CHAPTER 546

TRIALS

546.07 ORDER OF TRIAL; ABSENCE OF PARTIES.
546.08 CONTINUANCE.
546.10 CHALLENGES.
546.11 ORDER OF TRIAL.
546.12 VIEW OF PREMISES; PROCEDURE.
546.13 SICKNESS OF JUROR; FOOD AND LODGING.
546.15 JURORS MAY TAKE CERTAIN PAPERS.
546.16 VERDICT, WHEN RECEIVED; CORRECTING SAME; POLLING JURY.
546.17 VERDICT BY FIVE-SIXTHS OF JURY.
546.18 VERDICT; HOW SIGNED.
546.19 VERDICT, GENERAL AND SPECIAL.
546.22 JURY TO ASSESS RECOVERY.
546.23 VERDICT IN REPLEVIN.
546.24 RECEIVING VERDICT.
546.25 ENTRIES ON RECEIVING VERDICT; RESERVING CASE.
546.27 DECISION BY THE COURT.
546.28 ASSESSMENT OF DAMAGES WITHOUT ANSWER.
546.31 TRIAL UNFINISHED AT END OF TERM.
546.32 TRIAL IN VACATION BY CONSENT.
546.33 TRIAL BY REFEREES; FEES PAID BY THE COUNTY.
546.35 SELECTION OF REFEREES; MAJORITY MAY ACT.
546.37 MINORS MAY BE EXCLUDED, WHEN.
546.42 PERSONS DISABLED IN COMMUNICATION; INTERPRETERS.
546.43 PROCEEDINGS WHERE INTERPRETER APPOINTED.
546.44 QUALIFIED INTERPRETER.

546.01 MS 1971 [Repealed, 1974 c 394 s 11]

546.02 MS 1971 [Repealed, 1974 c 394 s 11]

546.03 MS 1971 [Repealed, 1974 c 394 s 11]

546.04 MS 1949 [Repealed, 1974 c 394 s 12]

546.05 MS 1971 [Repealed, 1974 c 394 s 11]

546.06 MS 1971 [Repealed, 1974 c 394 s 11]

546.061 MS 2006 [Renumbered 15.001]

546.07 ORDER OF TRIAL; ABSENCE OF PARTIES.

The issues on the calendar of a general term shall be disposed of in the following order, unless the court shall otherwise direct:

(1) jury cases;

(2) issues of fact to be tried by the court;

(3) issues of law.

If a party be absent, unless the court for good cause shall otherwise order, the adverse party may proceed with the case and take a dismissal of the action or a verdict or judgment as the case may require. If neither be present, the cause shall be stricken from the calendar.

History: *(9291) RL s 4167; 1986 c 444*

546.08 CONTINUANCE.

A motion to postpone a trial for the absence of evidence can only be made upon affidavit, stating the evidence expected to be obtained, the reasons for its absence and for expecting that it can be procured, and

showing its materiality and that due diligence has been used to procure it; and if the adverse party thereupon admits that such evidence would be given and that it be considered as actually given on the trial, or offered and rejected as improper, the trial shall not be postponed.

History: *(9292) RL s 4168*

546.09 MS 1976 [Repealed, 1977 c 286 s 21]

546.095 MS 1971 [Repealed, 1974 c 394 s 11]

546.10 CHALLENGES.

In any civil action or proceeding either party may challenge the panel, or individual jurors thereon, for the same causes and in the same manner as in criminal trials, except that the number of peremptory challenges to be allowed on either side shall be as provided in this section. Before challenging a juror, either party may examine the juror in reference to qualifications to sit as a juror in the cause. A sufficient number of jurors shall be called in the action so that six shall remain after the exercise of the peremptory challenges as provided in this section. Each party shall be entitled to two peremptory challenges, which shall be made alternately beginning with the defendant. The parties to the action shall be deemed two, all plaintiffs being one party, and all defendants being the other party, except, in case two or more defendants have adverse interests, the court, if satisfied that the due protection of their interests so requires, may allow the defendant or defendants on each side of the adverse interests not to exceed two peremptory challenges. When the peremptory challenges have been exhausted or declined, the first six of the remaining jurors shall constitute the jury.

History: *(9294) RL s 4170; 1913 c 217 s 1; 1927 c 281; 1943 c 228 s 2; 1971 c 917 s 3; 1973 c 453 s 1; 1976 c 239 s 47; 1980 c 509 s 178; 1986 c 444; 2022 c 55 art 1 s 184*

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 plaintiff's evidence;

(2) the defendant may then open the defense, and produce 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 each's 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.

History: *(9295) RL s 4171; 1979 c 233 s 21; 1986 c 444*

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.

History: *(9296) RL s 4172; 1979 c 233 s 22*

546.13 SICKNESS OF JUROR; FOOD AND LODGING.

If a juror becomes sick or otherwise unable to perform duty, the court may discharge the juror. In that case, unless the parties consent to accept the verdict of the remaining jurors, another may be sworn in place of the discharged juror and the trial begun anew, or the jury may be discharged and another then or afterward impaneled. If the court, while a jury is kept together, shall order that they be provided with food and lodging, the sheriff shall furnish the same at the expense of the state courts.

History: *(9297) RL s 4173; 1986 c 444; 1999 c 216 art 7 s 36*

546.14 MS 1971 [Repealed, 1974 c 394 s 11]

546.15 JURORS MAY TAKE CERTAIN PAPERS.

On retiring for deliberation, the jury may take with them all papers received in evidence except depositions; but the court may direct that copies be made for their use of such records and documents as ought not, in its judgment, to be taken from those entitled to their possession. The jurors may also take with them notes of the testimony and proceedings made by themselves, but none others. All such papers, except the notes aforesaid, shall be returned to the court administrator before the jurors are discharged.

History: *(9299) RL s 4175; 1Sp1986 c 3 art 1 s 82*

546.16 VERDICT, WHEN RECEIVED; CORRECTING SAME; POLLING JURY.

While the jury are absent the court may adjourn from time to time, in respect to other business, but it shall be considered open, for all purposes connected with the cause submitted, until a verdict is rendered or the jury discharged. A final adjournment shall discharge the jury. Before the verdict is recorded either party may require the jury to be polled, whereupon the court administrator shall ask if each juror's verdict is the same as the announced verdict. If any answer in the negative, the jury shall be sent out for further deliberation. If the verdict be defective in form or insufficient, it may be corrected under the advice of the court, or the jury may be again sent out.

History: *(9300) RL s 4176; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

546.17 VERDICT BY FIVE-SIXTHS OF JURY.

In any civil action or proceeding in any court of record the jury therein may return a verdict, after six hours of deliberation, upon an agreement by five-sixths of its number. The jury's deliberation commences when the officer in charge of the jury is sworn. The court administrator records that time.

History: *(9301) 1913 c 63 s 1; 1955 c 220 s 1; 1Sp1986 c 3 art 1 s 82*

546.18 VERDICT; HOW SIGNED.

Where the verdict is agreed to by the full membership of the jury the foreperson only shall sign the verdict, when less than the full number agree on the verdict the same shall be signed by all the jurors who

concur therein, and the court administrator shall enter on the minutes the number of jurors concurring in the verdict.

History: *(9302) 1913 c 63 s 2; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

546.19 VERDICT, GENERAL AND SPECIAL.

A general verdict is one by which the jury find generally upon all the issues in favor of the plaintiff or defendant. A special verdict is one by which they find the facts only, and it shall so present the conclusions of fact as established by the evidence that nothing remains to the court but to draw from them conclusions of law.

History: *(9303) RL s 4177*

546.20 MS 1949 [Repealed, 1974 c 394 s 12]

546.21 MS 1971 [Repealed, 1974 c 394 s 11]

546.22 JURY TO ASSESS RECOVERY.

When a verdict is found for the plaintiff in an action for the recovery of money, or for the defendant when a counterclaim for the recovery of money is established beyond the amount of the plaintiff's claim as established, the jury shall assess the amount of the recovery.

History: *(9306) RL s 4180*

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 the claimant is entitled to its recovery, or if the property is not in the possession of the respondent, and by answer the respondent claims a return thereof, and the verdict is in the respondent's 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.

History: *(9307) RL s 4181; 1979 c 18 s 11; 1986 c 444*

546.24 RECEIVING VERDICT.

When the verdict is given, and is such as the court may receive, the court administrator shall immediately file said verdict in open court, and read it to the jury, and inquire of them whether it is their verdict. If any juror disagrees, the fact shall be entered in the minutes, and the jury again sent out; but if no disagreement is expressed, the verdict is complete, and the jury shall be discharged from the case. The court administrator shall forthwith record such verdict in full in the court minutes.

History: *(9308) RL s 4182; 1949 c 126 s 1; 1Sp1986 c 3 art 1 s 82*

546.25 ENTRIES ON RECEIVING VERDICT; RESERVING CASE.

Upon receiving the verdict an entry shall be made in the minutes, specifying the time and place of trial, the names of the jurors and witnesses, the verdict, and any order of the court made in reference to the case. The court may reserve the case for argument and further consideration.

History: *(9309) RL s 4183; 1974 c 394 s 9*

546.26 MS 1949 [Repealed, 1974 c 394 s 12]

546.27 DECISION BY THE COURT.

Subdivision 1. **Written decisions required.** (a) 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. Except as provided in paragraph (b), all questions of fact and law, and all motions and matters submitted to a judge for a decision in trial and appellate matters, shall be disposed of and the decision filed with the court administrator 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 the salary of any judge shall be paid unless the voucher therefor be accompanied by a certificate of the judge that there has been full compliance with the requirements of this section.

(b) If a hearing has been held on a petition under chapter 260 involving physical or sexual abuse of a child who is alleged to be in need of protection or services or neglected and in foster care, the decision must be filed within 15 days after the matter is submitted to the judge.

Subd. 1a. **Applicable compliance procedures.** Unless different procedures for ensuring compliance with subdivision 1 are set by the Rules of the Board on Judicial Standards, the procedures in subdivision 2 shall be used.

Subd. 2. **Board on Judicial Standards review.** (a) The chief judges of the judicial districts and the Board on Judicial Standards shall review the compliance of district judges with the provisions of subdivision 1 as provided in this subdivision. To facilitate this review, the director of the state judicial information system shall provide monthly reports to the chief judges identifying matters that have exceeded 90 days without a disposition. Upon the first 90-day infraction, the director shall notify the chief judge of the judge's district that a judge is not in compliance. The chief judge shall take appropriate action to remedy the infraction. Upon a second 90-day infraction occurring on or before five years from the date of the first infraction by the same judge, the director shall again refer the matter to the chief judge. Within 45 days of the referral, the chief judge shall develop a written plan with the judge to remedy the 90-day infraction and avoid future 90-day infractions and notify the Board on Judicial Standards of the development of the written plan. At a minimum, the written plan must include measures taken to release timely decisions, timelines for substantial compliance, and audit procedures to monitor progress. If at any time the judge fails to follow the written plan, the chief judge shall notify the Board on Judicial Standards for further action. Upon a third 90-day infraction on or before five years from the date of the first 90-day infraction, the chief judge shall notify the Board on Judicial Standards, which shall take appropriate action. This section does not affect the chief judge's duty under the Minnesota Code of Judicial Conduct to take appropriate action in response to violations of the code. Should the board receive a complaint alleging a serious violation of this section, the board's authority to review and act shall not be limited.

(b) If an infraction under paragraph (a) involves the chief judge, the notification must be made to the assistant chief judge who shall take on the responsibilities that would otherwise be the responsibility of the chief judge under paragraph (a).

History: *(9311) RL s 4185; 1969 c 1034 s 1; 1979 c 333 s 105; 1981 c 356 s 359; 1983 c 301 s 219; 1Sp1986 c 3 art 1 s 82; 1992 c 571 art 7 s 11; 1995 c 189 s 8; 1996 c 277 s 1; 2006 c 260 art 5 s 49; 2009 c 101 art 2 s 109; 2014 c 202 s 1,2*

546.28 ASSESSMENT OF DAMAGES WITHOUT ANSWER.

A defendant, without answering, may appear in the action and demand in writing an assessment of the amount which the plaintiff is entitled to recover; and thereupon the court, upon application of either party, shall direct the manner of such assessment. When the amount is thus ascertained, the court administrator shall enter judgment therefor as in other cases.

History: *(9245) RL s 4122; 1Sp1986 c 3 art 1 s 82*

546.29 MS 1949 [Repealed, 1974 c 394 s 12]

546.30 MS 1971 [Repealed, 1974 c 394 s 11]

546.31 TRIAL UNFINISHED AT END OF TERM.

When the trial of any action or proceeding, or of an indictment, is not concluded at the expiration of the term in which it was begun, it may be concluded; and all proceedings may be had in the case in the same manner and with like effect as if it had been concluded within such term.

History: *(9314) RL s 4188*

546.32 TRIAL IN VACATION BY CONSENT.

With consent of parties the court may try and decide issues of law or fact in vacation, and thereupon judgment may be rendered at any time with the same effect as upon issues tried in term time.

History: *(9315) RL s 4189*

546.33 TRIAL BY REFEREES; FEES PAID BY THE COUNTY.

When, in a trial by referee the court shall state in the 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.

History: *(9316) RL s 4190; 1921 c 279 s 2; 1974 c 394 s 10*

546.34 MS 1949 [Repealed, 1974 c 394 s 12]

546.35 SELECTION OF REFEREES; MAJORITY MAY ACT.

If the parties do not agree upon the persons to be appointed, the selection shall be made by the court from the resident electors of the state. If two be appointed, they shall meet and act together; if three, all shall meet, but two may do any act which might be done by all.

History: *(9318) RL s 4192*

546.36 MS 1949 [Repealed, 1974 c 394 s 12]

546.37 MINORS MAY BE EXCLUDED, WHEN.

When a cause of a scandalous or obscene nature is to be tried, the court or referee may exclude from the courtroom all minors whose presence is not necessary as parties or witnesses.

History: *(9320) RL s 4194*

546.38 MS 1949 [Repealed, 1974 c 394 s 12]

546.39 MS 1949 [Repealed, 1974 c 394 s 12]

546.40 MS 1949 [Repealed, 1974 c 394 s 12]

546.41 MS 1949 [Repealed, 1974 c 394 s 12]

546.42 PERSONS DISABLED IN COMMUNICATION; INTERPRETERS.

For the purposes of sections 546.42 to 546.44, a person disabled in communication is one who, because of a hearing, speech, or other communication disorder, or because of difficulty in speaking or comprehending the English language, is unable to fully understand the proceedings in which the person is required to participate, or when named as a party to a legal proceeding, is unable by reason of the deficiency to obtain due process of law.

History: *1975 c 337 s 1; 1981 c 131 s 1; 1984 c 460 s 1; 1986 c 444*

546.43 PROCEEDINGS WHERE INTERPRETER APPOINTED.

Subdivision 1. **Qualified interpreter.** In a civil action in which a disabled person is a litigant or witness, the presiding judicial officer shall appoint a qualified interpreter to serve throughout the proceedings.

Subd. 2. **Interpreter required.** In a proceeding before a board, commission, agency, or licensing authority of the state, or of a political subdivision of the state, where a witness or the principal party in interest is a disabled person, all of the proceedings that are pertinent shall be interpreted in a language the disabled person understands by a qualified interpreter appointed by the board, commission, agency, or licensing authority.

History: *1975 c 337 s 2; 2005 c 56 s 1*

546.44 QUALIFIED INTERPRETER.

Subdivision 1. **Qualifications.** No person shall be appointed as a qualified interpreter pursuant to sections 546.42 to 546.44 unless that person is readily able to communicate with the disabled person, translate the proceedings for the disabled person, and accurately repeat and translate the statements of the disabled person to the officials before whom the proceeding is taking place.

Subd. 2. **Oaths.** A qualified interpreter appointed pursuant to the provisions of sections 546.42 to 546.44, before entering upon any duties shall take an oath promising, to the best of skill and judgment, to make a true interpretation to the disabled person being examined of all the proceedings, in a language which the person understands, and that the interpreter will repeat in the English language the statements of the disabled person to the court or other official before whom the proceeding is taking place.

Subd. 3. **Fees and expenses.** The fees and expenses of a qualified interpreter shall be determined by the presiding official and paid by the court, board, commission, agency, or licensing authority before whom the proceeding is taking place. The fees and expenses of a qualified per diem interpreter for a court must be paid by the state courts.

Subd. 4. **Disclosure.** A person serving as an interpreter pursuant to sections 546.42 to 546.44, shall not, without the consent of the person disabled in communication, be allowed to disclose any privileged communication made by the person or any privileged information gathered from the person which was communicated or gathered during the time of service as the interpreter.

History: *1975 c 337 s 3; 1981 c 131 s 2; 1986 c 444; 1999 c 216 art 7 s 37; 2005 c 56 s 1*