such report, the court, on motion and notice, may make an order requiring delivery on such terms as are just, and, if a physician fails or refuses to make such a report, the court may exclude his testimony if offered at the trial.

(2) By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the adverse party waives any privilege he may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine him or the person under his control in respect of the same mental or physical or blood condition.

RULE 36

ADMISSION OF FACTS AND OF GENUINENESS OF DOCUMENTS

36.01 Request for Admission

After commencement of an action, a party may serve upon any other party a written request for the admission by the latter of the genuineness of any relevant documents described in and exhibited with the request or of the truth of any relevant matters of fact set forth in the request. If a plaintiff desires to serve a request within 10 days after commencement of the action, leave of court, granted with or without notice, must be obtained. Copies of the documents shall be served with the request, unless copies have already been furnished. Each of the matters of which an admission is requested shall be deemed admitted unless within a period designated in the request not less than 10 days after service thereof, or within such shorter or longer time as the court may allow on motion and notice, the party to whom the request is directed serves upon the party requesting the admission either (1) a sworn statement denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully admit or deny those matters or (2) written objections on

the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part, together with a notice of hearing the objections at the earliest practicable time. If written objections to a part of the request are made, the remainder of the request shall be answered within the period designated in the request. A denial shall fairly meet the substance of the requested admission, and, when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder.

36.02 Effect of Admission

Any admission made by a party pursuant to such request is for the purpose of the pending action only and does not constitute an admission by him for any other purpose and may not be used against him in any other proceeding.

RULE 37

**REFUSAL TO MAKE DISCOVERY;
CONSEQUENCES**

37.01 Refusal to Answer

If a party or other witness refuses to answer any question propounded upon oral examination, the examination shall be completed on other matters or adjourned, as the proponent of the question may prefer. Thereafter, on reasonable notice to all persons affected thereby, he may apply to the court in which the action is pending or the court in the district where the deposition is taken for an order compelling an answer. Upon the refusal of a witness to answer any interrogatory submitted under Rule 31 or upon the refusal of a party to answer any interrogatory submitted under Rule 33, the proponent of the question may on like notice make like application for such an order. If the motion is granted and if the court finds that the refusal was without substantial justification, the court shall require the refusing party or witness and the party or attorney advising the refusal or both of them to pay to the examining party the amount of the reasonable expenses incurred in obtaining the order, including reasonable attorney's fees. If the motion is denied and if the court finds that the motion was made without substantial justification, the court shall require the examining party or the attorney advising the motion or both of them to pay to the refusing party or witness the amount of the reasonable expenses incurred in opposing the motion, including reasonable attorney's fees.

37.02 Failure to Comply with Order.

(1) **Contempt.** If a party or other witness refuses to be sworn or refuses to answer any question after being directed to do so, the refusal may be considered a contempt of the court making the order or the court in which the action is pending.

(2) **Other Consequences.** If any party or an officer or managing agent of a party refuses to obey an order made under Rule 37.01 requiring him to answer designated questions, or an order made under Rule 34 to produce any document or other thing for inspection, copying, or photographing, or to permit it to be done, or to permit entry upon land or other property, or an order made under Rule 35 requiring him or a person under his control to submit to a mental or physical or blood examination, the court may make such orders in regard to the refusal as are just, and among others the following:

- (a) An order that the matters regarding which the questions were asked, or the character or description of the thing or land, or the contents of the paper, or the mental or physical or blood condition of the party, or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;
- (b) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing in evidence designated documents or things or items of testimony, or from introducing evidence of mental or physical or blood condition;
- (c) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;
- (d) In lieu of any of the foregoing orders or in addition thereto an order directing the arrest of any party or agent of a party for

disobeying any of such orders except an order to submit to mental or physical or blood examination.

37.03 Expenses on Refusal to Admit

If a party, after being served with a request under Rule 36 to admit the genuineness of any documents or the truth of any matters of fact, serves a sworn denial thereof and if the party requesting the admission thereafter proves the genuineness of any such document or the truth of any such matter of fact, he may apply to the court for an order requiring the other party to pay him the reasonable expenses incurred in making such proof, including reasonable attorney's fees. Unless the court finds that there were good reasons for the denial or that the admissions sought were of no substantial importance, the order shall be made.

37.04 Failure of Party to Attend or Serve Answers

If a party or an officer or managing agent of a party willfully fails to appear before the officer who is to take his deposition, after being served with a proper notice, or fails to serve answers to interrogatories submitted under Rule 33, the court, on motion and notice, may strike out all or any part of any pleading of that party, or dismiss the action or proceeding or any part thereof, or enter a judgment by default against that party.

VI. TRIALS

RULE 38

JURY TRIAL OF RIGHT

38.01 Right Preserved

In actions for the recovery of money only, or of specific real or personal property, or for a divorce on the ground of adultery, the issues of fact shall be tried by a jury, unless a jury trial be waived or a reference be ordered.

38.02 Waiver

In actions arising on contract, and by permission of the court in other actions, any party thereto may waive a jury trial in the manner following:

- (1) By failing to appear at the trial;
- (2) By written consent, by the party or his attorney, filed with the clerk;
- (3) By oral consent in open court, entered in the minutes.

38.03 Notice of Trial; Note of Issue

No notice of trial need be served, but the party desiring to place a cause upon the calendar thereof for trial shall, after issue is joined therein, prepare a note of issue containing the title of the cause, a statement as to whether the issue is an issue of law or an issue of fact, and if an issue of fact, whether triable by court or jury, and the names and addresses of the respective counsel, and shall serve the same on opposing counsel, and file such note of issue, with proof of service, with the clerk of court within 10 days after such service in all districts wherein but one term of court is held annually; in all other districts such note of issue must similarly be filed but at least 8 days before the beginning of a general term; and thereupon such cause shall be set for trial in accordance with Rule 40.

RULE 39

TRIAL BY JURY OR BY THE COURT

39.01 By Court

Issues of fact not submitted to a jury as provided in Rule 38 shall be tried by the court.

39.02 Advisory Jury and Trial by Consent

In all actions not triable of right by a jury the court, upon motion or of its own initiative, may try an issue with an advisory jury, or the court, with the consent of both parties, may order a trial with a jury whose verdict has the same effect as if trial by jury had been a matter of right.

RULE 40

ASSIGNMENT OF CASES FOR TRIAL

The judges of the court may, by order or by rule of court, provide for the setting of cases for trial upon the calendar, the order in which they shall be heard and the resetting thereof.

RULE 41

DISMISSAL OF ACTIONS

41.01 Voluntary Dismissal; Effect Thereof

(1) **By Plaintiff; by Stipulation.** Subject to the provisions of Rule 23.03 and of Rule 66, an action may be dismissed by the plaintiff without order of court (a) by filing a notice of dismissal not less than 10 days before the opening of the term of court at which the action is noted for trial or, in counties having continuous terms of court, not less than 10 days before the day on which the action is first set for trial, if a provisional remedy has not been allowed or a counterclaim made or other affirmative relief demanded in the answer, or (b) by filing a stipulation of dismissal signed by all parties

who have appeared in the action. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action based on or including the same claim.

(2) **By Order of Court.** Except as provided in paragraph (1) of this rule, an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon him of the plaintiff's motion to dismiss, the action shall not be dismissed against the defendant's objection unless the counterclaim can remain pending for independent adjudication by the court. Unless otherwise specified in the order, a dismissal under this paragraph is without prejudice.

41.02 Involuntary Dismissal; Effect Thereof

For failure of the plaintiff to prosecute or to comply with these rules or any order of the court, a defendant may move for dismissal of an action or of any claim against him. After the plaintiff has completed the presentation of his evidence, the defendant, without waiving his right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. In an action tried by the court without a jury the court as trier of the facts may then determine them and render judgment against the plaintiff or may decline to render any judgment until the close of all the evidence. If the court renders judgment on the merits against the plaintiff, the court shall make findings as provided in Rule 52.01. Unless the court in its order for dismissal otherwise specifies, a dismissal under this rule and any dismissal not provided for in this rule or in Rule 41.01, other than a dismissal for lack of jurisdiction, operates as an adjudication upon the merits.

41.03 Dismissal of Counterclaim, Cross-Claim, or Third-Party Claim

The provisions of Rules 41.01 and 41.02 apply to the dismissal of any counterclaim, cross-claim, or third-party claim.

41.04 Costs of Previously Dismissed Action

If a plaintiff who has once dismissed an action in any court commences an action based upon or including the same claim against the same defendant, the court may make such order for the payment of costs of the action previously dismissed as it may deem proper and may stay the proceedings in the action until the plaintiff has complied with the order.

RULE 42

CONSOLIDATION; SEPARATE TRIALS

42.01 Consolidation

When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

42.02 Separate Trials

The court in furtherance of convenience or to avoid prejudice may order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues.

RULE 43 EVIDENCE

43.01 Form and Admissibility

In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise provided by these rules. All evidence shall be admitted which is admissible under the statutes of this state, or under the rules of evidence heretofore applied in the trials of actions in the courts of this state. In any case, the statute or rule which favors the reception of the evidence governs, and the evidence shall be presented according to the most convenient method prescribed in any of the statutes or rules to which reference is herein made. The competency of a witness to testify shall be determined in like manner.

43.02 Scope of Examination and Cross-Examination

A party may interrogate any unwilling or hostile witness by leading questions. A party may call an adverse party or his managing agent or employee or an officer, director, managing agent or employee of the state or any political subdivision thereof or of a public or private corporation or of a partnership

or association or body politic which is an adverse party, and interrogate him by leading questions and contradict and impeach him on material matters in all respects as if he had been called by the adverse party, and the witness thus called may be cross-examined by the adverse party only upon the subject matter of his examination in chief, and where the witness is an officer, director, managing agent or employee he may be so contradicted and impeached by or on behalf of the adverse party also.

43.03 Record of Excluded Evidence

In an action tried by a jury, if an objection to a question propounded to a witness is sustained by the court, the examining attorney may make a specific offer of what he expects to prove by the answer of the witness. The court may require the offer to be made out of the hearing of the jury. The court may add such other or further statement as clearly shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. In actions tried without a jury the same procedure may be followed, except that the court, upon request, shall take and report the evidence in full, unless it clearly appears that the evidence is not admissible on any ground or that the witness is privileged.

43.04 Affirmation in Lieu of Oath

Whenever under these rules an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof.

43.05 Evidence and Motions

When a motion is based on facts not appearing of record, the court may hear the matter on affidavits presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or depositions.

43.06 Res Ipsa Loquitur

Res ipsa loquitur shall be regarded as nothing more than one form of circumstantial evidence creating a permissive inference of negligence. The plaintiff shall be given the benefit of its natural probative force existing at the close of all the evidence even though he has introduced specific evidence of negligence or made specific allegations of negligence in his pleadings.

RULE 44

PROOF OF OFFICIAL RECORD

44.01 Authentication of Copy

An official record or any entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied with a certificate that such officer has the custody. If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office.

44.02 Proof of Lack of Record

A written statement signed by an officer having the custody of an official record, or by his deputy, that after diligent search no record or entry of a specified tenor is found to exist in the records of his office, accompanied by a certificate as above provided, is admissible as evidence that the records of his office contain no such record or entry.

44.03 Other Proof

This rule does not prevent the proof of official records or of entry or lack of entry therein by any method authorized by any applicable statute or by the rules of evidence at common law.

RULE 45

SUBPOENA

45.01 For Attendance of Witnesses; Form; Issuance

Every subpoena shall be issued by the clerk under the seal of the court, shall state the name of the court and the title of the action, and shall command each person to whom it is directed to attend and give testimony at a time and place therein specified. The clerk shall issue a subpoena, or a subpoena for the production of documentary evidence or

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tangible things, signed and sealed, but otherwise in blank, to a party requesting it, who shall fill it in before service.

45.02 For Production of Documentary Evidence

A subpoena may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein; but the court, upon motion made promptly, and in any event at or before the time specified in the subpoena for compliance therewith, may (1) quash or modify the subpoena if it is unreasonable or oppressive, or (2) condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

45.03 Service

A subpoena may be served by the sheriff, by his deputy, or by any other person who is not a party. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and by tendering to him the fees for one day's attendance and the mileage allowed by law. When the subpoena is issued on behalf of the state of Minnesota or an officer or agency thereof, fees and mileage need not be tendered.

45.04 Subpoena for Taking Depositions; Place of Examination

(1) Proof of service of notice to take a deposition as provided in Rules 30.01 and 31.01 constitutes a sufficient authorization for the issuance of subpoenas for the persons named or described therein. The subpoena may command the person to whom it is directed to produce designated books, papers, documents, or tangible things which constitute or contain evidence relating to any of the matters within the scope of the examination permitted by Rule 26.02, but in that event the subpoena will be subject to the provisions of Rules 30.02 and 45.02.

(2) A resident of this state may be required to attend an examination only in the county wherein he resides or is employed or transacts his business in person, or at such other convenient place as is fixed by an order of court. A nonresident of the state may be required to attend in any county of the state.

45.05 Subpoena for a Hearing or Trial

At the request of any party, the clerk of the district court shall issue subpoenas for witnesses in all civil cases pending before that court, or before any magistrate, arbitrator, board, committee, or other person authorized to examine witnesses. A subpoena requiring the attendance of a witness at a hearing or trial may be served at any place within the state.

45.06 Contempt

Failure to attend as a witness is contempt of court, and, if the subpoena issues out of a district court, may be punished by a fine of not exceeding \$250.00, or by imprisonment in jail not exceeding 6 months, or both.

RULE 46

EXCEPTIONS UNNECESSARY

Formal exceptions to rulings or orders of the court are unnecessary; but for all purposes for which an exception has heretofore been taken it is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which he desires the court to take or his objection to the action of the court and his grounds therefor; and, if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection does not thereafter prejudice him. A minute of the objection to the ruling or order shall be made by the judge or reporter; and the same may be preserved in a settled case.

RULE 47

JUROS

47.01 Examination of Jurors

The court may permit the parties or their attorneys to conduct the examination of prospective jurors or may itself conduct the examination. In the latter event, the court shall permit the parties or their attorneys to supplement the examination by such further inquiry as it deems proper.

47.02 Alternate Jurors

The court may direct that one or two jurors in addition to the regular panel be called and impaneled to sit as alternate jurors. Alternate jurors, in the order in which they are called, shall replace jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have

the same functions, powers, facilities, and privileges as the principal jurors. An alternate juror who does not replace a principal juror shall be discharged after the jury retires to consider its verdict. If one or two alternate jurors are called, each party is entitled to one peremptory challenge in addition to those otherwise allowed by law. The additional peremptory challenge may be used only against an alternate juror, and the other peremptory challenges allowed by law shall not be used against the alternates.

RULE 48

JURIES OF LESS THAN TWELVE; MAJORITY VERDICT

The parties may stipulate that the jury shall consist of any number less than 12, or that a verdict or a finding of a stated majority of the jurors shall be taken as the verdict or finding of the jury.

RULE 49

SPECIAL VERDICTS AND INTERROGATORIES

49.01 Special Verdicts

The court may require a jury to return only a special verdict in the form of a special written finding upon each issue of fact. In that event the court may submit to the jury written questions susceptible of categorical or other brief answer or may submit written forms of the several special findings which might properly be made under the pleadings and evidence; or it may use such other method of submitting the issues and require written findings thereon as it deems most appropriate. The court shall give to the jury such explanations and instructions concerning the matter thus submitted as may be necessary to enable the jury to make its findings upon each issue. If in so doing the court omits any issue of fact raised by the pleadings or by the evidence, each party waives his right to a trial by jury of the issue so omitted unless before the jury retires he demands its submission to the jury. As to an issue omitted without such demand, the court may make a finding; or, if it fails to do so, it shall be deemed to have made a finding in accord with the judgment on the special verdict.

49.02 General Verdict Accompanied by Answer to Interrogatories

The court may submit to the jury, together with appropriate forms for a general verdict, written interrogatories upon one or more issues of fact the decision of which is necessary to a verdict. The court shall give such explanation or instruction as may be necessary to enable the jury both to make answers to the interrogatories and to render a general verdict, and the court shall direct the jury both to make written answers and to render a general verdict. When the general verdict and the answers are harmonious, the court shall direct the entry of the appropriate judgment upon the verdict and answers. When the answers are consistent with each other, but one or more is inconsistent with the general verdict, the court may direct the entry of judgment in accordance with the answers, notwithstanding the general verdict, or may return the jury for further consideration of its answers and verdict, or may order a new trial. When the answers are inconsistent with each other and one or more is likewise inconsistent with the general verdict, the court shall not direct the entry of judgment, but may return the jury for further consideration of its answers and verdict, or may order a new trial.

RULE 50

MOTION FOR A DIRECTED VERDICT; JUDGMENT NOTWITHSTANDING VERDICT; ALTERNATIVE MOTION

50.01 Directed Verdict; When Made; Effect

A motion for a directed verdict may be made at the close of the evidence offered by an opponent or at the close of all the evidence. A party who moves for a directed verdict at the close of the evidence offered by an opponent shall, after denial of the motion, have the right to offer evidence as if the motion had not been made. A motion for a directed verdict which is not granted is not a waiver of trial by jury even though all parties to the action have moved for directed verdicts. A motion for a directed verdict shall state the specific grounds therefor. If the evidence is sufficient to sustain a verdict for the opponent, the motion shall not be granted.

50.02 Judgment Notwithstanding Verdict

(1) A party may move that judgment be entered notwithstanding the verdict or notwithstanding the jury has disagreed and been discharged, whether or not he has moved for a directed verdict, and

the court shall grant the motion if the moving party would have been entitled to a directed verdict at the close of the evidence.

(2) A motion for judgment notwithstanding the verdict may include in the alternative a motion for a new trial. When such alternative motion is made and the court grants the motion for judgment notwithstanding the verdict, the court shall at the same time grant or deny the motion for a new trial, but in such case the order on the motion for a new trial shall become effective only if and when the order granting the motion for judgment notwithstanding the verdict is reversed, vacated, or set aside.

(3) A motion for judgment notwithstanding the verdict or notwithstanding the jury has disagreed and been discharged shall be made within the time specified in Rule 59 for the making of a motion for a new trial. On a motion for judgment notwithstanding the jury has disagreed and been discharged, the date of discharge shall be the equivalent of the date of rendition of a verdict within the meaning of that rule, but such motion must in any event be made before a retrial of the action is begun.

RULE 51

INSTRUCTIONS TO JURY; OBJECTION

At the close of the evidence or at such earlier time during the trial as the court reasonably directs, any party may file written requests that the court instruct the jury on the law as set forth in the requests. The court shall inform the counsel of its proposed action upon the requests prior to their arguments to the jury, and such action shall be made a part of the record; but the court shall instruct the jury after the arguments are completed. No party may assign as error unintentional misstatements and verbal errors, or omissions in the charge, unless he objects thereto before the jury retires to consider its verdict, stating distinctly the matter to which he objects and the grounds of his objections. An error in the instructions with respect to fundamental law or controlling principle may be assigned in a motion for a new trial though it was not otherwise called to the attention of the court.

RULE 52

FINDINGS BY THE COURT

52.01 Effect

In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon and direct the entry of the appropriate judgment; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses. The findings of a referee, to the extent that the court adopts them, shall be considered as the findings of the court. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rules 12 or 56 or any other motion except as provided in Rule 41.02.

52.02 Amendment

Upon motion of a party made not later than time allowed for motion for a new trial pursuant to Rule 59.03(2), the court may amend its findings or make additional findings, and may amend the judgment accordingly if judgment has been entered. The motion may be made with a motion for a new trial. When findings of fact are made in actions tried by the court without a jury, the question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made in the district court an objection to such findings or has made a motion to amend them or a motion for judgment.

RULE 53

REFEREES

53.01 Appointment and Compensation

The court in which any action is pending may appoint a referee therein. When the court shall state in its order of appointment that the reference is made necessary by press of business, the fees of the referee, as taxed and allowed by the court, shall be paid out of the county treasury, as the salaries of county officers are paid. In other cases the compensation to be allowed to a referee shall be fixed by the court, and shall be charged upon such of the parties or paid out of any fund or subject matter of the action which is in the custody and control of the court as the court may direct. The referee shall

not retain his report as security for his compensation; but when the party ordered to pay the compensation allowed by the court does not pay it after notice and within the time prescribed by the court, the referee is entitled to a writ of execution against the delinquent party.

53.02 Reference

A reference to a referee shall be the exception and not the rule. In actions to be tried by a jury, a reference shall be made only when the issues are complicated; in actions to be tried without a jury, save in matters of account, a reference shall be made only upon a showing that some exceptional condition requires it.

53.03 Powers

The order of reference to the referee may specify or limit his powers and may direct him to report only upon particular issues or to do or perform particular acts or to receive and report evidence only and may fix the time and place for beginning and closing the hearings and for the filing of the referee's report. Subject to the specifications and limitations stated in the order, the referee has and shall exercise the power to regulate all proceedings in every hearing before him and to do all acts and take all measures necessary or proper for the efficient performance of his duties under the order. He may require the production before him of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings applicable thereto. He may rule upon the admissibility of evidence unless otherwise directed by the order of reference and has the authority to put witnesses on oath and may himself examine them and may call the parties to the action and examine them upon oath. When a party so requests, the referee shall make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in Rule 43.03 for a court sitting without a jury.

53.04 Proceedings

(1) **Meetings.** When a reference is made, the clerk shall forthwith furnish the referee with a copy of the order of reference. Upon receipt thereof, unless the order of reference otherwise provides, the referee shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within 20 days after the date of the order of reference and shall notify the parties or their attorneys. It is the duty of the referee to proceed with all reasonable diligence. Either party, on notice to the parties and referee, may apply to the court for an order requiring the referee to speed the proceedings and to make his report. If a party fails to appear at the time and place appointed, the referee may proceed ex parte or, in his discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

(2) **Witnesses.** The parties may procure the attendance of witnesses before the referee by the issuance and service of subpoenas as provided in Rule 45. If without adequate excuse a witness fails to appear or give evidence, he may be punished as for a contempt and be subjected to the consequences, penalties, and remedies provided in Rules 37 and 45.

(3) **Statement of Accounts.** When matters of accounting are in issue before the referee, he may prescribe the form in which the accounts shall be submitted and in any proper case may require or receive in evidence a statement by a certified public accountant who is called as a witness. Upon objection of a party to any of the items thus submitted or upon a showing that the form of statement is insufficient, the referee may require a different form of statement to be furnished, or the accounts or specific items thereof to be proved by oral examination of the accounting parties or upon written interrogatories or in such other manner as he directs.

53.05 Report

(1) **Contents and Filing.** The referee shall prepare a report upon the matters submitted to him by the order of reference and, if required to make findings of fact and conclusions of law, he shall set them forth in the report. He shall file the report with the clerk of the court and in an action to be tried without a jury, unless otherwise directed by the order of reference, shall file with it a transcript of the proceedings and of the evidence and the original exhibits. The clerk shall forthwith mail to all parties notice of the filing.

(2) **In Non-Jury Actions.** In an action to be tried without a jury the court shall accept the referee's findings of fact unless clearly erroneous.

Within 10 days after being served with notice of the filing of the report any party may serve written objections thereto upon the other parties. Application to the court for action upon the report and upon objections thereto shall be by motion and upon notice as prescribed in Rule 6.04. The court after hearing may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions.

(3) **In Jury Actions.** In an action to be tried by a jury the referee shall not be directed to report the evidence. His findings upon the issues submitted to him are admissible as evidence of the matters found and may be read to the jury, subject to the ruling of the court upon any objections in point of law which may be made to the report.

(4) **Stipulation as to Findings.** The effect of a referee's report is the same whether or not the parties have consented to the reference; but, when the parties stipulate that a referee's findings of fact shall be final, only questions of law arising upon the report shall thereafter be considered.

(5) **Draft Report.** Before filing his report, a referee may submit a draft thereof to counsel for all parties for the purpose of receiving their suggestions.

**RULE 54
JUDGMENTS; COSTS**

54.01 Definition; Form

Judgment as used in these rules includes a decree and means the final determination of the rights of the parties in an action or proceeding. A judgment shall not contain a recital of pleadings, the report of a referee, or the record of prior proceedings.

54.02 Judgment upon Multiple Claims

When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third-party claim, the court may direct the entry of a final judgment upon one or more but less than all of the claims only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates less than all the claims shall not terminate the action as to any of the claims, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims.

54.03 Demand for Judgment

A judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment. Except as to a party against whom a judgment is entered by default, every other judgment shall grant the relief to which the party in whose favor it is rendered is entitled.

54.04 Costs

Costs and disbursements shall be allowed as provided by statute. Costs and disbursements may be taxed by the clerk on two days' notice, and inserted in the judgment. The disbursements shall be stated in detail and verified by affidavit, which shall be filed, and a copy of such statement and affidavit shall be served with the notice. The party objecting to any item shall specify in writing the ground thereof; a party aggrieved by the action of the clerk may file a notice of appeal with the clerk, who shall forthwith certify the matter to the court. The appeal shall be heard upon eight days' notice and determined upon the objections so certified.

**RULE 55
DEFAULT**

55.01 Judgment

When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend within the time allowed therefore by these rules or by statute, and that fact is made to appear by affidavit, judgment by default shall be entered against him as follows:

(1) When the plaintiff's claim against a defendant is upon a contract for the payment of money only, the clerk, upon request of the plaintiff and upon affidavit of the amount due, which may not exceed the amount demanded in the complaint, shall enter judgment for the amount due and costs against the defendant.

(2) In all other cases, the party entitled to a judgment by default shall apply to the court therefor. If a party against whom judgment is sought has appeared in the action, he shall be served with written notice of the application for judgment at least three days prior to the hearing on such application. If the action be one for the recovery of money

only, the court shall ascertain, by a reference or otherwise, the amount to which the plaintiff is entitled, and order judgment therefor.

(3) If other relief than the recovery of money be demanded and the taking of an account, or the proof of any fact, be necessary to enable the court to give judgment, it may take or hear the same or order a reference for that purpose, and order judgment accordingly.

(4) When service of the summons has been made by published notice, or by delivery of a copy without the state, no judgment shall be entered on default until the plaintiff shall have filed a bond, approved by the court, conditioned to abide such order as the court may make touching the restitution of any property collected or obtained by virtue of the judgment in case a defense is thereafter permitted and sustained; provided, that in actions involving the title to real estate or to foreclose mortgages thereon such bond shall not be required.

55.02 Plaintiffs; Counterclaimants; Cross-Claimants

The provisions of this rule apply whether the party entitled to judgment by default is a plaintiff, a third-party plaintiff, or a party who has pleaded a cross-claim or counterclaim. In all cases, a judgment by default is subject to the limitations of Rule 54.03.

RULE 56

SUMMARY JUDGMENT

56.01 For Claimant

A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, at any time after the expiration of 20 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in his favor upon all or any part thereof.

56.02 For Defending Party

A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof.

56.03 Motion and Proceedings Thereon

The motion shall be served at least 10 days before the time fixed for the hearing. The adverse party prior to the day of hearing may serve opposing affidavits. The judgment sought shall be rendered forthwith if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

56.04 Case not Fully Adjudicated on Motion

If, on motion under this rule, judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall, if practicable, ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

56.05 Form of Affidavits; Further Testimony

Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions or by further affidavits.

56.06 When Affidavits are Unavailable

Should it appear from the affidavits of a party opposing the motion that he cannot for reasons stated present, by affidavit, facts essential to justify his opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

56.07 Affidavits Made in Bad Faith

Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused him to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.

RULE 57

DECLARATORY JUDGMENTS

The procedure for obtaining a declaratory judgment pursuant to M.S.A. 1949, c. 555, shall be in accordance with these rules, and the right to trial by jury is retained under the circumstances and in the manner provided in Rules 38 and 39. The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar.

RULE 58

ENTRY OF JUDGMENT; STAY

58.01 Entry

Unless the court otherwise directs, and subject to the provisions of Rule 54.02, judgment upon the verdict of a jury shall be entered forthwith by the clerk; but the court shall direct the appropriate judgment to be entered upon a special verdict or upon a general verdict accompanied by answers to interrogatories returned by a jury pursuant to Rule 49. When the court directs that a party recover money or other relief or costs, or that all relief be denied, the clerk shall enter judgment forthwith upon receipt by him of the direction. The judgment in all cases shall be entered and signed by the clerk in the judgment book; this entry constitutes the entry of the judgment; and the judgment is not effective before such entry. A copy thereof, also signed by the clerk, shall be attached to the judgment roll.

58.02 Stay

After verdict or the filing of a decision or report, the court may order a stay of entry of judgment for a period not exceeding the time required for the hearing and determination of a motion for new trial or for judgment notwithstanding the verdict or to set the verdict aside or to dismiss the action or for amended findings, and after such determination may order a stay of entry of judgment for not more than 30 days.

RULE 59

NEW TRIALS

59.01 Grounds

A new trial may be granted to all or any of the parties and on all or part of the issues for any of the following causes:

- (1) Irregularity in the proceedings of the court, referee, jury, or prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair trial;
- (2) Misconduct of the jury or prevailing party;
- (3) Accident or surprise which could not have been prevented by ordinary prudence;
- (4) Material evidence, newly discovered, which with reasonable diligence could not have been found and produced at the trial;
- (5) Excessive or insufficient damages, appearing to have been given under the influence of passion or prejudice;
- (6) Errors of law occurring at the trial, and objected to at the time or, if no objection need have been made under Rules 46 and 51, plainly assigned in the notice of motion;
- (7) The verdict, decision, or report is not justified by the evidence, or is contrary to law; but, unless it be so expressly stated in the order granting a new trial, it shall not be presumed, on appeal, to have been made on the ground that the verdict, decision, or report was not justified by the evidence.
- (8) A transcript of the proceedings at the trial cannot be obtained.

On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct entry of a new judgment.

59.02 Basis of Motion

If the motion be made for a cause mentioned in Rule 59.01, clauses (1) to (4), pertinent facts not appearing of record shall be shown by affidavit; if

for any other cause, a case shall first be settled and included in the record, unless the moving party notices the motion to be heard on the minutes of the court. If the motion is made on the minutes, it shall be heard on the minutes of the judge or of the reporter and it shall not be necessary for the moving party to furnish the court or the opposing party a transcript of the reporter's minutes, or of any part thereof, as a condition to having the motion heard; but, if the order be appealed from, a case shall be proposed by the appellant and be settled and returned with the record to the supreme court. The records and files of the court pertaining to the case may be referred to without being mentioned in the notice of motion.

59.03 Time for Motion

(1) A notice of motion for a new trial for a cause not appearing of record, but shown by affidavit, shall be served not later than 60 days after verdict or notice of the filing of the decision or report, unless the time be extended by the court for cause upon application made during such 60-day period.

(2) A notice of motion for a new trial where the record must include a settled case shall be served not later than 30 days after the case is settled, unless the time be extended by the court for cause upon application made during such 30-day period.

(3) A notice of motion for a new trial to be heard on the minutes shall be served within 15 days after verdict or notice of the filing of the decision or report; and the motion shall be heard within 30 days after verdict or notice, unless the time for hearing be extended by the court for good cause shown during such 30-day period.

59.04 Time for Serving Affidavits

When a motion for new trial is based upon affidavits, they shall be served with the notice of motion. The opposing party has 10 days after such service within which to serve opposing affidavits, which period may be extended for an additional period, not exceeding 20 days, either by the court for good cause shown or by the parties by written stipulation. The court may permit reply affidavits.

59.05 On Initiative of Court

Not later than 10 days after entry of judgment, the court of its own initiative may order a new trial for any reason for which it might have granted a new trial on motion of a party, and in the order shall specify the grounds therefor.

59.06 Stay of Entry of Judgment

A stay of entry of judgment under Rule 58 shall not be construed to extend the time within which a party may serve a motion or settle a case.

59.07 Case; How and When Settled

A case shall mean a written statement of the proceedings in the cause, excluding all pleadings and other papers properly filed with the clerk. It should contain only the evidence and other proceedings on the trial material to the questions of law or fact that the parties may choose to present for review. The transcript must have been ordered, and the order accepted by the reporter, not later than 30 days after the verdict or order for judgment. The date of delivery of the transcript shall be reported by the reporter to the clerk and recorded by the clerk. The party preparing a case shall serve the same on the adverse party, by copy, within 10 days after delivery of the transcript. The party served may in like manner propose amendments thereto within 5 days. Such case, with the amendments, if any, shall within 10 days after the service of such amendments be presented to the judge or referee who tried the cause, for settlement, upon notice of 5 days. If a motion be heard on the minutes, the aggrieved party may order a transcript within 10 days after notice of decision thereon and propose a case as provided by this rule. The times herein limited may be extended by order of the court; and the court, in its discretion and upon proper terms, may grant leave to propose a case after the time herein allowed therefor has expired.

59.08 Settling Case; When Judge Incapacitated

When the judge who tried the cause ceases to be such, or dies or becomes incapacitated from sickness or other cause, or is without the state at the time limited for such settlement, such case may be settled by a judge of the same or an adjoining district; and when a referee dies, or becomes incapacitated, or is so absent, the case may be settled by a judge of the court in which the action is pending. In either case the allowance or settlement shall be made upon the files in the cause, the minutes of the

judge or referee, or of the stenographer, if obtainable, and upon such proof of what occurred at the trial as may be presented by affidavit, with like effect as if settlement were by the judge or referee who tried the cause.

RULE 60

RELIEF FROM JUDGMENT OR ORDER

60.01 Clerical Mistakes

Clerical mistakes in judgments, orders, or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, such mistakes may be so corrected before the appeal is docketed in the appellate court, and thereafter while the appeal is pending may be so corrected with leave of the appellate court.

60.02 Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc.

On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment (other than a divorce decree), order, or proceeding for the following reasons: (1) Mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59.03; (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order, or proceeding was entered or taken. A motion under this Rule 60.02 does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to grant relief to a defendant not actually personally notified as provided in Rule 4.043, or to set aside a judgment for fraud upon the court. Writs of *coram nobis*, *coram vobis*, *audita querela*, and bills of review and bills in the nature of a bill of review are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

RULE 61

HARMLESS ERROR

No error in either the admission or the exclusion of evidence and no error or defect in any ruling or order or in anything done or omitted by the court or by any of the parties is ground for granting a new trial or for setting aside a verdict or for vacating, modifying or otherwise disturbing a judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice. The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.

RULE 62

STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT

62.01 Stay on Motion for New Trial or for Judgment

In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial made pursuant to Rule 59, or of a motion for relief from a judgment or order made pursuant to Rule 60, or of a motion for judgment notwithstanding the verdict made pursuant to Rule 50.02, or of a motion for amendment to the findings or for additional findings made pursuant to Rule 52.02.

62.02 Injunction Pending Appeal

When an appeal is taken from an interlocutory or final judgment granting, dissolving, or denying an injunction, the court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party.

62.03 Stay Upon Appeal

When an appeal is taken, the appellant may obtain a stay only when authorized and in the manner provided in M.S.A. 1949, c. 605.

62.04 Stay in Favor of the State or Agency Thereof

When an appeal is taken by the state or an officer or agency or governmental subdivision thereof, and the operation or enforcement of the judgment is stayed, no bond, obligation, or other security shall be required from the appellant.

62.05 Power of Appellate Court not Limited

The provisions in this rule do not limit any power of an appellate court or of a judge or justice thereof to stay proceedings during the pendency of an appeal or to suspend, modify, restore, or grant an injunction during the pendency of an appeal or to make any order appropriate to preserve the status quo or the effectiveness of the judgment subsequently to be entered.

62.06 Stay of Judgment Upon Multiple Claims

When a court has ordered a final judgment on some but not all of the claims presented in the action under the conditions stated in Rule 54.02, the court may stay enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefits thereof to the party in whose favor the judgment is entered.

RULE 63

DISABILITY OR DISQUALIFICATION OF JUDGE; AFFIDAVIT OF PREJUDICE; ASSIGNMENT OF A JUDGE

63.01 Disability of Judge

If by reason of death, sickness, or other disability a judge before whom an action has been tried is unable to perform the duties to be performed by the court under these rules after a verdict is returned or findings of fact and conclusions of law are filed, then any other judge regularly sitting in or assigned to the court in which the action was tried may perform those duties; but if such other judge is satisfied that he cannot perform those duties because he did not preside at the trial or for any other reason, he may in his discretion grant a new trial.

63.02 Interest or Bias

No judge shall sit in any cause if he be interested in its determination or if he might be excluded for bias from acting therein as a juror. If there be no other judge of the district who is qualified, or if there be only one judge of the district, such judge shall forthwith notify the chief justice of the supreme court of his disqualification.

63.03 Affidavit of Prejudice

Any party or his attorney may make and serve on the opposing party and file with the clerk an affidavit stating that, on account of prejudice or bias on the part of the judge who is to preside at the trial or at the hearing of any motion, he has good reason to believe and does believe that he cannot have a fair trial or hearing before such judge. The affidavit shall be served and filed not less than 10 days prior to the first day of a general term, or 5 days prior to a special term or a day fixed by notice of motion, at which the trial or hearing is to be had, or, in any district having two or more judges, within one day after it is ascertained which judge is to preside at the trial or hearing. Upon the filing of such affidavit, with proof of service, the clerk shall forthwith assign the cause to another judge of the same district, and if there be no other judge of the district who is qualified, or if there be only one judge of the district, he shall forthwith notify the chief justice of the supreme court.

63.04 Assignment of Judge

Upon receiving notice as provided in Rules 63.02 and 63.03, the chief justice shall assign a judge of another district, accepting such assignment, to preside at the trial or hearing, and the trial or hearing shall be postponed until the judge so assigned can be present.

VII. PROVISIONAL AND FINAL REMEDIES AND SPECIAL PROCEEDINGS

RULE 64

SEIZURE OF PERSON OR PROPERTY

At the commencement of and during the course of an action, all remedies providing for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action are available under the circumstances and in the manner provided by the law of the state.

RULE 65

INJUNCTIONS

The procedure for granting restraining orders and temporary and permanent injunctions shall be as provided by statute.

**RULE 66
RECEIVERS**

An action wherein a receiver has been appointed shall not be dismissed except by order of the court. A foreign receiver shall have capacity to sue in any district court, but his rights are subordinate to those of local creditors. The practice in the administration of estates by the court shall be in accordance with M.S.A. 1949, c. 576, and with the practice heretofore followed in the courts of this state or as provided in rules promulgated by the district courts. In all other respects, the action in which the appointment of a receiver is sought or which is brought by or against a receiver is governed by these rules.

**RULE 67
DEPOSIT IN COURT**

67.01 In an Action
In an action in which any part of the relief sought is a judgment for a sum of money or the disposition of a sum of money or the disposition of any other thing capable of delivery, a party, upon notice to every other party, and by leave of court, may deposit with the court all or any part of such sum or thing.

67.02 When no Action is Brought
When money or other personal property in the possession of any person, as bailee or otherwise, is claimed adversely by two or more other persons, and the right thereto as between such claimants is in doubt, the person so in possession, though no action be commenced against him by any of the claimants, may place the property in the custody of the court. He shall apply to the court of the county in which the property is situated, setting forth by petition the facts which bring the case within the provisions of this section, and the names and places of residence of all known claimants of such property. If satisfied of the truth of such showing, the court, by order, shall accept custody of the money or other property, and direct that upon delivery, and upon giving notice thereof to all persons interested, personally or by registered mail, as in such order prescribed, the petitioner be relieved from further liability on account thereof. This rule shall apply to cases where property held under like conditions is garnished in the hands of the possessor; but in such cases the application shall be made to the court in which the garnishment proceedings are pending.

67.03 Court May Order Deposit or Seizure of Property

When it is admitted by the pleading or examination of a party that he has in his possession or control any money or other thing capable of delivery which, being the subject of the litigation, is held by him as trustee for another party, or which belongs or is due to another party, the court may order the same to be deposited in court or delivered to such other party, with or without security, subject to further direction. If such order be disobeyed, the court may punish the disobedience as a contempt, and may also require the sheriff or other proper officer to take the money or property and deposit or deliver it in accordance with the direction given.

67.04 Money Paid into Court
Where money is paid into the court to abide the result of any legal proceedings, the judge may order it deposited in a designated state or national bank or savings bank. In the absence of such order, the clerk of court is the official custodian of all moneys, and the judge, on application of any person paying such money into court, may require the clerk to give an additional bond, with like condition as the bond provided for in M.S.A. 1949, § 485.01, in such sum as the judge shall order.

**RULE 68
OFFER OF JUDGMENT; TENDER OF MONEY
IN LIEU OF JUDGMENT**

68.01 Offer of Judgment
At any time more than one day before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against him for the money or property, or to the effect specified in his offer, with costs and disbursements then accrued. If before trial the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance, together with the proof of service thereof, and thereupon the clerk shall enter judgment. An offer not accepted shall be deemed withdrawn and evidence thereof is not admissible, except in a proceeding to determine costs and disbursements. If the judgment finally obtained by the

offeree is not more favorable than the offer, the offeree must pay the costs and disbursements incurred after the making of the offer. The fact that an offer is made but not accepted does not preclude a subsequent offer.

68.02 Tender of Money in Lieu of Judgment
If the action be for the recovery of money, instead of the offer of judgment provided for in Rule 68.01, the defendant may tender to the plaintiff the full amount to which he is entitled, together with costs and disbursements then accrued. If such tender be not accepted, the plaintiff shall have no costs and disbursements unless he recover more than the sum tendered; and the defendant's costs and disbursements shall be deducted from the recovery, or, if they exceed the recovery, he shall have judgment for the excess. The fact of such tender having been made shall not be pleaded or given in evidence.

**RULE 69
EXECUTION**

Process to enforce a judgment for the payment of money shall be a writ of execution, unless the court directs otherwise. The procedure on execution, in proceedings supplementary to and in aid of a judgment, and in proceedings on and in aid of execution shall be in accordance with M.S.A. 1949, c. 550. In aid of the judgment or execution, the judgment creditor, or his successor in interest when that interest appears of record, may examine any person, including the judgment debtor, in the manner provided in these rules for taking depositions.

**RULE 70
JUDGMENT FOR SPECIFIC ACTS;
VESTING TITLE**

If a judgment directs a party to execute a conveyance of land or to deliver deeds or other documents or to perform any other specific act and the party fails to comply within the time specified, the court may direct the act to be done at the cost of the disobedient party by some other person appointed by the court, and the act when so done has like effect as if done by the party. On application of the party entitled to performance, the clerk shall issue a writ of attachment against the property of the disobedient party to compel obedience to the judgment. The court may also in proper cases adjudge the party in contempt. If real or personal property is within the state, the court in lieu of directing a conveyance thereof may enter a judgment divesting the title of any party and vesting it in others; and such judgment has the effect of a conveyance executed in due form of law. When any order or judgment is for the delivery of possession, the party in whose favor it is entered is entitled to a writ of execution upon application to the clerk.

**RULE 71
PROCESS IN BEHALF OF AND AGAINST
PERSONS NOT PARTIES**

When an order is made in favor of a person who is not a party to the action, he may enforce obedience to the order by the same process as if he were a party; and, when obedience to an order may be lawfully enforced against a person who is not a party, he is liable to the same process for enforcing obedience to the order as if he were a party. (Note: Numbers 72 to 76 are reserved for future use.)

IX. DISTRICT COURTS AND CLERKS

**RULE 77
DISTRICT COURTS AND CLERKS**

77.01 District Courts Always Open
The district courts shall be deemed always open for the purpose of filing any pleading or other proper paper, of issuing and returning mesne and final process, and of making and directing all interlocutory motions, orders, and rules.

77.02 Trials and Hearings; Orders in Chambers
All trials upon the merits shall be conducted in open court and so far as convenient in a regular courtroom. All other acts or proceedings may be done or conducted by a judge in chambers, without the attendance of the clerk or other court officials and at any place either within or without the district; but no hearing, other than one ex parte, shall be conducted outside the district without the consent of all parties affected thereby.

77.03 Clerk's Office and Orders by Clerk
All motions and applications in the clerk's office for issuing mesne process, for issuing final process to enforce and execute judgments, for entering judgments by default, and for other proceedings which do not require allowance or order of the court are grantable of course by the clerk; but his action may be suspended or altered or rescinded by the court upon cause shown.

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77.04 Notice of Orders or Judgments

Immediately upon the filing of an order or decision or entry of a judgment, the clerk shall serve a notice of the filing or entry by mail upon every party affected thereby or his attorney of record, whether or not such party has appeared in the action, at his last known address, and shall make a note in his records of the mailing, but such notice shall not limit the time for taking an appeal or other proceeding on such order, decision or judgment.

(Note: Numbers 78 and 79 are reserved for future use.)

RULE 80 STENOGRAPHIC REPORT OR TRANSCRIPT AS EVIDENCE

Whenever the testimony of a witness at a trial or hearing which was stenographically reported is admissible in evidence at a later trial, it may be proved by a reading of the transcript thereof duly certified by the person who reported the testimony. Such evidence is rebuttable and not conclusive.

RULE 81 APPLICABILITY; IN GENERAL 81.01 Special Statutory Proceedings

These rules do not govern procedure and practice in the statutory proceedings listed in Appendix A insofar as the statutes are inconsistent or in conflict with the procedure and practice provided by these rules.

81.02 Appeals to District Courts

These rules do not supersede the provisions of statutes relating to appeals to the district courts.

81.03 Rules Incorporated into Statutes

Where any statute heretofore or hereafter enacted, whether or not listed in Appendix A, provides that any act in a civil proceeding shall be done in the manner provided by law, such act shall be done in accordance with these rules.

RULE 82 JURISDICTION AND VENUE

These rules shall not be construed to extend or limit the jurisdiction of the district courts of Minnesota or the venue of actions therein.

RULE 83 RULES BY DISTRICT COURTS

Any court may adopt rules governing its practice, and the judges of the district courts, pursuant to M.S.A.1949, §§ 484.33 and 484.52, may adopt rules, not in conflict with these rules.

RULE 84 APPENDIX OF FORMS

The forms contained in the Appendix of Forms are sufficient under the rules and are intended to indicate the simplicity and brevity of statement which the rules contemplate.

RULE 85 TITLE

These rules may be known and cited as Rules of Civil Procedure.

RULE 86 EFFECTIVE DATE; STATUTES SUPERSEDED

86.01 Effective Date and Application to Pending Proceedings

These rules will take effect on January 1, 1952. They govern all proceedings and actions brought after they take effect, and also all further proceedings in actions then pending, except to the extent that in the opinion of the court their application in a particular action pending when the rules take effect would not be feasible, or would work injustice, in which event the procedure existing at the time the action was brought applies.

86.02 Statutes Superseded

Upon the taking effect of these rules the statutes listed in Appendices B(1) and B(2) are superseded in respect of practice and procedure in the district courts.

APPENDIX OF FORMS (See Rule 84)

INTRODUCTORY STATEMENT

1. The following forms are intended for illustration only.* They are limited in number. No attempt is made to furnish a manual of forms.

2. Except where otherwise indicated, each pleading, motion, and other paper should have a caption similar to that of the summons, with the designation of the particular paper substituted for the word "SUMMONS." In the caption of the summons and in the caption of the complaint all parties must be named, but in other pleadings and papers it is sufficient to state the name of the first party on either side, with an appropriate indication of other parties. See Rules 4.01, 7.02(2), 10.01.

3. Each pleading, motion, and other paper is to be signed in his individual name by at least one attorney of record (Rule 11). The attorney's name is to be followed by his address as indicated in Form 2. In forms following Form 2 the signature and address are not indicated.

4. If a party is not represented by an attorney, the signature and address of the party are required in place of those of the attorney.

Form 1 SUMMONS

State of Minnesota, District Court
County of _____, _____ Judicial District
A. B., vs. Plaintiff

C. D., Defendant } SUMMONS

The State of Minnesota to the Above-Named Defendant:

You are hereby summoned and required to serve upon plaintiff's attorney an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

*These forms are patterned after the Appendix of Forms of the Federal Rules of Civil Procedure in so far as applicable to state practice.

Signed: _____
Attorney for Plaintiff.
Address: _____

Form 2 COMPLAINT ON A PROMISSORY NOTE

1. Defendant on or about June 1, 1948, executed and delivered to the plaintiff a promissory note (in the following words and figures: (here set out the note verbatim)); [a copy of which is hereto annexed as Exhibit A]; [whereby defendant promised to pay to plaintiff or order on June 1, 1949 the sum of one thousand dollars with interest thereon at the rate of six percent per annum].

2. Defendant owes to plaintiff the amount of said note and interest.

Wherefore plaintiff demands judgment against defendant for the sum of one thousand dollars, interest, costs, and disbursements.

Signed: _____
Attorney for Plaintiff.
Address: _____

Form 3 COMPLAINT ON AN ACCOUNT

1. Defendant owes plaintiff one thousand dollars according to the account hereto annexed as Exhibit A.

Wherefore (etc., as in Form 2).

Form 4 COMPLAINT FOR GOODS SOLD AND DELIVERED

1. Defendant owes plaintiff one thousand dollars for goods sold and delivered by plaintiff to defendant between June 1, 1948 and December 1, 1948.

Wherefore (etc., as in Form 2).

Form 5 COMPLAINT FOR MONEY LENT

1. Defendant owes plaintiff one thousand dollars for money lent by plaintiff to defendant on June 1, 1948.

Wherefore (etc., as in Form 2).

Form 6 COMPLAINT FOR MONEY PAID BY MISTAKE

1. Defendant owes plaintiff one thousand dollars for money paid by plaintiff to defendant by mistake on June 1, 1948, under the following circumstances: (here state the circumstances with particularity—see Rule 9.02).

Wherefore (etc., as in Form 2).

Form 7 COMPLAINT FOR MONEY HAD AND RECEIVED

1. Defendant owes plaintiff one thousand dollars for money had and received from one G. H. on June 1, 1948, to be paid by defendant to plaintiff.

Wherefore (etc., as in Form 2).

Form 8 COMPLAINT FOR NEGLIGENCE

1. On June 1, 1948, in a public highway called University Avenue, in St. Paul, Minnesota, defendant negligently drove a motor vehicle against plaintiff who was then crossing said highway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of one thousand dollars.

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Wherefore plaintiff demands judgment against defendant in the sum of ten thousand dollars and costs.

Form 9

COMPLAINT FOR NEGLIGENCE WHERE PLAINTIFF IS UNABLE TO DETERMINE DEFINITELY WHETHER THE PERSON RESPONSIBLE IS C. D. OR E. F. OR WHETHER BOTH ARE RESPONSIBLE AND WHERE HIS EVIDENCE MAY JUSTIFY A FINDING OF WILFULNESS OR OF RECKLESSNESS OR OF NEGLIGENCE

A. B., Plaintiff }
vs. Defendants } **COMPLAINT**

1. On June 1, 1948, in a public highway called University Avenue in St. Paul, Minnesota, defendant C. D. or defendant E. F., or both defendants C. D. and E. F. wilfully or recklessly or negligently drove or caused to be driven a motor vehicle against plaintiff who was then crossing said highway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of one thousand dollars.

Wherefore plaintiff demands judgment against C. D. or against E. F. or against both in the sum of ten thousand dollars and costs and disbursements.

Form 10

COMPLAINT FOR CONVERSION

1. On or about December 1, 1948, defendant converted to his own use ten bonds of the Company (here insert brief identification as by number and issue) of the value of one thousand dollars, the property of plaintiff.

Wherefore plaintiff demands judgment against defendant in the sum of one thousand dollars, interest, costs, and disbursements.

Form 11

COMPLAINT FOR SPECIFIC PERFORMANCE OF CONTRACT TO CONVEY LAND

1. On or about December 1, 1948, plaintiff and defendant entered into an agreement in writing, a copy of which is hereto annexed as Exhibit A.

2. In accordance with the provisions of said agreement plaintiff tendered to defendant the purchase price and requested a conveyance of the land, but defendant refused to accept the tender and refused to make the conveyance.

3. Plaintiff now offers to pay the purchase price. Wherefore plaintiff demands (1) that defendant be required specifically to perform said agreement, (2) damages in the sum of one thousand dollars, and (3) that if specific performance is not granted plaintiff have judgment against defendant in the sum of ten thousand dollars.

Form 12

COMPLAINT ON CLAIM FOR DEBT AND TO SET ASIDE FRAUDULENT CONVEYANCE UNDER RULE 18.02

A. B., Plaintiff }
vs. Defendants } **COMPLAINT**

1. Defendant C. D. on or about executed and delivered to plaintiff a promissory note [in the following words and figures: (here set out the note verbatim)]: (a copy of which is hereto annexed as Exhibit A); (whereby defendant C. D. promised to pay to plaintiff or order on the sum of five thousand dollars with interest thereon at the rate of percent per annum).

2. Defendant C. D. owes to plaintiff the amount of said note and interest.

3. Defendant C. D. on or about conveyed all his property, real and personal (or specify and describe) to defendant E. F. for the purpose of defrauding plaintiff and hindering and delaying the collection of the indebtedness evidenced by the note above referred to.

Wherefore plaintiff demands:

(1) That plaintiff have judgment against defendant C. D. for five thousand dollars and interest; (2) that the aforesaid conveyance to defendant E. F. be declared void and the judgment herein be declared a lien on said property; (3) that plaintiff have judgment against the defendants for costs and disbursements.

Form 13

COMPLAINT FOR INTERPLEADER AND DECLARATORY RELIEF

1. On or about June 1, 1948, plaintiff issued to G. H. a policy of life insurance whereby plaintiff promised to pay to K. L. as beneficiary the sum of

ten thousand dollars upon the death of G. H. The policy required the payment by G. H. of a stipulated premium on June 1, 1948, and annually thereafter as a condition precedent to its continuance in force.

2. No part of the premium due June 1, 1948, was ever paid and the policy ceased to have any force or effect on July 1, 1948.

3. Thereafter, on September 1, 1948, G. H. and K. L. died as the result of a collision between a locomotive and the automobile in which G. H. and K. L. were riding.

4. Defendant C. D. is the duly appointed and acting executor of the will of G. H.; defendant E. F. is the duly appointed and acting executor of the will of K. L.; defendant X. Y. claims to have been duly designated as beneficiary of said policy in place of K. L.

5. Each of defendants, C. D., E. F., and X. Y., is claiming that the above-mentioned policy was in full force and effect at the time of the death of G. H.; each of them is claiming to be the only person entitled to receive payment of the amount of the policy and has made demand for payment thereof.

6. By reason of these conflicting claims of the defendants, plaintiff is in great doubt as to which defendant is entitled to be paid the amount of the policy, if it was in force at the death of G. H.

Wherefore plaintiff demands that the court adjudge:

(1) That none of the defendants is entitled to recover from plaintiff the amount of said policy or any part thereof.

(2) That each of the defendants be restrained from instituting any action against plaintiff for the recovery of the amount of said policy or any part thereof.

(3) That, if the court shall determine that said policy was in force at the death of G. H., the defendants be required to interplead and settle between themselves their rights to the money due under said policy, and that plaintiff be discharged from all liability in the premises except to the person whom the court shall adjudge entitled to the amount of said policy.

(4) That plaintiff recover its costs and disbursements.

Form 14

MOTION TO DISMISS, PRESENTING DEFENSES OF FAILURE TO STATE A CLAIM, OF LACK OF SERVICE OF PROCESS, AND OF LACK OF JURISDICTION UNDER RULE 12.02

The defendant moves the court as follows:

1. To dismiss the action because the complaint fails to state a claim against defendant upon which relief can be granted.

2. To dismiss the action or in lieu thereof to quash the return of service of summons on the grounds: (Here state reasons, such as, (a) that the defendant is a corporation organized under the laws of Delaware and was not and is not subject to service of process within the State of Minnesota; (b) that the defendant has not been properly served with process in this action, all of which more clearly appears in the affidavits of M. N. and X. Y. hereto annexed as Exhibit A and Exhibit B respectively).

3. To dismiss the action on the ground that the court lacks jurisdiction (no justiciable controversy is presented, or as the case may be).

Signed:
Attorney for Defendant.
Address:

Notice of Motion

To:
Attorney for Plaintiff.

* * *

Please take notice, that the undersigned will bring the above motion on for hearing before the court at a special term thereof, to be held at the court house in the City of on the day of, 19...., at o'clock in the (forenoon) (afternoon) or as soon thereafter as counsel can be heard.

Signed:
Attorney for Defendant.
Address:

Form 15

ANSWER PRESENTING DEFENSES UNDER RULE 12.02

First Defense

The complaint fails to state a claim against defendant upon which relief can be granted.

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Second Defense

If defendant is indebted to plaintiffs for the goods mentioned in the complaint, he is indebted to them jointly with G. H. G. H. is alive; is a citizen and resident of this state; is subject to the jurisdiction of this court, as to both service of process and venue; can be made a party, but has not been made one.

Third Defense

Defendant admits the allegation contained in paragraphs 1 and 4 of the complaint; alleges that he is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 2 of the complaint; and denies each and every other allegation contained in the complaint.

Fourth Defense

The right of action set forth in the complaint did not accrue within six years next before the commencement of this action.

Counterclaim

(Here set forth any claim as a counterclaim in the manner in which a claim is pleaded in a complaint.)

Cross-Claim Against Defendant M. N.

(Here set forth the claim constituting a cross-claim against defendant M. N. in the manner in which a claim is pleaded in a complaint.)

Form 16

ANSWER TO COMPLAINT SET FORTH IN FORM 7, WITH COUNTERCLAIM FOR INTERPLEADER

Defense

Defendant denies the allegations stated to the extent set forth in the counterclaim herein.

Counterclaim for Interpleader

1. Defendant received the sum of one thousand dollars as a deposit from E. F.

2. Plaintiff has demanded the payment of such deposit to him by virtue of an assignment of it which he claims to have received from E. F.

3. E. F. has notified the defendant that he claims such deposit, that the purported assignment is not valid, and that he holds the defendant responsible for the deposit.

Wherefore defendant demands:

(1) That the court order E. F. to be made a party defendant to respond to the complaint and to this counterclaim.*

(2) That the court order the plaintiff and E. F. to interplead their respective claims.

(3) That the court adjudge whether the plaintiff or E. F. be entitled to the sum of money.

(4) That the court discharge defendant from all liability in the premises except to the person it shall adjudge entitled to the sum of money.

(5) That the court award to the defendant its costs and attorney's fees.

* Rule 13.08 provides for the court ordering parties to a counterclaim, but who are not parties to the original action, to be brought in as defendants.

Form 17

MOTION TO BRING IN THIRD-PARTY DEFENDANT

Defendant moves for leave to make E. F. a party to this action and that there be served upon him summons and third-party complaint as set forth in Exhibit A hereto attached.

Signed: Attorney for Defendant C. D. Address:

Notice of Motion

(Contents the same as in Form 14. No notice is necessary if the motion is made before the moving defendant has served his answer.)

Exhibit A

State of Minnesota, District Court County of Judicial District A. B., Plaintiff

C. D., vs. Defendant and Third-Party Plaintiff

E. F., vs. Third-Party Defendant

State of Minnesota to the Above-Named Third-Party Defendant:

You are hereby summoned and required to serve upon plaintiff's attorney whose address is and upon attorney for C. D., defendant and third-party plaintiff, an answer to the third-party complaint which is herewith served upon you and an answer to the complaint of the plaintiff, a copy of which is herewith served upon you, within 20 days after the service of this summons upon

you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the third-party complaint.

Signed: Attorney for Defendant and Third-Party Plaintiff. Address:

A. B. vs. Plaintiff } THIRD-PARTY COMPLAINT
C. D. Defendant and Third-Party Plaintiff vs. }
E. F., Third-Party Defendant }

1. Plaintiff A. B. has filed against C. D. a complaint, a copy of which is hereto attached as "Exhibit C."

2. (Here state the grounds upon which C. D. is entitled to recover from E. F., all or part of what A. B. may recover from C. D. The statement should be framed as in an original complaint.)

Wherefore C. D. demands judgment against third-party defendant E. F. for all sums that may be adjudged against defendant C. D. in favor of plaintiff A. B.

Signed: Attorney for C. D., Third-Party Plaintiff. Address:

Form 18

MOTION TO INTERVENE AS A DEFENDANT UNDER RULE 24

State of Minnesota, District Court County of Judicial District A. B., Plaintiff

C. D., vs. Defendant } MOTION TO INTERVENE AS A DEFENDANT
E. F., Applicant for Intervention }

E. F. moves for leave to intervene as a defendant in this action, in order to assert the defenses set forth in his proposed answer, of which a copy is hereto attached, on the grounds (here state them) and as such has a defense to plaintiff's claim presenting (both questions of law and of fact) which are common to the main action.

Signed: Attorney for E. F., Applicant for Intervention. Address:

Notice of Motion

(Contents the same as in Form 14)

State of Minnesota, District Court County of Judicial District A. B., Plaintiff

C. D., vs. Defendant } INTERVENER'S ANSWER
E. F., Intervener }

First Defense

Intervener admits the allegations stated in paragraphs and of the complaint; denies the allegations in paragraphs and

Second Defense

(Set forth any defenses.)

Signed: Attorney for E. F., Intervener. Address:

Form 19

MOTION FOR PRODUCTION OF DOCUMENTS, ETC., UNDER RULE 34

Plaintiff A. B. moves the court for an order requiring defendant C. D.

(1) To produce and to permit plaintiff to inspect and to copy each of the following documents: (Here list the documents and describe each of them.)

(2) To produce and permit plaintiff to inspect and to photograph each of the following objects: (Here list the documents and describe each of them.)

(3) To permit plaintiff to enter (here describe property to be entered) and to inspect and to photograph (here describe the portion of the real property and the objects to be inspected and photographed). Defendant C. D. has the possession, custody, or control of each of the foregoing documents and objects and of the above mentioned real estate. Each of

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them constitutes or contains evidence relevant and material to a matter involved in this action, as is more fully shown in Exhibit A hereto attached.

Signed:
Attorney for Plaintiff.

Address:

Notice of Motion
(Contents the same as in Form 14)
Exhibit A

State of Minnesota,
County of

A. B., being duly sworn says:

(1) (Here set forth all that plaintiff knows which shows that defendant has the papers or objects in his possession or control.)

(2) (Here set forth all that plaintiff knows which shows that each of the above mentioned items is relevant to some issue in the action.)

(Jurat)

Signed: A. B.

Form 20

REQUEST FOR ADMISSION UNDER RULE 36

Plaintiff A. B. requests defendant C. D. within days after service of this request to make the following admissions for the purpose of this action only and subject to all pertinent objections to admissibility which may be interposed at the trial:

1. That each of the following documents, exhibited with this request, is genuine.
(Here list the documents and describe each document.)

2. That each of the following statements is true.
(Here list the statements.)

Signed:
Attorney for Plaintiff.

Address:

Form 21

ALLEGATION OF REASON FOR OMITTING PARTY

When it is necessary, under Rule 19.03, for the pleader to set forth in his pleading the names of persons who ought to be made parties, but who are not so made, there should be an allegation such as the one set out below:

John Doe named in this complaint is not made a party to this action (because he is not subject to the jurisdiction of this court) or (for reasons stated.)

APPENDIX A

Special Statutory Proceedings under Rule 81.01

Following is a list of statutes pertaining to special proceedings which will be excepted from these rules insofar as they are inconsistent or in conflict with the procedure and practice provided by these rules:

M.S.A.1949	
48.525 to 48.527	Escheated funds of banks and trust companies
73.09 to 73.16	Actions on orders of State Fire Marshal
80.14 subd. 2	Actions by Commissioner of Securities
80.225	Proceedings by Commissioner of Securities
Chapters 105 to 113	Drainage
Chapter 117	Eminent domain proceedings
160.26	Drainage of roads
162.20	Establishment of roads by judicial proceedings
Chapter 166	Roads or cartways jointly constructed or improved
Chapter 208	Election contests
Chapter 259	Adoption; change of name
Chapter 277	Delinquent personal property taxes
Chapter 278	Objections and defenses to taxes on real estate
Chapter 279	Delinquent real estate taxes
284.07 to 284.26	Actions involving tax titles
462.56	Development plan
501.33 to 501.38	Proceeding relating to trusts
Chapter 503	Townsite lands
Chapter 508	Registration of title to lands
514.01 to 514.17	Mechanics liens
514.35 to 514.39	Motor vehicle liens
Chapter 518	Divorce
Chapter 558	Partition of real estate
Chapter 559	Actions to determine adverse claims
561.11 to 561.15	Petition by mortgagor to cultivate lands
Chapter 579	Actions against boats and vessels

APPENDIX B(1)

List of Rules Superseding Statutes

Rule	Statute Superseded M.S.A.1949
2.01	540.01
3.01	541.12
	543.01
3.02	543.04 1st sentence
4.01	543.02
4.02	543.03
4.03	
(a)	543.05
(b)	540.15 the clause "and the summons may be served on one or more of them"
	540.151 the clause "and the summons may be served on one or more of them"
(c) 1st sentence:	543.08 1st par., 1st sentence of 3d par., and 4th par.
(c) 2d sentence:	543.08 2d clause of 1st sentence of 3d par.
	543.09
	543.10
(d)	543.07
(e)	543.06
	365.40
	373.07
	411.07
4.04	543.11
	543.12
	543.15 last clause of 1st sentence
4.042	543.04 2d and 3d sentences
4.043	543.13
4.044	557.01 3d sentence through "but" following semicolon
4.05	None. 484.03, 586.05 and 587.02 contain same provision
4.06	543.14
4.07	544.30
	544.32
	544.34
	543.16
5.01	543.09 last sentence
5.02	543.10 last sentence
	543.17
	543.18
	557.01 clause following semicolon in 3d sentence Dist.Ct. Rule 25
5.04	544.35
6.02	544.32
	544.34
6.03	544.32 superseded in part
6.04	545.01
6.05	543.18
7.01	544.01
	544.03
	544.06 3d sentence
	544.08
	544.09
	546.02 1st sentence
7.02	Dist.Ct. Rule 7 and Rule 22(c)
	545.01 1st sentence
	Dist.Ct. Rule 20
8.01	544.02(2) & (3)
	544.04(2)
8.02	544.04(1), (2), and (3)
8.04	544.18
8.05	544.05
	544.06 1st sentence
	544.27
8.06	544.16
9	Generally 544.24
	544.25
	544.26
9.03	544.23
9.04	544.20
9.05	544.19
9.08	544.28
	544.02(1)
10.01	544.02(1)
10.02	544.06 2d sentence
	544.27
	Dist.Ct. Rule 22(d) to extent inconsistent
11	544.15 last paragraph and that part of 1st sentence as follows: "in a court of record shall be subscribed by the party or his attorney, and"
12.01	543.02 1st sentence
	544.29 2d sentence
	546.29

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Rule	Statutes Superseded M.S.A. 1949
12.02	544.03 Dist.Ct. Rule 7 and Rule 22(c) 543.15 2d sentence 544.04 544.06 544.08 544.18
12.05 }	544.10
12.06 }	544.17
12.08	544.03 subd. 3
13.01	544.05
13.02	544.05
13.05	544.05
13.08	540.16
14.01	540.16
14.02	540.16
15.01	544.29 1st sentence 544.30
15.02	544.30 544.31
15.04	544.11
17.01	540.02 540.04 540.06
17.02	540.06
18.01	544.27
19.02	540.16
20.01	540.10 544.05 544.27 548.02 (548.20 covers 2d sentence of 548.02)
22	50.12 to extent inconsistent 227.17 228.20 544.12
23.01	540.02
24.01	50.12 to extent inconsistent 544.13
24.03	544.13
25.01	540.12 to extent inconsistent
25.03	540.12 to extent inconsistent
26.01	597.01 597.04 597.05
26.04	597.12 597.15 597.16
26.05	597.12
26.07	597.01
27.01	598.01 598.02 598.03 598.05 to 598.11, inclusive
28.01	597.01 597.04
28.02	597.01 597.04
29	597.06
30.01	597.01 597.02
30.03	597.07 597.10
30.05	597.07 597.08
30.06	597.08 597.09
30.07	597.14
31.01	597.04 597.05
31.02	597.07 597.08 597.09 597.10
32.01	597.13
32.02	597.13
32.03	597.12 597.13
32.04	597.13
34	603.01
37.02	597.11 603.01
38.01	546.03 2d sentence
38.02	546.26
38.03	546.05 1st four sentences
39.01	546.03 1st clause of 3d sentence
39.02	546.03 last clause of 3d sentence
40	546.05 5th sentence
41.01	546.39
41.02	546.38 546.39
42.01	546.04 1st sentence
42.02	546.04 2d sentence

Rule	Statutes Superseded M.S.A. 1940
43.02	595.03
43.04	595.05
45.03	596.02
45.04	597.11
45.05	596.01 to extent applicable to district courts
45.06	596.04
46	547.03
47.01	Dist.Ct. Rule 27(a)
47.02	546.095
49.01	546.20
49.02	546.20
50.02	605.06 1st and 2d sentences
51	546.14 547.03
52.01	546.27 1st sentence
53.01	546.33 1st paragraph 546.34
53.03	546.36
53.04	546.36
53.05	546.36
54.03	548.01
54.04	549.10
55.01	544.07
58.01	548.03
58.02	548.25 2d sentence 547.023 Dist.Ct. Rule 26
59.01	547.01
59.02	547.02
59.03	547.02
59.07	547.02
59.08	547.05
60.01	547.06 544.32
60.02	544.32 544.32
61	544.33
63.02	542.13
63.03	542.16
63.04	542.13 542.16
67.02	544.14
67.03	576.02
67.04	485.02 1st sentence
68.01	546.40
68.02	546.41
70	557.04
77.01	546.30 1st sentence
77.04	546.30 3d sentence

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List of Statutes Superseded by Rules

Statute Superseded M.S.A.1949	By Rule
50.12..to extent inconsistent..	22
227.17..to extent inconsistent..	24.01
228.20..to extent inconsistent..	22
365.40..to extent inconsistent..	4.03(e)
373.07..to extent inconsistent..	4.03(e)
411.07..to extent inconsistent..	4.03(e)
485.02.1st sentence	67.04
540.01	2.01
540.02	17.01; 23.01
540.04	17.01
540.06	17.02
540.10	20.01
540.12..to extent inconsistent..	25.01; 25.03
540.15..the clause "and the summons may be served on one or more of them"	4.03(b)
540.151..the clause "and the summons may be served on one or more of them"	4.03(b)
540.16	13.08; 14.01; 14.02; 19.02
541.12	3.01
542.13	63.02; 63.04
542.16	63.03; 63.04
543.01	3.01
543.02	4.01; 12.01
543.03	4.02
543.04	3.02; 4.042
543.05	4.03(a)
543.06	4.03(e)
543.07	4.03(d)

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Statutes Superseded M.S.A. 1949	Rule	Statutes Superseded M.S.A. 1949	Rule
543.08.all except 2d para- graph and 2d sen- tence of 3d para- graph	4.03(c)	546.27.1st sentence	52.01
543.09	4.03(c); 5.02	546.29	12.01
543.10	4.03(c); 5.02	546.30.1st and 3d sentences.....	77.01; 77.04
543.11	4.04	546.33.1st paragraph	53.01
543.12	4.04	546.34	53.01
543.13	4.043	546.36	53.03; 53.04; 53.05
543.14	4.06	546.38	41.02
543.15	4.04; 12.01; & generally	546.39	41.01; 41.02
543.16	5.01	546.40	68.01
543.17	5.02	546.41	68.02
543.18	5.02; 6.05	547.01	59.01
544.01	7.01	547.02	59.02; 59.03
544.02	8.01; 10.01	547.023	58.02
544.03	7.01; 12.02; 12.08	547.03	46; 51
544.04	8.01; 8.02; 12.02	547.04	59.07
544.05	8.05; 13.01; 13.02; 13.05; 20.01	547.05	59.07
544.06	8.05; 7.01; 10.02; 12.02	547.06	59.08
544.07	55.01	548.01	54.03
544.08	7.01; 12.02	548.02	20.01
544.09	7.01	548.03	58.01
544.10	12.06	549.10	54.04
544.11	15.04	557.01.3d sentence	4.044; 5.02
544.12	22	557.04	70
544.13	24.01; 24.03	576.02	67.03
544.14	67.02	595.03	43.02
544.15.last paragraph and part of 1st sen- tence reading "in a court of record shall be subscribed by the party or his at- torney, and"	11	595.05	43.04
544.16	8.06	596.01.to extent applicable to district courts	45.05
544.17	12.05; 12.06	596.02	45.03
544.18	8.04; 12.02	596.04	45.06
544.19	9.05	597.01	26.01; 26.07; 28.01; 28.02; 30.01
544.20	9.04	597.02	30.01
544.23	9.03	597.04	26.01; 28.01; 28.02; 31.01
544.24	Generally	597.05	26.01; 31.01
544.25	Generally	597.06	29
544.26	Generally	597.07	30.03; 30.05; 31.02
544.27	8.05; 10.02; 18.01; 20.01	597.08	30.05; 30.06; 31.02
544.28	9.08	597.09	30.06; 31.02
544.29	12.01; 15.01	597.10	30.03; 31.02
544.30	4.07; 6.02; 15.01; 15.02	597.11	37.02; 45.04
544.31	15.02	597.12	26.04; 26.05; 32.03
544.32	4.07; 6.02; 6.03; 60.01; 60.02; 61	597.13	32.01; 32.02; 32.03; 32.04
544.33	61	597.14	30.07
544.34	4.07; 6.02; 60.01; 60.02	597.15	26.04
544.35	5.04	597.16	26.04
545.01	6.04; 7.02	598.01	27.01
546.02.1st sentence	7.01	598.02	27.01
546.03.2d and 3d sentences.....	38.01; 39.01; 39.02	598.03	27.01
546.04	42.01; 42.02	598.05	27.01
546.05.all except last 3 sentences	38.03; 40	598.06	27.01
546.095	47.02	598.07	27.01
546.14	51	598.08	27.01
546.20	49.01; 49.02	598.09	27.01
546.25.beginning with "or, in its discretion * * *"	58.02	598.10	27.01
546.26	38.02	598.11	27.01
		603.01	34; 37.02
		605.06.1st and 2d sentences.....	50.02
		District Court Rules Superseded	
		Dist. Rule	By Rule
		7	7.01; 12.02
		20.to extent inconsistent	7.02
		22(c) & (d) to extent in- consistent	7.01; 10.02; 12.02
		25	5.02
		26	58.02

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APPENDIX 9. STATE GOVERNMENTAL STRUCTURE

APPENDIX 9

ANALYSIS OF THE STATE GOVERNMENTAL STRUCTURE

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Attorney General, term two years, Const. Art. 5 s. 5
Auditor, term four years, Const. Art. 5 s. 5
Governor, term two years, Const. Art. 5 ss. 1, 2, 3, 4
Judicial
 District Court, Const. Art. 6 ss 1, 3, 5, 7 to 12
 Districts, 14 (effective July 1, 1959, 10) in number, 2.722 Judges, 57 in number, terms six years
Supreme Court, consists of a Chief Justice and not less than six nor more than eight Associate Justices, terms six years, Const. Art. 6 ss. 1, 2, 7 to 12
Appoints
 Clerk of Court, Art. 6 s. 2
 Court Reporter, Art. 6 s. 2
 Revisor of Statutes, 482.02
Supervises
 State Board of Law Examiners, seven members, terms three years, 481.01
 State Librarian, Art. 6 s. 2
Legislature, consists of a House of Representatives, 131 members, terms two years; and a Senate, 67 members, terms four years, Const. Art. 4 ss. 24, 25; meets in a Joint Convention to elect the 12 members of the Board of Regents, University of Minnesota, terms six years, Const. Art. 8 s. 4
Lieutenant Governor, term two years, Const. Art. 5 s. 3
Railroad and Warehouse Commission, consists of three commissioners, terms six years, 216.01, 216.02
Secretary of State, term two years, Const. Art. 5 s. 5
Treasurer, term two years, Const. Art. 5 s. 5
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Aeronautics, Department of; commissioner, term four years, 360.014
Agriculture, Dairy, and Food; Department of; commissioner, term four years, 17.01
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Education, Department of; board of education of seven members, terms seven years, 120.01
Employment security, department of; commissioner, term six years, 268.12
Health, Department of; state board of health of nine members, terms three years, 144.01
Highways, Department of; commissioner, term four years, 161.02
Labor and Industry, Department of; Industrial Commission composed of three commissioners, terms six years, 175.01, 175.02
Liquor Control Commissioner, term four years, 340.08

Public Examiner, Department of; public examiner, term six years, 215.01, 215.02
Public Welfare, Department of; commissioner, term six years, 245.03
Surveyor General of Logs and Lumber, term two years, 91.01
Taxation, Department of; commissioner, term six years, 270.02
Veterans Affairs, Department of; commissioner, term four years, 196.01, 196.02
Boards and Commissions whose members are appointed by the governor, with advice and consent of the Senate
Athletic Commission; five commissioners, terms three years, 341.01, 341.02
Civil Service Board; three members, terms six years, 43.03
Education, Board of; seven members, terms seven years, 120.01
Grain Appeals, Board of; three members, terms three years, 233.135, 233.136
Great Lakes-St. Lawrence Tidewater Commission; three members, Laws 1919, Res. No. 11
Health, Board of; nine members, terms three years, 144.01
Industrial Commission; three commissioners, terms six years, 175.02
Livestock Sanitary Board; five members, terms five years, 35.02
Parole and Probation, Board of; chairman and two other members, terms six years, 637.02
Soldiers' Home Board; nine trustees, terms six years, 198.01, 198.06
State College Board; eight directors and commissioner of education, terms of directors four years, 136.02, 136.12
Tax Appeals, Board of; three members, terms six years, 271.01
Upper Mississippi and St. Croix River Improvement Commission; five citizens of state, Laws 1927, Res. No. 14
Veterans Service Building Commission; one member from each congressional district and two members at large, Laws 1945, c. 315 s. 2
Water Resources Board; three members for six year terms and two for three and five year terms, respectively, 105.71
Youth Conservation Commission; six members, including commissioner of public welfare, chairman of board of parole and probation, and four others, appointed for terms of six years, 242.02, 242.03, 242.04
Examining boards whose members are appointed by the governor
Abstracters; Board of Examiners, five members, terms six years, 386.63
Accountancy; three members, terms three years, 326.17
Architects, Engineers, and Land Surveyors, registration for; nine members; terms four years, 326.04
Barber Examiners; three members, terms three years, 154.22
Basic Sciences, of examiners in the; two full-time professors, one doctor of medicine and surgery, one doctor of osteopathy, one doctor of chiropractic, terms six years, 146.03, 146.04
Chiroprody Examiners and Registration; five members, terms five years, 153.02
Chiropractic Examiners; five members, terms five years, 148.02, 148.03
Dental Examiners; five dentists, terms three years, 150.01
Electricity; seven members, terms five years, 326.24
Hairdressing and Beauty Culture Examiners; three members, terms three years, 155.04, 155.05
Medical Examiners; seven resident physicians, terms seven years, 147.01
Nursing, Board of; seven members, terms five years, 148.181
Optometry; five optometrists, terms three years, 148.52
Osteopathy; five osteopathic physicians, terms five years, 148.11
Pharmacy; five pharmacists, terms five years, 151.02, 151.03
Psychologists, Board of Examiners; seven members, terms seven years, 148.79
Veterinary Examining Board, five qualified veterinarians, terms five years, 156.01

- Watchmaking, Examiners in; five members, terms four years, 326.541
- Boards and commissions partly or wholly ex officio**
- Archives Commission; state auditor, attorney general, commissioner of administration, public examiner, superintendent of state historical society, 138.13, 138.14
- Armory Building Commission, Minnesota state; corporation with adjutant general and general officers of the line of the national guard, 193.142
- Compensation Insurance Board; commissioner of insurance, one member of industrial commission, a person to be appointed by the governor, 79.02
- Executive Council; governor, attorney general, state auditor, state treasurer, secretary of state; 9.01
- Geographic Board; commissioner of conservation, commissioner of highways, superintendent of Minnesota Historical Society, 354.01
- Great Lakes Commission; two state senators, two state representatives, 1.22
- Historic Sites and Markers Commission; director of state parks, commissioner of highways, superintendent of Minnesota Historical Society, 138.08
- Interstate Cooperation, Minnesota Commission on; 15 members, senate committee on interstate cooperation, house committee on interstate cooperation, governor's committee on interstate cooperation, 353.04
- Investment, Board of; governor, treasurer, auditor, attorney general, a commissioner appointed by board of regents of University of Minnesota from its members, 11.01
- Iron Range Resources and Rehabilitation Commission; seven members, three state senators, three state representatives, commissioner of conservation, terms two years except commissioner, 298.22
- Judicial Council; one justice or former justice of supreme court, two judges or former judges of district court, one judge or former judge of probate, seven persons appointed by governor, one of whom to be a municipal court judge and four of other six to be attorneys at law, terms of appointed members three years, 483.01, 483.02
- Land Exchange Commission; governor, attorney general, state auditor, Const. Art. 8 s. 8, 94.341
- Land Use Committee; governor, commissioner of conservation, commissioner of agriculture, dairy, and food, commissioner of education, commissioner of highways, commissioner of taxation, 92.33
- Legislative Advisory Committee; chairman of senate committee on taxes and tax laws, chairman of senate committee on finance, chairman of house committee on taxes and tax laws, chairman of house committee on appropriations, 356.17
- Legislative Research Committee; one state senator and one state representative from each Congressional district, term interim between regular legislative sessions (two years), 3.31
- Pardons, Board of; governor, chief justice of supreme court, attorney general, 638.01
- Poultry Improvement Board; acts in advisory capacity with the commissioner of agriculture, dairy, and food, members, chief of the poultry division of the college of agriculture, University of Minnesota; secretary and executive office of the state livestock sanitary board; six experienced poultrymen to be appointed by the governor for terms of three years, 36.01
- Publication Board; commissioner of administration, secretary of state, attorney general, 15.046
- Retirement Association, Game Wardens; chief game warden, state treasurer, one game warden to serve for a term of two years, 97.62, 97.63
- Retirement Association, Highway Patrolmen; state highway patrol chief, state treasurer, one highway patrolman to serve for a term of two years, 172.02, 172.03
- Retirement Board, Public Employees; state auditor, insurance commissioner, state treasurer, six public employees elected by members of public employees retirement association for terms of three years, 353.03
- Retirement Board, State Employees; state auditor, state treasurer, insurance commissioner, four state employees elected by members of state employees retirement association for terms of four years, 352.03
- Retirement Fund, Teachers, Board of Trustees of; commissioner of education, state auditor, commissioner of insurance, two members of fund elected for two years, 135.03
- Rural Credit, Conservator of; commissioner of banks, 41.02
- Soil Conservation Committee; director of the agricultural extension service of University of Minnesota, dean of the department of agriculture of University of Minnesota, commissioner of conservation, commissioner of agriculture, dairy, and food, one person to be appointed by U. S. secretary of agriculture or, if none so appointed, by the governor, 40.03
- South-Dakota-Minnesota Boundary Waters Commission; director of game and fish commission of South Dakota, commissioner of conservation of Minnesota, engineer appointed by governors of two states for four years, 114.01
- State Claims Commission; six members, three state senators, three state representatives, 3.66
- State Employees Insurance Board; governor, state treasurer, commissioner of insurance, two state employees elected by state employees for terms of four years, 15.35
- Tri-state Waters Commission; nine members, three each from North Dakota, South Dakota, Minnesota, 114.09
- Uniform State Laws in the Several States, Commission on; three persons to be appointed by governor, attorney general, chief justice of supreme court for two years, 3.251
- Voting Machine Commission; attorney general, two master mechanics or graduates of school of mechanical engineering one to be appointed by governor and other by attorney general for four years, 209.07
- Water Pollution Control Commission; secretary and executive officer of state board of health, commissioner of conservation, commissioner of agriculture, dairy, and food, secretary and executive officer of state live stock sanitary board, a member at large appointed by governor for four years, 144.372
- Independent state agencies**
- Sibley House Association; formed in 1910 by Minnesota D. A. R., 10.08
- Society for the Prevention of Cruelty; formed in 1869; constitutes state bureau of child and animal protection, 343.01, 343.04
- State Agricultural Society; State Fair Board, 37.01, 37.04
- State Art Society; governor, president of state university, seven members appointed by governor for four years, 139.01, 139.02
- State Historical Society; formed in 1849; executive council of 36 members, 30 elected every three years, and attorney general, auditor, governor, lieutenant governor, secretary of state, treasurer ex officio, 10.08, 138.03
- State Horticultural Society; formed in 1866, 37.03