

MINNESOTA STATUTES 1979 SUPPLEMENT

525.74 PROBATE PROCEEDINGS

Such appeal shall stay all proceedings on the order appealed from. When a party in good faith gives due notice of appeal from such order and omits through mistake to do any other act necessary to perfect the appeal, or to stay proceedings, the court may permit an amendment on such terms as may be just. Upon perfection of the appeal, the probate court shall transmit to the clerk of the supreme court the \$10 aforementioned together with a certified copy of the notice of appeal and bond, if required. The filing thereof shall vest in the supreme court jurisdiction of the cause, and records shall be transmitted to the supreme court, and records and briefs shall be printed, served, and filed, and such appeal shall be heard and disposed of as in the case of appeals in civil actions from the district court. If a settled case be necessary, the probate court may settle a case upon the application of any party. The notice of the hearing upon such application and the case proposed to be settled shall be served on all other parties interested in the appeal at least eight days prior to the hearing.

[1979 c 303 art 3 s 39]

525.841 Escheat returned.

In all such cases the commissioner of finance shall be furnished with a certified copy of the court's order assigning the escheated property to the persons entitled thereto, and upon notification of payment of the estate tax, the commissioner of finance shall draw his warrant on the state treasurer, or execute a proper conveyance to the persons designated in such order. In the event any escheated property has been sold pursuant to sections 11.08 or 94.09 to 94.16, then the warrant shall be for the appraised value as established during the administration of the decedent's estate. There is hereby annually appropriated from any moneys in the state treasury not otherwise appropriated an amount sufficient to make payment to all such designated persons. No interest shall be allowed on any amount paid to such persons.

[1979 c 303 art 3 s 40]

CHAPTER 542. VENUE OF ACTIONS

Sec.
542.06 Replevin.

Sec.
542.16 Notice to remove.

542.06 Replevin.

Actions to recover the possession of personal property wrongfully taken shall be tried in the county in which the taking occurred, or, at claimant's election, in the county in which he resides; in other cases in the county in which the property is situated.

[1979 c 18 s 10]

542.16 Notice to remove.

Subdivision 1. **Initial disqualification.** Any party, or his attorney, to a cause pending in a district court, within one day after it is ascertained which judge is to preside at the trial or hearing thereof, or at the hearing of any motion or order to show cause, may make and file with the clerk of the court in which the action is pending and serve on the opposite party a notice to remove. Thereupon without any further act or proof, the chief judge of the judicial district shall assign any other judge of any court within the district to preside at the trial of the cause or the hearing of the motion or order to show cause, and the cause shall be continued on the calendar, until the assigned judge can be present. In criminal actions the notice to remove shall be made and filed with the clerk by the defendant, or his attorney, not less than two days before the expiration of the time allowed him by law to prepare for trial and in any of those cases the presiding judge shall be incapacitated to try the cause. In criminal cases, the chief judge, for the purpose of securing a speedy trial, may in his discretion change the place of trial to another county.

Subd. 2. **Subsequent disqualifications.** After a litigant has once disqualified a presiding judge as a matter of right under subdivision 1, he may disqualify the substitute judge, but only by making an affirmative showing of prejudice. A showing that the judge might be excluded for bias from acting as a juror in the matter constitutes an affirmative

showing of prejudice. If a litigant makes an affirmative showing of prejudice against a substitute judge, the chief judge of the judicial district shall assign any other judge of any court within the district to hear the cause.

[1979 c 233 s 18]

CHAPTER 546. TRIALS

Sec. 546.11	Order of trial.	Sec. 546.23	Verdict in replevin.
546.12	View of premises; procedure.	546.27	Decision by the court.

546.11 Order of trial.

In a civil case when the jury is completed and sworn, the trial shall proceed in the following order, unless for special reasons the court shall otherwise direct:

- (1) The plaintiff, after stating the issue, shall produce the evidence on his part;
- (2) The defendant may then open his defense, and produce his evidence in support thereof;
- (3) The parties may then respectively offer rebutting evidence only, unless the court, in furtherance of justice, shall permit either to introduce evidence upon his original case;
- (4) When the evidence is concluded, unless the case be submitted by one side or both without argument, the defendant shall open and the plaintiff close the argument to the jury; provided, that if the defendant have the affirmative of the issue to be tried the foregoing order of trial shall be reversed;
- (5) If several defendants, having separate defenses, appear by different counsel, the court shall determine their relative order in respect to both evidence and argument;
- (6) When the argument is closed the court may charge the jury.

[1979 c 233 s 21]

546.12 View of premises; procedure.

In a civil case when the court deems it proper that the jury should view real property which is the subject of litigation, or the place where a material fact occurred, it may order them to be taken, in a body and in the custody of proper officers, to the place, which shall be shown to them by the judge, or by a person appointed by the court for that purpose; and while the jurors are thus absent, no one other than the judge or person so appointed shall speak to them on any subject connected with the trial.

[1979 c 233 s 22]

546.23 Verdict in replevin.

In an action for the recovery of specific personal property, if the property has not been delivered to the claimant and the jury find that he is entitled to its recovery, or if the property is not in the possession of the respondent, and by his answer he claims a return thereof, and the verdict is in his favor, the jury shall assess the value of the property and the damages, if any are claimed in the complaint or answer, which the prevailing party has sustained by reason of the detention, or taking and withholding, of such property. When the verdict is in favor of the party having possession of the property its value shall not be found.

[1979 c 18 s 11]

546.27 Decision by the court.

Subdivision 1. When an issue of fact has been tried by the court, the decision shall be in writing, the facts found and the conclusion of law shall be separately stated, and judgment shall be entered accordingly. All questions of fact and law, and all motions and matters submitted to a judge for his decision, shall be disposed of and his decision filed with the clerk within 90 days after such submission, unless sickness or casualty shall prevent, or the time be extended by written consent of the parties. No part of