

STATE OF MINNESOTA

IN SUPREME COURT

ADM09-8009

OFFICE OF  
APPELLATE COURTS

APR 22 2015

**FILED**

**ORDER PROMULGATING AMENDMENTS TO  
THE GENERAL RULES OF PRACTICE FOR THE  
DISTRICT COURTS**

The Minnesota Supreme Court Advisory Committee on the General Rules of Practice for the District Courts has recommended amendments to the General Rules of Practice to accommodate the transition by the judicial branch to a more universal electronic environment. Specifically, the committee recommends amendments to: (a) incorporate terms commonly used in an electronic filing and service environment, and add language to ease the use of electronic documents; (b) clarify the requirements for excluding restricted identifiers in documents filed with the courts; (c) permit the use of sworn statements signed under penalty of perjury; (d) update terminology in the rules; and (e) implement recommendations for amendment of the Probate Rules.

In an order filed January 2, 2015, the court provided a public comment period on the proposed amendments to the General Rules of Practice for the District Courts. The court also scheduled a public hearing on March 17, 2015 to consider issues related to public access to judicial-branch case records that might be presented by the amendments recommended to these rules. Two written comments were received. The first, from the Minnesota State Bar Association, primarily expressed concern with proposed amendments to Rule 11 of the General Rules of Practice for the District Courts. The

second, from several judges in the Second Judicial District, raised concerns with proposed amendments to permit the use of sworn statements under penalty of perjury rather than notarized affidavits.

The court has carefully considered the committee's recommendations and the written comments. Based on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. The attached amendments to the General Rules of Practice for the District Courts be, and the same are, prescribed and promulgated to be effective as of July 1, 2015. The rules as amended shall apply to all cases pending on, or filed on or after, the effective date.

2. The inclusion of committee comments is for convenience and does not reflect court approval of the comments.

3. The Advisory Committee for the General Rules of Practice for the District Courts shall continue to serve and monitor the rules and these amendments during the implementation and expansion of electronic filing and electronic service in the district courts, and shall report to the court by April 1, 2016, regarding any further amendments to the rules recommended by the committee.

Dated: April 22, 2015

BY THE COURT:



Lorie S. Gildea  
Chief Justice

STATE OF MINNESOTA

IN SUPREME COURT

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MEMORANDUM

PER CURIAM.

In July 2014, we directed the Advisory Committee on the General Rules of Practice for the District Courts to consider whether amendments to the rules were needed to accommodate the transition by the judicial branch to a more universal electronic environment. On December 23, 2014, after several meetings, the committee filed a report and recommendations for amendments to a number of rules. These recommended amendments: (a) substitute terms commonly used in an electronic environment, such as deleting “paper” in favor of “document”; (b) clarify and reinforce rules that prohibit parties from filing certain documents, including documents that include restricted identifiers; (c) implement statutory authority for sworn statements under penalty of perjury; (d) update terminology used in the rules that bans discrimination on the basis of sexual orientation; and (e) update the probate rules.

The court provided a 60-day public comment period. The Minnesota State Bar Association and a group of Second District Judges submitted written comments regarding several proposed amendments.<sup>1</sup>

First, the committee recommended a new provision for Minn. Gen. R. Prac. 11.04, to establish a procedure for segregating, and then correcting, documents containing restricted identifiers that are filed without the appropriate designation or redaction. A similar procedure was proposed by the Advisory Committee for the Rules of Civil Procedure. *See* ADM04-8001, Final Report at pp. 9-10 (filed Dec. 23, 2014). That committee proposed, and we agree, that these measures are best promulgated in the General Rules of Practice for the District Courts for application to all case types. We therefore approve the proposed amendment to Minn. Gen. R. Prac. 11.04.

Second, the MSBA raised several concerns about the proposed amendments to Rule 11 and the potential impact on filers, especially self-represented litigants. Based on its concerns, the MSBA proposed a broader definition of “financial source documents” to encompass applications to proceed in forma pauperis; additional language that would restrict the circumstances in which sanctions could be imposed for inadvertently filing documents with restricted identifiers; and steps that could be taken, outside the rules, to

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<sup>1</sup> The Minnesota Coalition of County Law Libraries submitted written comments that endorsed the measured transition to electronic filing and service through initially permissive, and later mandatory, phases. We acknowledge with appreciation the training and education the Coalition intends to undertake, especially for self-represented litigants. And we direct State Court Administration to consider, as it continues to implement electronic filing and service statewide, the Coalition’s suggestions regarding tools to assist the infrequent e-filer.

provide appropriate information, training, and warnings regarding the prohibitions on filing documents that contain restricted identifiers and financial source information.

The MSBA's concerns are well-founded. Parties will avoid running afoul of the rules and facing the possibility of sanctions only if they proceed with focused attention on the requirements of the rules and a diligent commitment to following the rules. The risk of sanctions, however, does not convince us that the rules require additional warnings or restrictions because many of the MSBA's concerns are already reflected in the rules or available practices. For example, *in forma pauperis* applications are already deemed non-confidential case records requested by the court, *see* Minn. R. Pub. Access 4, subd. 1(b), and therefore are not publicly accessible. In addition, Minn. Gen. R. Prac. 11.04, as amended, will provide parties the opportunity to cure an improper filing before sanctions are imposed. Finally, we agree that adequate information and training on these amended rules, especially for infrequent filers or self-represented litigants, will be important. We therefore direct State Court Administration to consider the MSBA's suggestions as it continues to implement electronic filing and service statewide and as it provides notice regarding these rule changes.

Third, a group of Second Judicial District Judges expressed concerns regarding proposed amendments to relax rule requirements for sworn, notarized affidavits, and permit the use of statements sworn under penalty of perjury instead. This change in practice is captured generally in proposed new Rule 15, although language permitting the use of sworn statements submitted under penalty of perjury also is found in proposed amendments to rules throughout the General Rules of Practice for the District Courts, as

well as in other court rules. These comments expressed concern about the loss of “external verification” and in turn, the lost element of fraud protection provided by the notary process.

Minnesota Statutes § 358.116 (2014), enacted by the 2014 Legislature, *see* Act of May 6, 2014, ch. 204, § 3, 2014 Minn. Laws 485, 486, states that “notarized” documents filed with the judicial branch are “not required” unless a court rule provides otherwise. Instead, the act of signing a document is “verification upon oath or affirmation,” provided the signer includes a declaration under penalty of perjury that everything “stated in th[e] document is true and correct.” *Id.*

The comments correctly acknowledge that notarization adds an element of solemnity to the signing process that can serve as a deterrent against fraud. We recognize that district court judges maybe the first to determine the validity of a signed, sworn statement, notarized or otherwise. But we are unconvinced that notarization, by itself, eases that determination. In fact, some of the examples of fraudulent signing activity relied on in these comments were based on notarized affidavits. Nor do we conclude that the criminal penalty that accompanies perjury is insufficient to deter fraud or to convey the solemnity of the signing. Statements sworn under penalty of perjury have been permitted for years in federal courts, *see* 28 U.S.C. § 1746 (2012), without an apparent loss of solemnity or an increase in fraudulent statements. Finally, the committee’s proposed language for Rule 15 allows the court to require notarized signatures, *see* Minn. Gen. R. Prac. 15, and we are confident that a court will exercise that authority should circumstances demonstrate that a greater measure of solemnity or verification than that

provided by notarization is warranted. In the majority of instances of signed documents, however, we believe that the improved access to the courts advanced by the use of sworn statements submitted under penalty of perjury outweighs the concerns advanced by the commenters. We therefore adopt the committee's recommended amendments to the General Rules of Practice to permit the use of sworn statements submitted under penalty of perjury.

We appreciate the thorough and thoughtful work of the committee in completing this work in the time frame established to allow implementation of e-filing and e-service as recommended by the eCourtMN Steering Committee.

## AMENDMENTS TO THE GENERAL RULES OF PRACTICE

*[Note: In the following amendments, deletions are indicated by a line drawn through the words and additions are indicated by a line drawn under the words.]*

### **RULE 1. SCOPE OF RULES; MODIFICATION; SERVICE ON PARTIES; APPLICABILITY TO ~~PRO SE PARTIES~~SELF-REPRESENTED LITIGANTS**

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#### **Rule 1.03 Service on Parties**

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

#### **Rule 1.04 Responsibility of ~~Parties Appearing Pro Se~~Self-Represented Litigants**

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

\* \* \*

#### **Advisory Committee Comment—2015 Amendments**

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

\* \* \*

#### **Rule 2.01 Behavior and Ceremony in General**

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

the proceedings. Permitted electronic devices must in all instances be set to silent mode, and must be used in an unobtrusive manner.

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**Advisory Committee Comment—2015 Amendments**

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

\* \* \*

**Rule 2.02. Role Of Judges**

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

\* \* \*

**Advisory Committee Comment—2015 Amendments**

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

\* \* \*

**Rule 2.03. Role Of Attorneys**

\* \* \*

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

\* \* \*

#### **Advisory Committee Comment—2015 Amendments**

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

#### **RULE 5. APPEARANCE BY OUT-OF-STATE LAWYERS**

Lawyers duly admitted to practice in the trial courts of any other jurisdiction may appear in any of the courts of this state provided (a) the pleadings are also signed by a lawyer duly admitted to practice in the State of Minnesota, and (b) such lawyer admitted in Minnesota is also present before the court, in chambers or in the courtroom or participates by telephone in any hearing conducted by telephone. In a subsequent appearance in the same action the out-of-state lawyer may, in the discretion of the court, conduct the proceedings without the presence of Minnesota counsel. The out-of-state lawyer is subject to all rules that apply to lawyers admitted in Minnesota, including rules related to e-filing.

Any lawyer appearing pursuant to this rule ~~shall be~~ subject to the disciplinary rules and regulations governing Minnesota lawyers and by applying to appear or appearing in any action ~~shall be~~ subject to the jurisdiction of the Minnesota courts.

#### **Advisory Committee Comment—2015 Amendments**

The amendments to Rule 5 are not substantive in nature or intended effect. They make explicit what the courts have recognized as within their inherent power to regulate the practice of law before the courts. The court’s jurisdiction over the person of lawyers applying to appear or appearing in the Minnesota courts is not open to serious question, at least as to disciplinary matters relating to that application or appearance. This rule makes clear the court’s jurisdiction over a pro hac vice applicant, and similarly makes it clear that e-filing of documents with the Minnesota courts would have this consequence. The application for a subpoena in an action pending outside Minnesota does not create an appearance under R. Civ. P. 45 as proposed by the civil rules advisory committee, but nonetheless subjects the applicant to the court’s jurisdiction and disciplinary authority. The subpoena and procedures to enforce it are subject to Minnesota procedural rules and rules governing the conduct of lawyers.

## **RULE 6. FORM OF PLEADINGS THAT ARE NOT FILED ELECTRONICALLY**

### **Rule 6.01 Format**

All pleadings or ~~other~~ documents ~~required to be filed~~ that are not filed electronically shall be double spaced and legibly handwritten, typewritten, or printed on one side on plain, unglazed paper of good texture. Every page shall have a top margin of not less than one inch, free from all typewritten, printed, or other written matter. ~~Any pleading or document either permitted or required to be served or filed electronically must conform to the format requirements contained in the court rules or orders relating to electronic filing.~~ Under Rule 14 of these rules, all pleadings or documents filed electronically must comply with the format requirements established by the state court administrator in the *Minnesota District Court Registered User Guide for Electronic Filing*.

### **Rule 6.02 Paper Size**

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

### **Rule 6.03 Backings Not Allowed**

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

#### **Advisory Committee Comment—2015 Amendments**

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

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

## **RULE 7. PROOF OF SERVICE**

~~When service has been made before filing, proofs of service shall be affixed to all documents so that the identity of the instrument is not obscured. If a document is filed before service, proof of service shall be filed within 10 days after service is made. When~~

~~service is made electronically when authorized by and in accordance with Rule 14 of these rules, the record of service on the e-service system shall constitute proof of service.~~

When a document has been conventionally served before filing, proof of service shall be affixed to the document so that the identity of the document is not obscured. If a document is filed before conventional service has been made, proof of service shall be filed within 10 days after service is made. When a document has been served through the E-Filing System in accordance with Rule 14, the record of service on the E-Filing System shall constitute proof of service.

**Advisory Committee Comment—2015 Amendments**

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

**RULE 9. FRIVOLOUS LITIGATION**

\* \* \*

**Rule 9.06 Definitions**

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

\* \* \*

(b) "Frivolous litigant" means:

\* \* \*

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

\* \* \*

**Advisory Committee Comment—2015 Amendments**

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

## RULE 11. SUBMISSION OF CONFIDENTIAL INFORMATION

\* \* \*

### Rule 11.02 Restricted Identifiers

**(a) Pleadings and Other Documents Submitted by a Party.** No party shall submit restricted identifiers on any pleading or other document that is to be filed with the court except when the information is germane and necessary for the court's consideration of the issues then before the court. If it is necessary to provide restricted identifiers to the court, they must be submitted in either of the following two ways:

- (1) on a separate form entitled Confidential Information Form (see Form 11.1 as published by the state court administrator) filed with the pleading or other document; or
- (2) on Confidential Financial Source Documents under Rule 11.03.

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

The parties are solely responsible for ensuring that restricted identifiers do not otherwise appear on the pleading or other document filed with the court. The court administrator will not review each pleading or document filed by a party for compliance with this rule. ~~The Confidential Information Form (Form 11.1) shall not be accessible to the public.~~ Notwithstanding this provision, the court administrator may take any action consistent with Rule 11.04.

\* \* \*

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

### Rule 11.03 Confidential Financial Source Documents

**(a) Cover Sheet Required.** Financial source documents shall be submitted to the court under a cover sheet designated "Confidential Financial Source Documents" and substantially in the form set forth as Form 11.2 as published by the state court administrator. Financial source documents submitted with the required cover sheet are not accessible to the public except to the extent that they are admitted into evidence in a testimonial hearing or trial or as provided in Rule 11.05 of these rules. The cover sheet or copy of it shall be accessible to the public.

**(b) Closed Account Statements.** Statements from a permanently closed (also known as "charged off") credit card or financial institution account that has been

identified as a closed account in the related pleading or other filed document need not be submitted as a Confidential Financial Source Document under Rule 11.03 of these rules unless desired by the filing party or as directed by the court.

**(c) Absence of Cover Sheet.** Financial source documents that are not submitted with the required cover sheet are accessible to the public, but the court may, upon motion or on its own initiative, order that any such financial source document be confidential.

#### **Rule 11.04 Failure to Comply**

If a party fails to comply with the requirements of this rule in regard to ~~another individual's~~ any person's restricted identifiers or financial source documents, the court may upon motion or its own initiative impose appropriate sanctions, including costs necessary to prepare an appropriate document for filing:

Upon discovery that a document containing restricted identifiers has not been submitted in a confidential manner as required by this rule, the court administrator shall file it with a temporary non-public status pending redaction or court order and direct the filer to, within 21 days, either:

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

Any other party may oppose the motion seeking relation-back to the original filing date within the same time limits as are provided by law for the type of document(s) being filed. If a filer timely pays the monetary fee, and timely requests relation-back of the filing date, the court may order that the filing date of the properly submitted document(s) relate back to the filing date of the original document(s).

If no action is taken within 21 days after notice, the filing shall be stricken.

#### **Rule 11.05 Procedure for Requesting Access to Confidential Financial Source Documents**

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

\* \* \*

## **Rule 11.06 When Documents May Be Filed as Confidential or Under Seal**

A party may submit a document for filing as a “confidential document” or “~~under sealed document~~” only if one of these circumstances ~~exist~~exists:

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

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

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

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

### **Advisory Committee Comment—2015 Amendments**

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

There are very few statutes that require the filing of restricted identifiers. They may be required in certain family child support cases, see Minn. Stat. §§ 256.87, subd. 1a; 257.66, subd. 3; 518.10; 518A.56; and 42 U.S.C. § 666(a)(13), which currently require the court to identify the parties by social security number. Minn. Stat. § 548.101 requires the disclosure of the last four digits of a debtor’s social security number, if known, in cases involving assigned consumer debt. Social security numbers were required for filings to commence informal probate or appointment proceedings until 2006. *See* 2006 Minn. Laws, ch. 221, § 20, amending Minn. Stat. § 524.3-301.

Rule 11.02(c) is new and provides that filing constitutes certification that the document does not contain unauthorized restricted

identifiers. For documents filed electronically, this certification may additionally be made explicitly by checking the appropriate box on a screen that will be incorporated into the e-filing process. *See also* Rule 14.06. As is true for other rules, failure to follow the rule, or the making of a false certification, may warrant the imposition of sanctions as may be authorized by other rules or under the court's inherent power.

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

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

## **RULE 12. REQUIREMENT FOR COMPARABLE MEANS OF SERVICE**

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

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

### **Advisory Committee Comment—2015 Amendments**

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

A self-represented litigant who elects not to use the E-Filing System may expect that an opposing attorney may e-file a document with the court and serve it by U.S. mail on the self-represented litigant on the

same day. In this circumstance, the filing will precede the service, which is permitted under the rule as the attorney is required to use the E-Filing System to file the document.

## **RULE 14. E-FILING AND E-SERVICE**

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

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

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

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

(3) “Court Integration Services” means computer systems that allow direct computer-system-to-computer-system integrations to facilitate the electronic exchange of documents and data between the court’s electronic case management system and a government agency’s electronic information system. Government agencies may register for Court Integration Services under the process established by the state court administrator.

~~(1)~~(4) “Designated Provider” means the electronic filing service provider designated by the state court administrator.

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

~~(2)~~(6) “E-Filing System” means the Designated Provider’s Internet-accessible electronic filing and service system.

~~(3) “Pilot Project Case Types” means cases in the Fourth Judicial District and Second Judicial District, of the Selected Civil Case Types and Family Case Types as defined in this rule.~~

~~(4) “Selected Civil Case Types” means all general civil cases, including examiner of title cases (in the Fourth Judicial District, in addition to Torrens cases~~

~~this includes 5-week redemptions) except Conciliation Court and Probate/Mental Health case types, and Family Case Types as defined in this rule.~~

~~(5) “Family Case Types” means Annulments, Custody, Dissolutions with Children, Dissolutions without Children, Domestic Abuse, Family Other, Legal Separation, Paternity, Separate Maintenance, Summary Dissolution, Support, and Transfers of Legal Custody.~~

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

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

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

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

~~(i) Attorney;~~

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

~~(iii) Guardian ad litem.~~

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

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

~~(b)(1) **Cases Subject to Mandatory E-Filing and E-Service.** Effective September 1, 2012, attorneys representing parties in any case of the Pilot Project Case Types in the Second and Fourth Judicial Districts, and effective September 1, 2013, or ninety (90) days after designation by the State Court Administrator, whichever is later, for attorneys representing parties in any case of the Pilot Project Case types in the districts or portions thereof designated by the State Court Administrator under Rule 14.01(e), and government agencies appearing in such cases, must register promptly upon filing of any document by any party with the Designated Provider and file documents electronically with the court in Pilot Project Case Types. Registered attorneys and government agencies must also electronically serve all documents required or permitted to be served on other registered attorneys and government agencies in that case, provided that the~~

~~attorney to be served has designated an e-mail address for receiving electronic service in the E-Filing System after the District Court has accepted the initial filing in the case. Electronic filing and electronic service shall be accomplished through the E-Filing System.~~

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

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

~~(e)(2) **Prohibited E-Filing.** The following ~~case types~~ documents may not be filed electronically: ~~in proceedings related to:~~~~

~~(1)(i) Wills deposited for safekeeping under Minnesota Statutes, section 524.2–515; and~~

~~(2)(ii) All documents in parental ~~Parental~~ notification bypass proceedings under Minnesota Statutes, section 144.343.~~

~~(d)(3) **Request for Exception to Mandatory E-File and E-Service Requirement.** An ~~attorney or government agency~~ Select User required to file and serve electronically under this rule, may request to be excused from mandatory e-filing and e-service in a particular case by motion to the Chief Judge of the judicial district or his or her designee. An opt-out request may be granted for good cause shown. If an opt-out request is granted, ~~the court~~ court personnel shall scan all documents filed conventionally ~~filings~~ into the court's computer system and may charge the filing party an appropriate fee.~~

~~(e)(4) **Voluntary E-File and E-Serve.** During the pilot project, attorneys, and parties designated by the Fourth Judicial District and Second Judicial District may, upon registering with the Designated Provider, electronically file documents with the court in civil cases designated by the respective judicial district. For other districts, Effective July 1, 2015, and ending July 1, 2016, Select Users ~~attorneys and parties~~ designated by the ~~State Court Administrator~~ state court administrator may, upon registering with the Designated Provider, electronically file documents with the court in the locations and ~~civil~~ cases designated by the state court administrator. In any designated case in which the designated and registered~~

~~Select User has attorneys or parties have electronically filed a document with the District Court district court, any other Select User attorney or law firm representing a party in the case and any party designated by the District Court (Second and Fourth Judicial Districts), or the state court administrator (all other districts), may also electronically file documents in the case after registering with the Designated Provider. Registered Select Users attorneys and parties shall may also electronically serve documents on other registered Select Users attorneys and parties in such cases as required under Rule 14.03(d) of these rules provided that the attorney or party to be served has designated an e-mail address for receiving electronic service in the E-Filing System after the District Court has accepted the initial filing in the case.~~

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

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

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

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

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

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

(i) Election to Use E-Filing System. In any county where electronic filing and service is authorized, individuals who are not Select Users or self-represented litigants (e.g., special masters, bondspersons, examiners, potential intervenors, etc.) but who need to submit documents to the court for filing may elect to use the E-Filing System and become a Registered User but unless otherwise ordered by the presiding judge or judicial officer shall not be required to do so. Any individual or entity authorized to use the E-Filing System pursuant to this paragraph, who becomes a Registered User and transmits documents for filing or service through the E-Filing System shall be subject to all applicable requirements and obligations imposed upon Registered Users as set forth in these rules, and that individual must thereafter electronically file and serve all documents in that case unless otherwise required or authorized by these rules or the court.

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

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

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

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

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

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

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

~~An attorney or party registers with the Designated Provider for each case by entering into a subscriber agreement with the Designated Provider and obtaining an E-Filing System user identification and password provided by the Designated Provider. The registered attorney or party must also designate in the E-Filing System an e-mail address for receiving electronic service in the case. Once an initial filing has been accepted in a case, all other registered attorneys and parties shall, upon filing their initial document in a case, designate in the E-Filing System an e-mail address for receiving electronic service in the case. Registered attorneys and parties shall maintain a designated e-mail address for receiving electronic service until all applicable appeal periods have expired for the case.~~

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

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

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

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

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

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

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

**Rule 14.03 Document Format Filing and Service of Documents and Court Notices**

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

(b) Filed Upon Transmittal. A document that is electronically filed is deemed to have been filed by the court administrator on the date and time of its transmittal to the court through the E-Filing System, and except for proposed orders, the filing shall be stamped with this date and time if it is subsequently accepted by the court administrator. If the filing is not subsequently accepted by the court administrator for reasons authorized in Rule 5.04 of the Rules of Civil Procedure, no date stamp shall be applied, and the E-Filing System shall notify the filer that the filing was not accepted. Upon receipt of a

document electronically transmitted for filing by a Registered User, the E-Filing System shall confirm to the Registered User, through an automatically generated notification to the Registered User's designated e-mail address, that the transmission of the document was completed and the date and time of the document's receipt. Absent confirmation of receipt, there is no presumption that the document was successfully transmitted to the court. The Registered User is solely responsible for verifying that the court received all electronically transmitted documents.

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

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

**(1) Service on Registered Users.** Except as otherwise permitted in subpart (3) below, where the party or person to be served is a Registered User, who has electronically filed a document in the case, service shall be accomplished through the E-Filing System by utilizing the electronic service function of the E-Filing System.

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

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

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

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

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

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

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

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

(b) Format. Documents filed electronically shall comply with the following format requirements:

(1) 8-1/2 x 11" size with a portrait orientation.

(2) No Optical Character Recognition (OCR) data shall be contained in or associated with the document.

(3) At least 200 dot per inch ("DPI") resolution.

(4) No unintelligible images (e.g., no all black images).

(5) Documents may not be secured, password protected, or have other features limiting access.

(6) Black and white images (no color images will be retained). Color documents submitted via the E-Filing System are transformed into black and white images.

(7) No document shall contain any external references (e.g., hyperlinks, URLs, shortcuts).

~~(8) Only readable words, viewable pictures or images, and valid, non-corrupted tables shall be included.~~

~~(9) Documents shall not be corrupted (e.g., a corrupt file having 0 bytes of data).~~

~~(10) Documents may contain only standard fonts. No CID or Character Identifier fonts are permitted.~~

~~(11) Only standard CCIT image compression is permitted.~~

~~(12) Documents must comprise the complete image or file. A file that experiences an upload issue or time-out on file transfer from a submitting party usually appears as an incomplete image or file when opened.~~

**~~(c) Document size.~~**

~~(1) No single electronic document should be greater than 5 MB; and~~

~~(2) No single envelope or filing should be greater than 25 MB.~~

~~Larger documents may be filed in several parts or in multiple envelopes.~~

~~(d) (h) Non-conforming documents. With leave of court, a color document or document containing color may be filed electronically with manual handling or in paper form to be retained by the court in a color format. A motion to file a color document or document containing color to be retained by the court in a color format must be filed and served electronically. Where it is not feasible for a Registered User to convert a document to an authorized electronic form by scanning, imaging, or other means, or where a document cannot reasonably be transmitted through the E-Filing System in conformance with the document's technical and size requirements as established by the state court administrator, the court may allow the Registered User to file the document conventionally. A motion to file a non-conforming document must be filed electronically. If the court grants the Registered User's motion to file a non-conforming document, the Registered User shall file and serve the non-conforming document conventionally.~~

**Rule 14.04 Signatures**

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

electronic document has the judge's, judicial officer's, or court administrator's signature depicted thereon. The final electronic document shall constitute an original.

**(b) ~~Attorney or Declarant~~ Registered User and Non-Registered User Signatures.**

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

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

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

**(d) Perjury Penalty Acknowledgment.** A document electronically filed or served using through the E-Filing System that requires a signature under penalty of perjury is deemed signed by the declarant if, before filing or service, the declarant has signed a printed form of the document and the electronically filed or served document bears the declarant's facsimile or typographical signature may, with the same force and effect and in lieu of an oath, be supported by an unsworn declaration, provided that the typographical or facsimile signature of the declarant is affixed immediately below a declaration using substantially the following language: "I declare under penalty of

perjury that everything I have stated in this document is true and correct.” In addition to the signature, the date of signing and the county and state where the document was signed shall be noted on the document.

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

#### **Rule 14.05 Proof of Service.**

The records of the E-Filing System indicating transmittal to ~~a the~~ the ~~Registered User~~ recipient ~~who has designated an e-mail address for service of process in the case~~ shall be sufficient proof of service on the recipient for all purposes.

#### **Rule 14.06 Sealed and Confidential Documents and Documents for In Camera Review.**

Any interested person must seek and obtain advance approval from the court, with notice of the request to all parties, to submit a document to the court for in camera review. A document submitted for in camera review shall be submitted to the court outside the E-Filing System by either:

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

A ~~person~~ Registered User electronically filing a document that is not accessible to the public in whole or in part under the Rules of Public Access to Records of the Judicial Branch or other applicable law, court rules or court order, is responsible for designating that document as confidential or sealed in the E-Filing System before transmitting it to the court.

~~A document marked as “confidential” (which may include “Confidential 1” and “Confidential 2,” etc., as available and defined by the E-Filing System document security classifications) will not be accessible to the public, but will be accessible to court staff and, where applicable, to certain governmental entities as authorized by law, court rule,~~

~~or court order. A document marked as “sealed” will not be accessible to the public but will be accessible to court staff with only the highest security level clearance.~~

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

A document to be filed under seal or as confidential may be filed in paper form if required or permitted by the court. A motion to file a document in paper form under seal or as confidential must be filed and served electronically.

#### **Rule 14.07 Records: Official; Appeal; Certified Copies.**

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

#### **Advisory Committee Comment—2015 Amendments**

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

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

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

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

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

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

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

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

Rule 14.07 as amended to make it clear that even when documents are filed in paper form, the court may scan and digitize their content, and retain only the electronic record of the filing. Ultimately, the duration of retention of that electronic record will be governed by the court’s record

retention schedule. *See* District Court Record Retention Schedule 2014, published on the main Minnesota Courts website, [www.mncourts.gov](http://www.mncourts.gov) under “Justice Partner Resources.”

## **RULE 15. AFFIDAVITS**

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

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

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

### **Advisory Committee Comment—2015 Amendments**

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

Subdivision (a) of the rule applies to any document that is “signed, sworn, and notarized.” This category includes documents signed and sworn to before ex officio notaries, such as deputy court administrators. *See* Minn. Stat. § 358.15. It would also apply to affidavits signed outside Minnesota to the extent authorized by statute. *See* Minn. Stat. §§ 358.46–.48.

## **RULE 16. PAGINATION OF COURT FILINGS AND EXHIBITS**

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

### **Advisory Committee Comment—2015 Amendments**

Rule 16 is a new rule intended to create a uniform practice in the submission of documents to the court in all types of cases. The goal is that any part of the record will be able to be identified by either its title or a unique docket number and a single, serial, page number. Documents should begin on the first page as it is filed or served as page 1 and should continue in sequence to the last page of the document’s attachments, if any. (Attachments should be numbered in sequence, and without beginning a new sequence for any attachments.)

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

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

#### **RULE 104. CIVIL COVER SHEET AND CERTIFICATE OF REPRESENTATION AND PARTIES**

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

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

\* \* \*

#### **RULE 105. WITHDRAWAL OF COUNSEL**

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

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

## RULE 110. SELF-HELP PROGRAMS

\* \* \*

### Rule 110.09 Access to Records

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

\* \* \*

#### Advisory Committee Comment—2015 Amendments

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

## RULE 113. ASSIGNMENT OF CASE(S) TO A SINGLE JUDGE

\* \* \*

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

\* \* \*

**(b) Procedure.** The motion shall identify by court, case title, case number, and judge assigned, if any, each case for which assignment to a single judge is requested. The motion shall also indicate the extent to which the movant anticipates that additional related cases may be filed. ~~An original and two copies of the~~ The motion shall be filed with the clerk of appellate courts. ~~A copy of the motion, and~~ shall be served on other counsel and any ~~unrepresented parties~~ self-represented litigants in all cases for which assignment is requested and shall be served on the chief judge of each district in which such an action is pending. Any party may file and serve a response within 5 days after service of the motion. Any reply shall be filed and served within 2 days of service of the response. Except as otherwise provided in this rule, the motion and any response shall comply with the requirements of Minn. R. Civ. App. P. 127 and 132.02.

\* \* \*

### Advisory Committee Comment—2015 Amendments

The amendments to Rule 113.03(b) are not substantive in nature or intended effect. The term “self-represented litigant” is being used uniformly throughout the judicial branch and is preferable to “non-represented party” and “pro se party,” both to avoid a Latin phrase not used outside legal jargon and to facilitate the drafting of clearer rules. There is no need for multiple copies of this motion because it will be handled electronically even if filed in paper form, and because in cases where filings are required to be filed using the court’s E-Filing System, only a single copy of a motion can be filed.

## RULE 114. ALTERNATIVE DISPUTE RESOLUTION

\* \* \*

### Rule 114.04 Selection of ADR Process

\* \* \*

**(b) Court Involvement.** If the parties cannot agree on the appropriate ADR process, the timing of the process, or the selection of neutral, or if the court does not approve the parties’ agreement, the court shall, in cases subject to Rule 111, schedule a telephone or in-court conference of the attorneys and any self-represented litigants ~~unrepresented parties~~ within thirty days after the due date for filing initial case management statements pursuant to Rule 304.02 or the filing of a civil cover sheet pursuant to Rule 104 to discuss ADR and other scheduling and case management issues.

### Rule 114.09 Arbitration Proceedings

\* \* \*

#### **(e) The Award.**

(1) No later than 10 days from the date of the arbitration hearing or the arbitrator’s receipt of the final post-hearing memorandum, whichever is later, the arbitrator shall file with the court the decision, together with proof of service ~~by first class mail~~ on all parties by first class mail or other method of service authorized by the rules or ordered by the court.

(2) If no party has filed a request for a trial within 20 days after the award is filed, the court administrator shall enter the decision as a judgment and shall promptly ~~mail-transmit~~ notice of entry of judgment to the parties. The judgment

shall have the same force and effect as, and is subject to all provisions of law relating to, a judgment in a civil action or proceeding, except that it is not subject to appeal, and may not be attacked or set aside. The judgment may be enforced as if it had been rendered by the court in which it is entered.

\* \* \*

#### **Advisory Committee Comment—2015 Amendments**

The amendment to Rule 114.04 is not substantive in nature or intended effect. The term “self-represented litigant” is being used uniformly throughout the judicial branch and is preferable to “non-represented party” and “pro se party;” both to avoid a Latin phrase not used outside legal jargon and to facilitate the drafting of clearer rules.

Rule 114.09 is amended to delete the requirement that the arbitrator must serve a copy of the award by first-class mail. Service is required, but service by mail is permitted, as is any other method authorized by the rules or ordered by the court with respect to the arbitration.

\* \* \*

### **RULE 115. MOTION PRACTICE**

#### **Rule 115.01 Scope and Application**

This rule shall govern all civil motions, except those in family court matters governed by Minn. Gen. R. Prac. 301 through 379 and in commitment proceedings subject to the Special Rules of Procedure Governing Proceedings Under the Minnesota Commitment and Treatment Act.

\* \* \*

**(b) Time.** The time limits in this rule are to provide the court adequate opportunity to prepare for and promptly rule on matters, and the court may modify the time limits, provided, however, that in no event shall the time limited be less than the time established by Minn. R. Civ. P. 56.03. Whenever this rule requires documents to be filed with the court administrator within a prescribed period of time before a specific event, and the documents are not required to be filed electronically, filing may be accomplished by mail, subject to the following: (1) 3 days shall be added to the prescribed period; and (2) filing shall not be considered timely unless the documents are deposited in the mail within the prescribed period. If sService of documents on parties or counsel by mail is permitted, it is subject to the provisions of Minn. R. Civ. P. 5.02 and 6.05.

**(c) Post-Trial Motions.** The timing provisions of sections 115.03 and 115.04 of this rule do not apply to post-trial motions.

## **Rule 115.02 Obtaining Hearing Date; Notice to Parties**

A hearing date and time shall be obtained from the court administrator or a designated motion calendar deputy. A party obtaining a date and time for a hearing on a motion or for any other calendar setting, shall promptly give notice advising all other opposing counsel and self-represented litigants ~~parties~~ who have appeared in the action so that cross motions may, insofar as possible, be heard on a single hearing date.

## **Rule 115.03 Dispositive Motions**

(a) **Service by Moving Party.** No motion shall be heard until the moving party pays any required motion filing fee, serves ~~a copy of~~ the following documents on all opposing counsel and self-represented litigants and files the ~~original documents~~ with the court administrator at least 28 days prior to the hearing:

- (1) Notice of motion and motion;
- (2) Proposed order;
- (3) Any affidavits and exhibits to be submitted in conjunction with the motion; and
- (4) Memorandum of law.

(b) **Response to Motion.** The party responding to the motion shall pay any required motion filing fee, serve ~~a copy of~~ the following documents on all every opposing counsel and self-represented litigants, and file the ~~originals documents~~ with the ~~Court Administrator~~ at least 9 days prior to the hearing:

- (1) Memorandum of law; and
- (2) Supplementary affidavits and exhibits.

(c) **Reply Memoranda.** The moving party may submit a reply memorandum, limited to new legal or factual matters raised by an opposing party's response to a motion, by serving ~~a copy it~~ on all opposing counsel and self-represented litigants and filing the ~~original it~~ with the court administrator at least 3 days before the hearing.

(d) **Additional Requirement for Summary Judgment Motions.** For summary judgment motions, the memorandum of law shall include:

- (1) A statement by the moving party of the issues involved which are the grounds for the motion for summary judgment;
- (2) A statement identifying all documents (such as depositions or excerpts thereof, pleadings, exhibits, admissions, interrogatory answers, and affidavits) which comprise the record on which the motion is made. Opposing parties shall identify in their responding memorandum of law any additional documents on which they rely;
- (3) A recital by the moving party of the material facts as to which there is no genuine dispute, with a specific citation to that part of the record supporting each fact, such as deposition page and line or page and paragraph of an exhibit. A

party opposing the motion shall, in like manner, make a recital of any material facts claimed to be in dispute; and

(4) The party's argument and authorities. These additional requirements also apply ~~also~~ to a motion under Minn. R. Civ. P. 12 if factually based. Part (3) is excluded from the page limitations of this rule.

#### **Rule 115.04 Non-dispositive Motions**

**(a) Service by Moving Party.** No motion shall be heard until the moving party pays any required motion filing fee, serves a ~~copy of~~ the following documents on all opposing counsel and self-represented litigants ~~the other party or parties~~, and files the documents original with the court administrator at least 14 days prior to the hearing:

- (1) Notice of motion and motion;
- (2) Proposed order;
- (3) Any affidavits and exhibits to be submitted in conjunction with the motion; and
- (4) Any memorandum of law the party intends to submit.

**(b) Response to Motion.** The party responding to the motion shall pay any required motion filing fee, serve a ~~copy of~~ the following documents on all every opposing counsel and self-represented litigants ~~the moving party and other interested parties~~, and file the ~~original~~ documents with the court administrator at least 7 days prior to the hearing:

- (1) Any memorandum of law the party intends to submit; and
- (2) Any relevant affidavits and exhibits.

**(c) Reply Memoranda.** The moving party may submit a reply memorandum, limited to new legal or factual matters raised by an opposing party's response to a motion, by serving a ~~copy~~ it on all opposing counsel and self-represented litigants and filing ~~the original~~ it with the court administrator at least 3 days before the hearing.

**(d) Expedited, Informal Non-Dispositive Motion Process.** The moving party is encouraged to consider whether the motion can be informally resolved through a telephone conference with the judge or judicial officer. The moving party may invoke this informal resolution process by written notice to the court and all parties opposing counsel and self-represented litigants. The moving party must also contact the appropriate court administrative or judicial staff to schedule a phone conference. The parties may (but are not required to) submit short letters, with or without a limited number of documents attached (no briefs, declarations or sworn affidavits are to be filed), prior to the conference to set forth their respective positions.

The court may, in its discretion, direct the manner of submission of the letters. The court will read the written submissions of the parties before the phone conference, hear arguments of counsel and ~~unrepresented parties~~ self-represented litigants at the

conference, and issue its decision at the conclusion of the phone conference or shortly after the conference. Depending on the nature of the dispute, the court may or may not issue a written order. The court may also determine that the dispute must be presented to the court via formal motion and hearing. Telephone conferences will not be recorded or transcribed.

\* \* \*

**Rule 115.06 Failure to Comply**

If the moving ~~papers~~ documents are not properly served and filed, the hearing may be canceled by the court. If responsive ~~papers~~ documents are not properly served and filed in a nondispositive motion, the court may deem the motion unopposed and may grant the relief requested without a hearing. For a dispositive motion, the court, in its discretion, may refuse to permit oral argument by the party not filing the required documents, may allow reasonable attorney's fees, or may take other appropriate action.

\* \* \*

**Rule 115.08 Witnesses**

No testimony will be taken at motion hearings except under unusual circumstances. Any party seeking to present witnesses at a motion hearing shall obtain prior consent of the court and shall notify the adverse party in the motion ~~papers~~ documents of the names and addresses of the witnesses which that party intends to call at the motion hearing.

\* \* \*

**Rule 115.11 Motions to Reconsider**

Motions to reconsider are prohibited except by express permission of the court, which will be granted only upon a showing of compelling circumstances. Requests to make such a motion, and any responses to such requests, shall be made only by letter to the court of no more than two pages in length, a copy of which must be ~~sent to~~ served on all every opposing counsel and self-represented litigants.

\* \* \*

**RULE 119. APPLICATIONS FOR ATTORNEY FEES**

\* \* \*

**Rule 119.02 Required ~~Papers~~Documents**

\* \* \*

## **RULE 121. NOTICE OF SETTLEMENT**

When any action in which any pleading or other ~~paper~~document has been filed is settled, counsel shall immediately advise the appropriate assignment office, and shall also advise the office of the judge or judicial officer assigned to the case or then assigned to hear any matter relating to the case.

\* \* \*

## **RULE 129. USE OF ADMINISTRATOR'S FILES**

No ~~papers~~documents on file in a cause shall be taken from the custody of the court administrator except upon order of the court.

\* \* \*

## **RULE 131. USE OF INTERACTIVE VIDEO TELECONFERENCE IN CIVIL CASES**

\* \* \*

### **Rule 131.03 Costs and Arrangements; Certification**

\* \* \*

(c) **Service.** The moving party shall have the responsibility of preparing, serving and filing the motion and notice of motion ~~papers~~documents as required by this rule.

\* \* \*

### **Rule 131.06 Proceedings**

In any proceeding conducted by ITV under this rule:

\* \* \*

(c) Regardless of the physical location of any party to the ITV hearing or proceeding, any waiver, stipulation, motion, objection, decision, order or any other actions taken by the court or a party has the same effect as if done in person. Court orders that bear the presiding judge's or judicial officer's signature may be transmitted electronically ~~or via facsimile machine~~ to the various ITV sites for the purpose of service.

### **Rule 131.07 Administrative Procedures**

The following administrative procedures are applicable to all ITV proceedings:

\* \* \*

(b) **Court Administrator Duties.** The ~~C~~ourt ~~A~~administrator for each county shall be responsible for the following:

\* \* \*

(5) Ensure that any court documents or exhibits that the judge or judicial officer will require prior to or during the course of the hearing are ~~mailed or faxed~~ delivered or available to the judge or judicial officer prior to the commencement of the proceeding.

\* \* \*

## **RULE 141. CONDEMNATION**

### **Rule 141.02 Notice of Appeal**

In condemnation cases the notice of appeal from the award of the Commissioners shall be deemed the filing of the first ~~paper~~-document in the case for the purposes of Minn. Gen. R. Prac. 104 and 111.

\* \* \*

## **RULE 146. COMPLEX CASES**

### **Rule 146.02 Definition of a Complex Case**

\* \* \*

(e) **Motion to Exclude Complex Case Designation.** A party objecting to the provisional assignment of a matter to the CCP must serve and file a motion setting forth the reasons that the matter should be removed from the CCP. The motion ~~papers~~ must be served and filed within 14 days of the date the moving party is served with the CCP Designation. The motion shall be heard during the Case Management Conference or at such other time as determined by the court. The factors that should be considered by the court in ruling upon the motion include the factors set forth in Rule 146.02 (b) and (c) above.

\* \* \*

### **Rule 146.04 Mandatory Case Management Conferences**

(a) Within 28 days of assignment, the judge assigned to a complex case shall hold a mandatory case management conference. Counsel for all parties and ~~pro se parties~~ all

self-represented litigants shall attend the conference. At the conference, the court will discuss all aspects of the case as contemplated by Minn. R. Civ. P. 16.01.

\* \* \*

## MINNESOTA CIVIL TRIALBOOK

\* \* \*

### Section 14. Sealing and Handling of Confidential Exhibits

When briefs, depositions, and other documents or an exhibit such as a trade secret, formula or model are to be treated as confidential, if size permits, such an exhibit shall be placed in a sealed envelope clearly labeled as follows:

“This envelope contains Exhibits \_\_\_ which are confidential and sealed by order of the court. This envelope shall not be opened, nor the contents hereof revealed, except by order of the court.”

Such an envelope and other confidential exhibits shall be kept in a locked container such as a file cabinet or some other secure location under the supervision of the administration until released by order of the court.

If testimony is taken which would reveal the substance of the confidential exhibits, the courtroom shall be cleared of all persons other than the parties, their lawyers, and court personnel. Those present, including jurors, shall be directed by the court to refrain from disclosing the substance of the confidential exhibits.

The pertinent portions of the reporter’s notes or transcript shall be kept in a locked container after being placed in a sealed envelope clearly labeled as follows:

“This envelope contains confidential references sealed by order of the court. This envelope shall not be opened, nor the contents hereof revealed, except by order of the court.”

Briefs and other ~~papers~~documents submitted in or after trial ordinarily should not describe the substance of confidential exhibits but should refer to them only by number or letter designation pursuant to the uniform method of marking exhibits.

\* \* \*

### TITLE III. REGISTRATION OF LAND TITLES

\* \* \*

#### RULE 206. ~~PAPERS~~ DOCUMENTS TO BE FILED—EFFECT OF NOTICE AND APPEARANCE

\* \* \*

#### RULE 208. HEARINGS IN DEFAULT CASES—FILING PAPERS DOCUMENTS

Initial applications, where no issue has been joined, shall be heard by the court at any special term, or they may be heard by an examiner, to whom the matter has been specially referred. In counties where the examiner checks the proceedings in advance of the hearings, all ~~papers~~documents necessary to complete the files shall be filed; and all documentary evidence proposed to be used by the applicant or petitioner shall be delivered to the examiner at least three days before the hearing, together with the proposed order for judgment and decree.

\* \* \*

### TITLE IV. RULES OF FAMILY COURT PROCEDURE

\* \* \*

#### RULE 303. MOTIONS; EMERGENCY RELIEF; ORDERS TO SHOW CAUSE

##### Rule 303.01 Scheduling of Motions

\* \* \*

**(c) Notice of Time to Respond.** All motions and orders to show cause shall contain the following statement:

The Rules establish deadlines for responding to motions. All responsive pleadings shall be served and ~~mailed to or~~ filed with the court administrator not later than five days prior to the scheduled hearing. The court may, in its discretion, disregard any responsive pleadings served or filed with the court administrator less than five days prior to such hearing in ruling on the motion or matter in question.

##### Rule 303.02 Form of Motion

**(a) Specificity and Supporting Documents.** Motions shall set out with particularity the relief requested in individually numbered paragraphs. All motions must

be supported by ~~signed, sworn and notarized~~ affidavits that contain facts relevant to the issues before the court.

\* \* \*

### **Rule 303.03 Motion Practice**

#### **(a) Requirements for Motions.**

(1) *Moving Party, Supporting Documents, Time Limits.* No motion shall be heard unless the moving party pays any required motion filing fee, properly serves a copy of the following documents on all parties and files them with the court administrator at least 14 days prior to the hearing:

- (i) Notice of motion and motion in the form required by Minn. Gen. R. Prac. 303.01 and 303.02;
- (ii) Relevant ~~signed, sworn and notarized~~ affidavits and exhibits; and
- (iii) Any memorandum of law the party intends to submit.

(2) *Motion Raising New Issues.* A responding party raising new issues other than those raised in the initial motion shall pay any required motion filing fee, properly serve a copy of the following documents on all parties and file them with the court administrator at least 10 days prior to the hearing:

- (i) Notice of motion and motion in form required by Minn. Gen. R. Prac. 303.01 and 303.02;
- (ii) Relevant ~~signed, sworn and notarized~~ affidavits and exhibits; and
- (iii) Any memorandum of law the party intends to submit.

(3) *Responding Party, Supporting Documents, Time Limits.* The party responding to issues raised in the initial motion, or the party responding to a motion that raises new issues, shall pay any required motion filing fee, properly serve a copy of the following documents on all parties, and file them with the court administrator at least 5 days prior to the hearing, inclusive of Saturdays, Sundays, and holidays:

- (i) Any memorandum of law the party intends to submit; and
- (ii) Relevant ~~signed, sworn and notarized~~ affidavits and exhibits.

\* \* \*

**(b) Failure to Comply.** In the event a moving party fails to timely serve and file documents required in this rule, the hearing may be canceled by the court. If responsive ~~papers~~ documents are not properly served and filed, the court may deem the initial motion unopposed and may issue an order without hearing. The court, in its discretion,

may refuse to permit oral argument by the party not filing the required documents, may consider the matter unopposed, may allow reasonable attorney's fees, or may take other appropriate action.

\* \* \*

**(d) Request for Oral Testimony.**

\* \* \*

(2) *Request for Leave for Oral Testimony.* Requests for the taking of oral testimony must be made by motion served and filed not later than the filing of that party's initial motion ~~papers~~ documents. The motion shall include names of witnesses, nature and length of testimony, including cross-examination, and types of exhibits, if any.

\* \* \*

**RULE 306. DEFAULT**

**Rule 306.01 Scheduling of Final Hearing**

\* \* \*

**(c) Default with Stipulation.** Whenever a stipulation settling all issues has been executed by the parties, the stipulation shall be filed with an affidavit of nonmilitary status of the defaulting party or a waiver of that party's rights under the Servicemembers Civil Relief Act, as amended, if not included in the stipulation.

In a stipulation where a party appears as a self-represented litigant ~~pro se~~, the following waiver shall be executed by that party:

I know I have the right to be represented by a lawyer of my choice. I hereby expressly waive that right and I freely and voluntarily sign the foregoing stipulation.

**RULE 307. FINAL HEARINGS**

\* \* \*

**(b) Stipulations Entered in Open Court-Preparation of Findings.** Where a stipulation has been entered orally upon the record, the lawyer directed to prepare the decree shall submit it to the court with a copy to each party. Unless a written, fully executed stipulation is filed or unless the decree contains the written approval of the other party or their legal representative, a transcript of the oral stipulation shall be filed by the lawyer directed to prepare the decree. Responsibility for the cost of the transcript

shall be determined by the court. Entry of the decree shall be deferred for 14 days to allow for objections unless the decree contains the written approval of the lawyer for each party, or the other party if he or she is self-represented ~~not represented~~.

## **RULE 308. FINAL ORDER, JUDGMENT, OR DECREE**

### **Rule 308.01 Notices; Service**

\* \* \*

**(c) Child Support Enforcement.** When a private party has applied for or is using the services of the local child support enforcement agency, a copy of the decree shall be served by mail or other authorized means by the party submitting the decree for execution upon the county agency involved. The party may serve the copy of the decree by electronic means if the county agency has agreed to accept service by electronic means.

\* \* \*

#### **Advisory Committee Comment—2015 Amendments**

The amendment to Rule 308.01(c) makes explicit that service of a decree by electronic means is effective only if the recipient has consented to service by this means. Consent will be an integral part of registration for service using the court's e-filing and e-service system. Service by alternate means, such as by e-mail outside of the court's system, can be effective if the party to be served has expressly consented to that means of service. But inclusion of a fax number or e-mail address in a pleading signature block, letterhead or other correspondence, even if required by court rule, or use of these methods for other purposes, is not sufficient to establish consent to alternative means of service.

## **RULE 309. CONTEMPT**

### **Rule 309.01 Initiation**

**(a) ~~Moving Papers~~ Documents—Service; Notice.** Contempt proceedings shall be initiated by notice of motion and motion or by an order to show cause served upon the person of the alleged contemnor together with motions accompanied by appropriate supporting affidavits. Pursuant to Rule 303.05 an order to show cause may be issued by the court without notice to the alleged contemnor provided the supporting affidavits credibly raise an issue of contempt.

\* \* \*

### **RULE 313. CONFIDENTIAL NUMBERS AND TAX RETURNS**

The requirements of Rule 11 of these rules regarding submission of restricted identifiers (~~e.g.,~~ such as Social Security numbers, employer identification numbers, financial account numbers) and financial source documents (~~e.g.,~~ such as tax returns, wage stubs, credit card statements) apply to all family court matters.

### **RULE 353. TYPES OF PROCEEDINGS**

#### **Rule 353.01 Types of Proceedings**

\* \* \*

#### **Subd. 2. Permissive Proceedings.**

\* \* \*

**(c) Change of Venue.** Upon motion by a party for a change of venue, a child support magistrate shall issue the following order:

(1) Upon consent of all parties, a child support magistrate may issue an order changing venue. The court administrator shall forward the court file to the county that has been granted venue.

(2) If any party disputes a motion to change venue, the child support magistrate shall issue an order referring the matter to district court and the court administrator shall schedule the matter for hearing. The court administrator shall ~~mail-transmit~~ notice of the date, time, and location of the hearing to all parties. Notice shall be sent in accordance with Rule 14 to all parties who have agreed to or are required to accept electronic service, and to all other parties in accordance with Rule 13 of these Rules and Rule 77.04 of the Rules of Civil Procedure.

\* \* \*

### **RULE 354. COMPUTATION OF TIME**

#### **Rule 354.01 Generally**

All time periods shall be measured by starting to count on the first day after any event happens which by these rules starts the running of a time period. ~~When the last day of the time period is any day other than a business day, then the last day is the next business day~~ shall be included, unless it is a

- Saturday,
- Sunday,

- legal holiday, or,
- when the act to be done is the filing of a document in court, a day on which weather or other conditions result in the closing of the office of the court administrator of the court where the action is pending, or
- where filing or service is either permitted or required to be made electronically, a day on which the unavailability of the computer system used by the court for electronic filing and service makes it impossible to accomplish service or filing,

in which event the period runs until the end of the next day that is not one of the aforementioned days.

### **Rule 354.02 Time Periods Less Than Seven Days**

When any prescribed time period is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation~~only business days shall be counted.~~

### **Rule 354.03 “~~Business Day~~Legal Holiday” Defined**

A “~~business day~~” means ~~any day that is not a Saturday, Sunday, or legal holiday.~~ As used in these rules, “legal holiday” means New Year’s Day, Martin Luther King’s Birthday, Washington’s and Lincoln’s Birthday (Presidents’ Day), Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran’s Day, Thanksgiving Day, the day after Thanksgiving Day, Christmas Day, and any other day designated as a holiday by the President or Congress of the United States, by the State, or by a county, and with respect to service or filing by U.S. Mail, a day that the United States Mail does not operate.

### **Rule 354.04 Additional Time If Service By Mail Or Service Late In Day**

Whenever a person has the right or is required to do an act within a prescribed period of time after service of a notice or other ~~paper document, and the notice or other document is permitted to be and is served by U.S. mail, and the notice or other paper document is served by U.S. mail,~~ three (3) 3 days shall be added to the prescribed time period. If service is made by any means other than by U.S. mail and accomplished after 5:00 p.m. ~~Central Time local Minnesota time,~~ one (1) 1 additional day shall be added to the prescribed time period.

## **RULE 355. METHODS OF SERVICE; FILING**

### **Rule 355.01 Generally**

**Subdivision 1. Service Required.** Except for ex parte motions allowed by statute or these rules, every ~~paper or~~ document filed with the court shall be served on all parties and the county agency.

\* \* \*

### **Rule 355.02 Types of Service**

#### **Subdivision 1. Personal Service.**

\* \* \*

#### **(c) Alternative Personal Service.**

**(1) Acknowledgment by Mail.** As an alternative to personal service, service may be made by U.S. mail if acknowledged in writing. Any party attempting alternative personal service shall include two copies of a notice and acknowledgment of service by mail conforming substantially to Form 22 set forth in the Minnesota Rules of Civil Procedure, along with a return envelope, postage prepaid, addressed to the sender. Any person served by U.S. mail who receives a notice and acknowledgment form shall complete the acknowledgment part of the form and return one copy of the completed form to the serving party. If the serving party does not receive the acknowledgment form within ~~twenty (20)~~ 20 days, service is not valid upon that party. The serving party may then serve the summons and complaint by any means authorized under this subdivision. The child support magistrate may order the costs of personal service to be paid by the person served, if such person does not complete and return the notice and acknowledgment form within ~~twenty (20)~~ 20 days.

#### **(2) Service by Publication.**

**(A) Service.** Service by publication means the publication of the entire summons or notice in the regular issue of a qualified newspaper, once each week for ~~three (3)~~ 3 weeks. Service by publication shall be permitted only upon order of a child support magistrate. The child support magistrate may order service by publication upon the filing of an affidavit by the serving party or the serving party's attorney stating that the person to be served is not a resident of the state or cannot be found within the state, the efforts that have been made to locate the other party, and either that the serving party has mailed a copy of the summons or notice to the other party's place of residence or that such residence is not known to the serving

party. When the person to be served is not a resident of the state, statutory requirements regarding long-arm jurisdiction shall be met.

**(B) Defense by Non-initiating Party.** If the summons or notice is served by publication and the non-initiating party receives no actual notification of the proceeding, either before judgment or within one year of entry of judgment the non-initiating party may seek relief pursuant to Minn. R. Civ. P. 4.043.

\* \* \*

**Subd. 3. Service by ~~Facsimile Transmission~~ Electronic Means.** Unless these rules require personal service, any document may be served by ~~transmitting a copy by facsimile machine~~ electronic means under Rule 14 upon any party who has agreed to or is required to accept service by electronic means.

#### **Rule 355.03 Completion of Service**

Personal service is complete upon delivery of the document. Service by U.S. mail is complete upon mailing. Service by publication is complete ~~twenty-one (21)~~ 21 days after the first publication. ~~Service by facsimile is complete upon completion of the facsimile transmission.~~ Completion of service by electronic means under Rule 14 is governed by Rule 14 of these rules.

#### **Rule 355.04 Proof of Service**

**Subdivision 1. Parties.** All ~~papers and~~ documents filed with the court shall be accompanied by an affidavit of service, an acknowledgment of service by the party or party's attorney if served by alternative service, or, if served by publication, by the affidavit of the printer or the printer's designee. An affidavit of service shall describe what was served, state how the document was served, upon whom it was served, and the date, time, and place of service. When a document has been served through the E-Filing System in accordance with Rule 14, the record of service on the E-Filing System shall constitute proof of service.

\* \* \*

#### **Advisory Committee Comment—2015 Amendments**

Rule 355.03 is amended to provide a cross-reference to Rule 14, governing electronic service generally. Additionally, the former provision relating to the time of completion of service by facsimile is deleted because that subject is now governed by Rule 14. The E-Filing System provides proof of service for any service made with it; if a document is served by other means, such as personally, by mail, or other agreed-upon means, separate proof of service must be prepared and filed.

## RULE 360. INTERVENTION

### Rule 360.01 County Agency

**Subdivision 1. Intervention as a Matter of Right.** To the extent allowed by law, the county agency may, as a matter of right, intervene as a party in any matter conducted in the expedited process. Intervention is accomplished by serving upon all parties ~~by U.S. mail~~ a notice of intervention by U.S. mail, or by electronic service under Rule 14 upon parties who have agreed to or are required to accept electronic service under Rule 14. The notice of intervention and affidavit of service shall be filed with the court. No affidavit of service is required for electronic service upon parties who have agreed to accept electronic service under Rule 14.

\* \* \*

## RULE 361. DISCOVERY

### Rule 361.02 Exchange of Documents

\* \* \*

**Subd. 4.** To retain privacy, restricted identifiers as defined in Rule 11 (e.g., such as Social Security numbers, employer identification numbers, financial account numbers) must be ~~blackened out~~ removed from any documents provided under this rule and may only be submitted on a separate Confidential Information Form as required in Rule 11 ~~of these rules~~. In addition, financial source documents as defined in Rule 11 (e.g., such as tax returns, wage stubs, credit card statements) must be submitted under a cover sheet entitled "Sealed Financial Source Documents" as required in Rule 11.

\* \* \*

### Rule 361.05 Filing of Discovery Requests and Responses Precluded

Copies of a party's request for discovery and any responses to those requests shall not be filed with the court unless:

- (a) ordered by the child support magistrate;
- (b) filed in support of any motion;
- (c) introduced as evidence in a hearing; or
- (d) relied upon by the magistrate when approving a stipulated or default order.

To retain privacy, restricted identifiers as defined in Rule 11 (e.g., such as Social Security numbers, employer identification numbers, financial account numbers) must be ~~blackened out~~ removed from any documents provided under this rule and may only be submitted on a separate Confidential Information Form as required in Rule 11 ~~of these rules~~. In addition, financial source documents as defined in Rule 11 (e.g., such as tax

returns, wage stubs, credit card statements) must be submitted under a cover sheet entitled "Sealed Financial Source Documents" as required in Rule 11.

\* \* \*

## **RULE 362. SETTLEMENT**

\* \* \*

### **Rule 362.02 Signing of Order**

**Subdivision 1. Preparation and Signing.** If the parties reach an agreement resolving all issues, one of the parties shall prepare an order setting forth the terms of the agreement. If the parties are ~~not represented by counsel~~ self-represented litigants and the county agency is a party, the county agency shall prepare the order. All parties to the agreement, including the county agency, shall sign the original order. The order shall state that the parties have:

- (a) waived the right to a hearing;
- (b) waived the right to counsel where a party is ~~not represented by counsel~~ a self-represented litigant; and
- (c) received and reviewed all documents used to prepare the order.

\* \* \*

### **Rule 362.04 Order Not Accepted**

The child support magistrate may reject an order filed pursuant to Rule 362.02 if the child support magistrate finds that it is contrary to law, or is unreasonable and unfair. If the child support magistrate rejects the order, the child support magistrate shall prepare a notice of deficiency, stating the reason(s) why the order cannot be signed. The notice of deficiency shall inform the parties of the following options:

- (a) to file and serve any missing documents;
- (b) to file and serve a revised order;
- (c) to file and serve a revised order and attach any missing or additional documents;
- (d) to appear at a hearing, notice of which shall be issued by the court administrator;
- (e) to appear at the previously scheduled hearing; or
- (f) to withdraw the matter without prejudice.

The court administrator shall ~~mail~~ transmit the notice of deficiency to the parties. The parties shall either correct the deficiency or set the case on for a hearing and serve notice of the date, time, and location of the hearing pursuant to Rule 364. In matters that are pending before the court, if the parties fail to comply with the notice of deficiency

within ~~forty five (45)~~ 45 days of the date the notice was ~~mailed~~ transmitted, the child support magistrate shall dismiss the matter without prejudice.

\* \* \*

## **RULE 363. DEFAULT**

\* \* \*

### **Rule 363.02 Procedure**

The initiating party may proceed by default if:

- (a) all noninitiating parties have been properly served with the summons or notice of motion;
- (b) the summons or notice of motion did not contain a hearing date; and
- (c) there has been no written answer or return of the request for hearing form from any party within 20 days from the date the last party was served.

The initiating party shall file an order with the court within ~~forty five (45)~~ 45 days from the date the last noninitiating party was served with the summons and complaint or notice of motion and motion. The initiating party shall also file with the court a current affidavit of default and a current affidavit of non-military status. If an order is not filed with the court within ~~forty five (45)~~ 45 days, the court administrator shall mail a notice to all parties that the matter shall be scheduled for hearing unless the initiating party files an order along with all necessary documents within ~~ten (10)~~ 10 days from the date notice was mailed. If the initiating party fails to file the necessary documents within the allotted ~~ten (10)~~ 10 days, the court administrator shall set the matter on for hearing and serve upon all parties and the county agency by U.S. mail at least ~~fourteen (14)~~ 14 days before the scheduled hearing, notice of the date, time, and location of the hearing. The notices shall be sent by electronic means in accordance with Rule 14 to any party who has agreed to or is required to accept electronic service under Rule 14.

\* \* \*

### **Rule 363.04 Order Not Accepted**

The child support magistrate may reject an order filed pursuant to Rule 363.02 if the child support magistrate finds the order contrary to law, or unreasonable and unfair. If the child support magistrate rejects the order, the child support magistrate shall prepare a notice of deficiency, stating the reason(s) why the order cannot be signed. The notice of deficiency shall inform the initiating party of the following options:

- (a) to file and serve any missing documents;
- (b) to file a revised order;
- (c) to file a revised order and attach any missing or additional documents;

- (d) to appear at a hearing, notice of which shall be issued by the court administrator to all parties;
- (e) to appear at any previously scheduled hearing; or
- (f) to withdraw the matter without prejudice.

The court administrator shall ~~mail-transmit~~ the notice of deficiency to the initiating party. The initiating party shall either correct the deficiency or set the case on for a hearing and serve notice of the date, time, and location of the hearing upon all parties pursuant to Rule 364. If the initiating party submits a revised order that raises new issues beyond the scope of the complaint or motion, amended pleadings shall be served on all parties and filed within ~~ten (10)-10~~ days from the date the notice of deficiency was ~~mailed-transmitted~~. If the noninitiating party chooses to respond to the amended pleadings, the response must be served and filed within ~~ten-10~~ days from service of the amended pleadings. If the initiating party fails to schedule a hearing or comply with the notice of deficiency within ~~forty five (45)-45~~ days of the date the notice was ~~mailed transmitted~~, the child support magistrate shall dismiss the matter without prejudice.

## **RULE 364. HEARING PROCESS**

\* \* \*

### **Rule 364.02 Scheduling of Hearing**

The initiating party shall schedule a hearing if a written answer or a request for hearing form is received. The initiating party shall contact the court administrator or the court administrator's designee to obtain a hearing date and shall serve upon all parties and the county agency by U.S. mail at least ~~fourteen (14)-14~~ days before the scheduled hearing, notice of the date, time, and location of the hearing. If the initiating party has agreed to or is required to accept electronic service under Rule 14, then the notice shall be served electronically upon all other parties who have agreed to or are required to accept electronic service under Rule 14.

\* \* \*

## **RULE 365. DECISION AND ORDER OF CHILD SUPPORT MAGISTRATE**

\* \* \*

### **Rule 365.04 Notice of Filing of Order or Notice of Entry of Judgment**

**Subdivision 1. Service by Court Administrator.** Within ~~five (5)-5~~ days of receipt of the decision and order of the child support magistrate the court administrator shall serve a notice of filing of order or notice of entry of judgment upon each party by U.S. mail, together with a copy of the order or judgment if a copy of the order was not served at the hearing. The court administrator shall use the notice of filing form prepared

by the state court administrator which shall set forth the information required in subdivision 2. The notices shall be sent by electronic means in accordance with Rule 14 to any party who has agreed to or is required to accept electronic service under Rule 14.

\* \* \*

## **RULE 370. ESTABLISHMENT OF SUPPORT PROCEEDINGS**

\* \* \*

### **Rule 370.02 Content of Summons, Complaint, Supporting Affidavit, and Request for Hearing Form.**

\* \* \*

#### **Subd. 3. Content of Supporting Affidavit.**

A supporting affidavit is required when the summons does not contain a hearing date. The supporting affidavit shall:

- (a) state detailed facts supporting the request for relief;
- (b) provide all information required by Minnesota Statutes 2006, section 518A.46, subdivision 3, paragraph (a), if known; and
- (c) be either:
  - (1) signed and sworn to under oath; or
  - (2) signed under penalty of perjury pursuant to Minn. Stat. § 358.116, provided that the signature is affixed immediately below a declaration using substantially the following language: "I declare under penalty of perjury that everything I have stated in this document is true and correct." In addition to the signature, the date of signing and the county and state where the document was signed shall be noted on the document.

\* \* \*

### **Rule 370.04 Filing Requirements**

**Subdivision 1. Initiating Party.** No later than ~~five (5)~~5 days before any scheduled hearing or, if no hearing is scheduled, within ~~fourteen (14)~~14 days from the date the last party was served, the initiating party shall file the following with the court:

- (a) the original summons;
- (b) the original complaint;
- (c) the original supporting affidavit, if served;
- (d) the request for hearing form, if returned to the initiating party; and
- (e) proof of service upon each party pursuant to Rule 355.04.

**Subd. 2. Responding Party.** If a noninitiating party responds with a written answer pursuant to Rule 370.05, the following shall be filed with the court no later than ~~five (5)~~5 days before any scheduled hearing or, if no hearing is scheduled, within ~~twenty (20)~~20 days from the date the last party was served:

- (a) the original written answer;
- (b) a financial affidavit pursuant to Minnesota Statutes 2006, section 518A.28; and
- (c) proof of service upon each party pursuant to Rule 355.04.

**Subd. 3. ~~Faeximile Transmission~~ Electronic Filing.** ~~If a paper is filed by faeximile, the sender's original must not be filed but must be maintained in the files of the party transmitting it for filing and made available to the court or any party to the action upon request. Where authorized or required by Rule 14 of these rules, documents may, and where required shall, be filed by electronic means by following the procedures of Rule 14.~~

**Subd. 4. Treatment of Confidential Information.** To retain privacy, restricted identifiers as defined in Rule 11 (e.g., such as Social Security numbers, employer identification numbers, financial account numbers) must be ~~blackened out~~ removed from any documents provided under this rule and may only be submitted on a separate Confidential Information Form as required in Rule 11 ~~of these rules~~. In addition, financial source documents as defined in Rule 11 (e.g., such as tax returns, wage stubs, credit card statements) must be submitted under a cover sheet entitled "Sealed Financial Source Documents" as required in Rule 11.

\* \* \*

## RULE 371. PARENTAGE ACTIONS

\* \* \*

### Rule 371.02 Content of Summons, Complaint, and Supporting Affidavit

\* \* \*

**Subd. 3. Content of Supporting Affidavit.** A supporting affidavit shall:

- (a) state detailed facts supporting the request for relief, including the facts establishing parentage;
- (b) provide all information required by Minnesota Statutes 2006, section 518A.46, subdivision 3, paragraph (a), if known; and
- (c) be either:
  - (1) signed and sworn to under oath; or
  - (2) signed under penalty of perjury pursuant to Minn. Stat. § 358.116, provided that the signature is affixed immediately below a declaration using substantially the following language: "I declare under penalty of perjury that

everything I have stated in this document is true and correct.” In addition to the signature, the date of signing and the county and state where the document was signed shall be noted on the document.

\* \* \*

## **Rule 371.04 Filing Requirements**

**Subdivision 1. Initiating Party.** No later than ~~five (5)~~5 days before any scheduled hearing, the initiating party shall file the following with the court:

- (a) the original summons;
- (b) the original complaint;
- (c) the original supporting affidavit, if served; and
- (d) proof of service upon each party pursuant to Rule 355.04.

**Subd. 2. Responding Party.** If a noninitiating party responds with a written response pursuant to Rule 371.05, the following, if served, shall be filed with the court no later than ~~five (5)~~5 days before any scheduled hearing:

- (a) the original written answer along with a financial affidavit pursuant to Minnesota Statutes 2006, section 518A.28; or
- (b) a request for blood or genetic testing; and
- (c) proof of service upon each party pursuant to Rule 355.04.

**Subd. 3. ~~Faesimile Transmission~~ Electronic Filing.** ~~If a paper is filed by faesimile, the sender's original must not be filed but must be maintained in the files of the party transmitting it for filing and made available to the court or any party to the action upon request. Where authorized or required by Rule 14 of these rules, documents may, and where required shall, be filed by electronic means by following the procedures of Rule 14.~~

**Subd. 4. Treatment of Confidential Information.** To retain privacy, restricted identifiers as defined in Rule 11 (e.g., such as Social Security numbers, employer identification numbers, financial account numbers) must be ~~blackened out~~ removed from any documents provided under this rule and may only be submitted on a separate Confidential Information Form as required in Rule 11 ~~of these rules~~. In addition, financial source documents as defined in Rule 11 (e.g., such as tax returns, wage stubs, credit card statements) must be submitted under a cover sheet entitled “Sealed Financial Source Documents” as required in Rule 11.

\* \* \*

**RULE 372. MOTIONS TO MODIFY, MOTIONS TO SET SUPPORT, AND OTHER MATTERS**

**Rule 372.02 Content of Notice of Motion, Motion, Supporting Affidavit, and Request for Hearing Form**

\* \* \*

**Subd. 3. Content of Supporting Affidavit.** A supporting affidavit shall:

(a) state detailed facts supporting the request for relief;  
(b) for motions to modify support and motions to set support, provide all information required by Minnesota Statutes 2006, section 518A.46, subdivision 3, paragraph (a), if known; and

(c) be either:

(1) signed and sworn to under oath; or

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

\* \* \*

**Rule 372.03 Service of Notice of Motion and Motion**

**Subdivision 1. Who is Served.** All parties, and the county agency even if not a party, shall be served pursuant to subdivision 2.

**Subd. 2. How Served.** The notice of motion, motion, supporting affidavit, and if required, the request for hearing form, may be served ~~upon the parties either~~ by electronic means upon parties who have agreed to or are required to accept service by electronic means under Rule 14 of these rules, by U.S. mail, ~~facsimile~~, or by personal service pursuant to Rule 355.02.

**Rule 372.04 Filing Requirements**

**Subdivision 1. Initiating Party.** No later than ~~five (5)~~5 days before any scheduled hearing or, if no hearing is scheduled, within ~~fourteen (14)~~14 days from the date the last party was served, the initiating party shall file the following with the court:

- (a) the original notice of motion;
- (b) the original motion;
- (c) the original supporting affidavit;
- (d) the request for hearing form, if returned to the initiating party; and
- (e) proof of service upon each party pursuant to Rule 355.04.

**Subd. 2. Responding Party.** If a noninitiating party responds with a responsive motion or counter motion pursuant to Rule 372.05, the following shall be filed with the court no later than ~~five (5)~~ 5 days before any scheduled hearing or, if no hearing is scheduled, within ~~fourteen (14)~~ 14 days from the date the last party was served:

- (a) the original responsive motion or counter motion; and
- (b) proof of service upon each party pursuant to Rule 355.04.

**Subd. 3. ~~Facsimile Transmission~~ Electronic Filing.** ~~If a paper is filed by facsimile, the sender's original must not be filed but must be maintained in the files of the party transmitting it for filing and made available to the court or any party to the action upon request~~ Where authorized or required by Rule 14 of these rules, documents may, and where required shall, be filed by electronic means by following the procedures of Rule 14.

**Subd. 4. Treatment of Confidential Information.** To retain privacy, restricted identifiers as defined in Rule 11 (~~e.g., such as~~ Social Security numbers, employer identification numbers, financial account numbers) must be ~~blackened out~~ removed from any documents provided under this rule and may only be submitted on a separate Confidential Information Form as required in Rule 11 ~~of these rules~~. In addition, financial source documents as defined in Rule 11 (~~e.g., such as~~ tax returns, wage stubs, credit card statements) must be submitted under a cover sheet entitled "Sealed Financial Source Documents" as required in Rule 11.

\* \* \*

## **RULE 377. PROCEDURE ON A MOTION TO CORRECT CLERICAL MISTAKES, MOTION FOR REVIEW, OR COMBINED MOTION**

\* \* \*

### **Rule 377.02 Timing of Motion**

To bring a motion to correct clerical mistakes, the aggrieved party shall perform items (a) through (e) as soon as practicable after discovery of the error. To bring a motion for review or a combined motion, the aggrieved party shall perform items (a) through (f) within ~~twenty (20)~~ 20 days of the date the court administrator served that party with the notice form as required by Rule 365.04.

(a) Complete the motion to correct clerical mistakes form, motion for review form, or combined motion form.

(b) Serve the completed motion for clerical mistakes form, motion for review form, or combined motion form upon all other parties and the county agency. Service may be made by personal service, or by U.S. mail pursuant to Rule 355.02. If the

moving party has agreed to or is required to accept electronic service under Rule 14, service must be made by electronic means upon any other parties that have agreed to or are required to accept electronic service under Rule 14.

(c) File the original motion with the court. If the filing is accomplished by mail, the motion shall be postmarked on or before the due date set forth in the notice of filing.

(d) File the affidavit of service with the court. The affidavit of service shall be filed at the time the original motion is filed.

(e) Order a transcript of the hearing under Rule 366, if the party desires to submit a transcript.

(f) For a motion for review or combined motion, pay to the court administrator the filing fee required by Rule 356.01, if the party has not already done so. The court administrator may reject the motion ~~papers~~documents if the appropriate fee does not accompany the ~~papers~~documents at the time of filing.

\* \* \*

#### **Rule 377.04 Response to Motion**

##### **Subdivision 1. Timing of Response to Motion.**

\* \* \*

(f) For a responsive motion for review or combined motion, pay to the court administrator the filing fee required by Rule 356.01, if the party has not already done so. The court administrator may reject the responsive ~~papers~~documents if the appropriate fee does not accompany the ~~papers~~documents at the time of filing.

\* \* \*

### **RULE 379. FORMS**

#### **Rule 379.04 Acknowledgment**

**Subdivision 1. Generally.** Each complaint or motion served and filed in the expedited process shall set forth an acknowledgment by the party or the party's attorney. By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other ~~paper~~document, an attorney or ~~pro-se party~~self-represented party is certifying to the best of the person's knowledge, information and belief:

\* \* \*

## TITLE V. PROBATE RULES

\* \* \*

### RULE 404. NOTICE IN FORMAL PROCEEDINGS

\* \* \*

**(b) Notice of Proceedings for Determination of Testacy and Appointment of Personal Representative.** In proceedings which adjudicate testacy, notice of the hearing on the petition shall be given after the court administrator issues the order for hearing. Proof of publication of the order for hearing, in accordance with the code, shall be filed with the court administrator before the order will issue. In proceedings for the formal appointment of a personal representative, the same notice requirements shall pertain except notice by publication shall not be required if testacy has been previously determined. Where creditors' claims are to be barred, the published notice shall include notice to creditors.

Mailed notice shall be given to all known heirs-at-law, all devisees under any will submitted for formal probate and all interested persons as defined by the code or ordered by the court and shall include in appropriate cases the attorney general, foreign counsel and lawyers representing the interested persons.

Mailed notice shall be given to the surviving spouse of the following rights:

(1) The right to receive the decedent's wearing apparel, furniture and household goods and other personal property as provided in the code or by law.

(2) The right to receive maintenance payments during administration of the estate as provided in the code or by law.

(3) The right to take an elective share ~~of one-third~~ equal to the value of the elective-share percentage of the augmented estate, determined by the length of the marriage, as provided in the code and the homestead as provided in the code or by law.

\* \* \*

### RULE 408. INFORMAL PROCEEDINGS

**(a) Contents of the Application.** Application for informal probate or appointment proceedings shall contain information required by the code and the approximate value of the following categories of assets:

Probate Assets

Homestead \$ \_\_\_\_\_  
Other Real Estate \$ \_\_\_\_\_  
Cash \$ \_\_\_\_\_  
Securities \$ \_\_\_\_\_  
Other \$ \_\_\_\_\_

Non-Probate Assets

Joint Tenancy \$ \_\_\_\_\_  
Insurance \$ \_\_\_\_\_  
Other \$ \_\_\_\_\_

Approximate Indebtedness \$ \_\_\_\_\_

In all estate proceedings, whether testate or intestate, the application must contain a statement that specifically eliminates all heirs or devisees other than those listed in the application.

**Probate Committee Comment—2015 Amendments**

Examples

(These are not intended to be exhaustive)

The statements will necessarily vary, depending upon who survives the decedent, and must close out any class affected:

(1) Where only the spouse survives, the application should state “That decedent left no surviving ~~issue, natural or adopted, legitimate or illegitimate~~ descendants (including adopted descendants); and was not in the process of adopting an individual at the time of the decedent’s death.”

(2) Where only children survive, the application should state “That the decedent left surviving no spouse; no children, ~~natural or~~ (including adopted, ~~legitimate or illegitimate,~~ children) other than herein named; and no ~~issue~~ descendants of any deceased children.

(3) Where the spouse and children survive, the application should state “That the decedent left surviving no children, ~~natural or~~ (including adopted, legitimate or illegitimate, children) other than herein named and no ~~issue~~ descendants of any deceased children; and was not in the process of adopting an individual at the time of the decedent’s death.”

(4) Where only brothers or sisters of decedent survive, the application should state “That the decedent left surviving no spouse; ~~issue~~ descendants; parents; brothers or sisters other than herein named; and no ~~issue~~ descendants of deceased brothers or sisters.”

(5) only first cousins survive, the application should state "That the decedent left surviving no spouse; ~~issue~~ descendants; parents; brothers or sisters or ~~issue~~ descendants thereof; grandparents; aunts or uncles; and no first cousins other than herein named."

(6) In all cases, the application should state either:

(a) That all the heirs-at-law survived the decedent for 120 hours or more; or

(b) That all the heirs-at-law survived the decedent for 120 hours or more except the following: (name or names).

(7) In all cases where a spouse and children survive, the application should state either:

(a) That all of the ~~issue~~ descendants of the decedent are also ~~issue~~ descendants of the surviving spouse; or

(b) That one or more of the ~~issue~~ descendants of the decedent are not also ~~issue~~ descendants of the surviving spouse.

\* \* \*

**(c) Appearances.** The applicant is required to appear before the registrar unless represented by counsel. The registrar may also waive appearance by counsel.

**(d) Informal Proceedings: Notice of Informal Probate of Will and Informal Appointment of Personal Representative.** In informal proceedings, notice of appointment of a personal representative shall be given after the registrar issues the order appointing the personal representative. Proof of placement for publication shall be filed with the court administrator before letters will issue. Where mailed notice is required, an affidavit of mailing of the order appointing the personal representative shall be filed with the court administrator before letters will issue. If the informal proceedings include the informal probate of a will, the notice shall include notice of the issuance of the statement of informal probate of the will. Where creditors' claims are to be barred, the published notice shall include notice to creditors.

Mailed notice shall be given to all known heirs-at-law, all devisees under any will submitted for informal probate and all interested persons as defined by the code and shall include in appropriate cases the attorney general, foreign consul and lawyers representing interested persons.

Mailed notice shall be given to the surviving spouse of the following rights:

(1) The right to receive the decedent's wearing apparel, furniture and household goods and other personal property as provided in the code or by law.

(2) The right to receive maintenance payments during administration of the estate as provided in the code or by law.

(3) The right to take an elective share ~~of one-third~~ equal to the value of the elective-share percentage of the augmented estate, determined by the length of the

marriage, as provided in the code and the homestead as provided in the code or by law.

### **RULE 413. SUBSEQUENT PROCEEDINGS**

\* \* \*

**(c) Notice of Proceedings for Subsequent Administration After Termination of Personal Representative's Authority.** ~~Appointment of a~~The court, upon petition, or the registrar, upon application of any interested person, may appoint the same or a successor personal representative into administer the subsequent administration may only be secured in formal proceeding estate. If testacy has been adjudicated in a formal proceeding, notice of hearing must meet the requirements of Minn. Gen. R. Prac. 404(a), but the notice by publication specifically provided for in Minnesota Statutes, section 524.3-403 is not required. If testacy has not been adjudicated previously and only appointment of a personal representative is sought, notice of hearing must meet the specific notice requirements for formal testacy proceedings provided in Minnesota Statutes, section 524.3-403, but notice by publication is not required. In the case of subsequent administration involving omitted property, the personal representative must comply with the inventory, mailing and filing requirements of Minn. Gen. R. Prac. 413(b).

\* \* \*

### **RULE 414. FIDUCIARIES**

If the lawyer for the estate, or a partner, associate or employee is of the lawyer for the estate, is also appointed as the individual personal representative of the estate, except where one of them is a family member of the decedent, the administration shall be supervised. In such a case, both the lawyer for the estate and the personal representative must keep separate time records and differentiate the charges for their duties in each capacity. The lawyer should only serve as fiduciary at the unsolicited suggestion of the client and the lawyer must realize that there are legal, ethical and practical problems that must be overcome in order to perform the duties of a fiduciary and lawyer. Supervised administration shall not be required solely because the personal representative of the estate is a lawyer, whether or not the personal representative is related to the decedent, so long as the personal representative, or a partner, associate or employee of the personal representative, is not also retained as the lawyer for the estate.

### **RULE 416. GUARDIANSHIPS AND CONSERVATORSHIPS**

\* \* \*

**(e) E-Filing Annual Accounts and Inventories; Effect of Allowance of Accounts.** Conservators appointed by the court must electronically file their annual

accounts and inventories using a computer process designated by the state court administrator. Directions for reporting shall be posted on the judicial branch website (www.mncourts.gov). The filing, examination and acceptance of an annual account, without notice of hearing, shall not constitute a determination or adjudication on the merits of the account, nor does it constitute the court's approval of the account.

\* \* \*

**(g) Notice of Hearing on Account.** Notice of time and place for hearing on the petition for final settlement and allowance of any account shall be given to the ward or conservatee, to the guardian or conservator if such person was not the petitioner for settlement of the accounts, to the spouse, adult children and such other interested persons as the court may direct. Whenever any funds have been received by the estate from the Veterans Administration during the period of accounting, notice by mail shall be given to the regional office. The notice may be served in person, or by depositing a copy in the U.S. mail to the last known address of the person or entity being served. Service shall be sent by electronic means in accordance with Rule 14 to any party that has agreed to or is required to accept electronic service under Rule 14. When a ward or conservatee is restored to capacity, that person is the only interested person. When a ward or conservatee dies, the personal representative of the estate is the only interested person.

\* \* \*

## **RULE 417. TRUSTEES-ACCOUNTING—PETITION FOR APPOINTMENT**

\* \* \*

### **Rule 417.04 Service on Beneficiaries**

There shall also be filed with the court administrator proof of mailing of such account to the last addresses known to the trustee of, or of the service of such account upon, such of the following beneficiaries or their natural or legal guardians as are known to, or reasonably ascertainable by, the trustee:

(a) Beneficiaries entitled to receive income or principal at the date of the accounting; and

(b) Beneficiaries who, were the trust terminated at the date of the accounting, would be entitled to share in distributions of income or principal.

Service shall be sent by electronic means in accordance with Rule 14 to any party that has agreed to or is required to accept electronic service under Rule 14.

\* \* \*

## **Rule 417.06 Hearing.**

Hearings upon annual accounts may be ordered upon the request of any interested party. A hearing shall be held on such annual accounts at least once every five years ~~by mailing, at least 15 days before the date of the hearing, a copy of the order for hearing to those beneficiaries of the trust who are known to or reasonably ascertainable by the petitioner, to any other person requesting notice, or as ordered by the court~~ and notice shall be provided in accordance with Minn. Stat. § 501B.18 or its successor. In trusts of the value of \$20,000 50,000 or less, the five year hearing requirement may be waived by the court in its discretion. Any hearing on an account may be ex parte if each party in interest then in being shall execute waiver of notice in writing which shall be filed with the court administrator, ~~but no account shall be finally allowed except upon a hearing on the record in open court.~~ Such five year hearings shall be held within 150 days after the end of the accounting period of each fifth annual unallowed account, and the court administrator shall notify each trustee and the Court if the hearing is not held within such 150 day period.

### **Advisory Committee Comment—1992 2015 Amendments**

This rule was derived from Rule 28 of the Code of Rules for the District Courts. The rule is recodified with the probate court rules because it relates to actions brought in the now-unified district court.

Rule 417.06 is amended to ~~provide a specific method of notice rather than incorporating a specific statutory requirement. The former statute, Minnesota Statutes, section 501.35 was replaced by section 501B.18. The new statute, however, provides a general mechanism for order of hearing with published notice twenty days before the date of the hearing. This requirement is not necessary for hearings on accounts, as the interested parties will have been identified and known to the trustee at the time a hearing is scheduled. The rule does require notice to any party requesting notice of the hearing, and allows the court to specify another method of giving notice in a particular case. Although that might conceivably include published notice, published notice would be unusual.~~ incorporate the specific statutory notice required by Minnesota Statutes, section 501B.18 or its successor.

## **RULE 419. ELECTRONIC SERVICE**

Except where personal service is required by statute or these rules, service shall be sent by electronic means in accordance with Rule 14 to any party who has agreed to or is required to accept electronic service under Rule 14.

### **Advisory Committee Comment—2015 Amendments**

As the courts implement electronic filing and electronic service in more types of cases, electronic service using the court's system will

increasingly be the most common means of service. Rule 14 defines how the e-filing and e-services systems operate and must be used.

Minn. Stat. §§ 524.1-401 and 524.5-113 were amended by 2014 Minn. Laws ch. 204 by addition of the following:

Except where personal service is required by statute for the petition to appoint a guardian under section 524.5-308 or conservator under section 524.5-404, service of all documents and notices under this chapter may, and where required by Supreme Court rule or order shall, be made by electronic means other than facsimile transmission if authorized by rule or order of the Supreme Court and if service is made in accordance with the rule or order.

\* \* \*

### RULE 503. COMPUTATION OF TIME

**(a) General.** All time periods shall be measured by starting to count on the first day after any event happens, which by these rules starts the running of a time period. ~~If the last day of the time period is anything other than a working week day, then the last day is the next working week day~~ shall be included unless it is a

- Saturday,
- Sunday,
- legal holiday, or,
- when the act to be done is the filing of a document in court, a day on which weather or other conditions result in the closing of the office of the court administrator of the court where the action is pending, or
- where filing or service is either permitted or required to be made electronically, a day on which the unavailability of the computer system used by the court for electronic filing and service makes it impossible to accomplish service or filing, in which event the period runs until the end of the next day that is not one of the aforementioned days.

**(b) Time Periods Less Than Seven Days.** When the time period is less than seven days, ~~only working week days shall be counted~~ intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

**(c) ~~Working Week Day~~ Legal Holiday.** A ~~“working week day”~~ means a day ~~which is not a Saturday, Sunday or legal holiday.~~ For purposes of this rule, a legal holiday includes all state level judicial branch holidays established pursuant to law and any other day on which county offices in the county in which the conciliation court is held are closed pursuant to law or court order, ~~and.~~ ~~W~~with respect to service or filing by U.S. Mail, a day that the United States Mail does not operate ~~is not a “working week day.”~~<sup>2</sup>

(d) Additional Time if Service By Mail or Service Late In Day. Whenever a person has the right or is required to do an act within a prescribed period of time after service of a notice or other document, and the notice or other document is permitted to be and is served by U.S. mail, 3 days shall be added to the prescribed time period. If service is made by any means other than by U.S. mail and accomplished after 5:00 p.m. local Minnesota time, 1 additional day shall be added to the prescribed time period.

#### **RULE 504. JUDGE(S); ADMINISTRATOR; REPORTING**

\* \* \*

##### **(b) Administrator.**

(1) The court administrator shall manage the conciliation court, and may delegate a deputy or deputies to assist in performing the administrator's duties. The court administrator shall keep records and accounts and perform such duties as may be prescribed by the judge(s). The court administrator shall account for, and transmit to the appropriate official, all fees received as required by statute or rule.

(2) Under supervision of the conciliation court judges, the court administrator shall explain to litigants the procedures and functions of the conciliation court and shall on request assist litigants in filling out the forms provided under Rules 507(b) and 518(b) of these rules and on request shall, to the extent technically feasible, forward properly completed statement of claim and counterclaim forms to the administrator of the appropriate conciliation court together with the applicable fees, if any. The court administrator shall also advise litigants of the availability of subpoenas to obtain witnesses and documents. The performance of these duties shall not constitute the practice of law.

(3) Unless personal service is required under these rules, the court administrator may transmit notices by mail or by any means authorized by Rule 14 of the General Rules of Practice for the District Courts.

\* \* \*

#### **RULE 505. COMMENCEMENT OF ACTION**

An action is commenced against a defendant when a statement of claim as required by Rule 507 is filed with the court administrator of the conciliation court having jurisdiction and the applicable fees are paid to the administrator or the affidavit in lieu of filing fees prescribed in Rule 506 is filed with the administrator. Where authorized or required by Rule 14 of the General Rules of Practice for the District Courts, documents

may, and where required shall, be filed by electronic means by following the procedures of Rule 14.

**RULE 506. FEES; AFFIDAVIT IN LIEU OF FEES**

The court administrator shall charge and collect a filing fee in the amount established by law and the law library fee, from every plaintiff and from every defendant when the first ~~paper document~~ for that party is filed in any conciliation court action. If the plaintiff or defendant who is a natural person signs and files with the court administrator an affidavit claiming an inability to pay the applicable fees, no fees are required. If the affiant prevails on a claim or counterclaim, the amount of the fees which would have been payable by the affiant must be included in the order for judgment and paid to the administrator of conciliation court by the affiant out of any money recovered by the affiant on the judgment.

**RULE 507. STATEMENT OF CLAIM AND COUNTERCLAIM; CONTENTS; VERIFICATION**

(a) **Claim; Verification; Contents.** Each statement of claim and each counterclaim shall be made in the form approved by the court and shall contain a brief statement of the amount and nature of the claim, including relevant dates, and the name and address of the plaintiff and the defendant. The court administrator shall assist with the completion of the statement of claim and counterclaim upon request. Each statement of claim and each counterclaim shall also be signed under penalty of perjury and sworn to by the party, or the lawyer representing the party, in the presence of a notary public or the court administrator pursuant to Minn. Stat. § 358.116, provided that the signature is affixed immediately below a declaration using substantially the following language: "I declare under penalty of perjury that everything I have stated in this document is true and correct." In addition to the signature, the date of signing and the county and state where the document was signed shall be noted on the document.

\* \* \*

**Rule 508. SUMMONS; TRIAL DATE**

\* \* \*

(c) **Service on Plaintiff.** The court administrator shall summon the plaintiff by first class mail or by any electronic means of delivering notice authorized by Rule 14 of the General Rules of Practice for the District Courts.

\* \* \*

(f) Service by Electronic Means; When Complete; Proof of Service. Unless these rules require personal service, any document may be served by electronic means

under Rule 14 of the General Rules of Practice for the District Court upon any party who has agreed to or is required to accept service by electronic means. Completion of service by electronic means under Rule 14 is governed by Rule 14. When a document has been served through the E-Filing System in accordance with Rule 14, the record of service on the E-Filing System shall constitute proof of service.

### **RULE 509. COUNTERCLAIM**

\* \* \*

**(b) Assertion of Counterclaim.** To assert a counterclaim the defendant shall perform all the following not less than five days prior to the date set for trial of plaintiff's claim:

- (1) file with the court administrator a counterclaim required by Rule 507;
- (2) pay to the court administrator the applicable fees or file with the administrator the affidavit in lieu of fees prescribed in Rule 506.

Where authorized or required by Rule 14 of the General Rules of Practice for the District Courts, documents may, and where required shall, be filed by electronic means by following the procedures of Rule 14.

**(c) Administrator's Duties.** The court administrator shall assist with the preparation of the counterclaim on request. When the counterclaim has been properly asserted, the court administrator shall note the filing of the counterclaim on the original claim, promptly transmit ~~mail~~ notice of the counterclaim to plaintiff and set the counterclaim for trial on the same date as the original claim.

\* \* \*

### **RULE 510. COUNTERCLAIM IN EXCESS OF COURT'S JURISDICTION**

\* \* \*

**(b)** The plaintiff's action shall be subject to reinstatement on the trial calendar at any time after 30 days and up to three years, upon the filing by plaintiff of an affidavit showing that the plaintiff has not been served with a summons by defendant. If the action is reinstated, the court administrator shall set the case for trial and ~~mail~~transmit notice of the trial date to the parties ~~by first class mail~~.

\* \* \*

### **RULE 514. NOTICE OF ORDER FOR JUDGMENT**

The court administrator shall promptly ~~mail~~transmit to each party a notice of the order for judgment entered by the judge or judicial officer. The notice shall state the last

day for obtaining an order to vacate (where there has been a default) or for removing the cause to the civil division of district court under these rules. The notice shall also contain a statement that if the cause is removed to district court, the court will allow the prevailing party to recover from the aggrieved party \$50 as costs if the prevailing party on appeal is not the aggrieved party in the original action as provided in Rule 524.

### **RULE 515. ENTRY OF JUDGMENT**

The court administrator shall promptly enter judgment as ordered by the judge. The judgment shall be dated as of the date notice is sent to the parties. The judgment so entered becomes finally effective twenty days after ~~mailing~~ the transmission of the notice, unless:

- (a) payment has been made in full, or
- (b) removal to district court has been perfected, or
- (c) an order vacating the prior order for judgment has been filed, or
- (d) ordered by a judge.

As authorized by law, any judgment ordered may provide for satisfaction by payment in installments in amounts and at times, as the judge determines. Should any installment not be paid when due, the entire unpaid balance of the judgment ordered, becomes immediately due and payable.

\* \* \*

### **RULE 520. VACATION OF JUDGMENT ORDER AND JUDGMENT**

**(a) Vacation of Order for Judgment Within 20 Days.** When a default judgment or judgment of dismissal on the merits has been ordered for failure to appear, the judge within 20 days after notice was ~~mailed~~transmitted may vacate said judgment order ex parte and grant a new trial on a proper showing by the defaulting party of lack of notice, mistake, inadvertence or excusable neglect as the cause of that party's failure to appear. Absolute or conditional costs not to exceed \$50 to the other party may be ordered as a prerequisite to that relief.

\* \* \*

**Notice.** The court administrator shall promptly ~~notify the parties by mail of a new trial date~~ transmit a notice of a new trial date to the parties.

## RULE 521. REMOVAL (APPEAL) TO DISTRICT COURT

\* \* \*

**(b) Removal Procedure.** To effect removal, the aggrieved party must perform all the following within twenty days after the date the court administrator ~~mailed~~ transmitted to that party notice of the judgment order:

(1) ~~Serve on the opposing party or the opposing party's lawyer a demand for removal of the cause to district court for trial de novo. Service shall be by first class mail. Service may also be by personal service in accordance with the provisions for personal service of a summons in district court.~~ Serve a demand for removal of the cause to district court by first class mail upon every opposing counsel or self-represented litigant. Service may also be by personal service in accordance with the provisions for personal service of a summons in district court. Service shall be by electronic means under Rule 14 if both the counsel or party serving the demand and the counsel or party to be served have agreed to or are required to accept electronic service under Rule 14. The demand for removal shall state whether trial demanded is to be by court or jury, and shall indicate the name, address, and telephone number of the aggrieved party's lawyer, if any. If the aggrieved party is a corporation, the demand for removal must be signed by the party's attorney.

(2) File with the court administrator the original demand for removal with proof of service. The aggrieved party may file with the court administrator within the twenty day period the original and copy of the demand together with an affidavit by the party or the party's lawyer showing that after due and diligent search the opposing party or opposing party's lawyer cannot be located. This affidavit shall serve in lieu of making service and filing proof of service. When an affidavit is filed, the court administrator shall mail the copy of the demand to the opposing party at the party's last known residence address.

**(c) Demand for Jury Trial.** Where no jury trial is demanded on removal under Rule 521(b) by the aggrieved party, if the opposing party desires a jury trial that party shall perform all the following within 20 days after the demand for removal was served on the party or lawyer:

(1) ~~Serve a jury trial demand by first class mail upon the aggrieved party or that party's lawyer~~ every opposing counsel or self-represented litigant. Service may also be by personal service in accordance with the provisions for personal service of a summons in district court. Service shall be by electronic means under Rule 14 if both the counsel or party serving the demand and the counsel or party to be served have agreed to or are required to accept electronic service under Rule 14.

(2) File the ~~original~~ jury trial demand and proof of service with the court administrator.

(3) Pay to the court administrator the amount prescribed by law for requesting a jury trial in a civil action in district court and, if the demand is the first ~~paper~~ document filed by the party in the district court proceeding, pay to the administrator the amount prescribed by law for filing a civil action in district court. A party who is unable to pay the fees may apply for permission to proceed without payment of fees pursuant to the procedure set forth in Minnesota Statutes, section 563.01.

**(d) Removal Perfected; Vacating Judgment; Transmitting File.** When all removal ~~papers~~documents have been filed properly and all requisite fees paid as provided under Rule 521(b), the removal is perfected, and the court shall issue an order vacating the order for judgment in conciliation court as to the parties to the removal, and the pertinent portions of the conciliation court file of the cause shall be filed in district court.

**(e) Limited Removal.**

(1) When a motion for vacation of an order for judgment, or judgment under Rule 520 (a) or (b) of these rules, is denied, the aggrieved party may demand limited removal to the district court for hearing de novo (new hearing) on the motion. Procedure for service and filing of the demand for limited removal and notice of hearing de novo, proof of service of the notice, and procedure in case of inability of the aggrieved party to make service on the opposing party or the opposing party's lawyer shall be in the same manner prescribed in part (b) of this rule, except that the deadline for effecting limited removal shall be 20 days after the date that the court administrator ~~mails-transmits~~ transmits notice of the denial of the motion for vacation of the order for judgment or judgment. The fee payable by the aggrieved party to the court administrator for limited removal shall be the same as the filing fee prescribed by law for filing of a civil action in district court. The court administrator shall then place the matter on the special term calendar for the date specified in the notice. At the hearing in district court, either party may be represented by a lawyer.

(2) A judge other than the conciliation court judge who denied the motion, shall hear the motion de novo (anew) and may (A) deny the motion or (B) grant the motion. In determining the motion the judge shall consider the entire file plus any affidavits submitted by either party or their lawyers.

(3) The court administrator shall ~~send-by-mail~~ transmit a copy of the order made in district court after de novo hearing to both parties and the venue shall be transferred back to conciliation court.

## **RULE 611. REVIEW OF REFEREE'S DECISION**

(a) **Notice.** In all cases except conciliation court actions, a party not in default may seek judge-review by a judge of a decision or sentence recommended by the referee by serving and filing a notice of review on the form prescribed by the court administrator. The notice must be served and filed within ten days after an oral announcement in court by the referee of the recommended order or, if there is no announcement of the order in court, within 13 days after service by electronic means or mail of the adopted written order, ~~whichever occurs first.~~ Service by mail of the written order shall be deemed complete and effective upon the mailing of a copy of the order to the last known address of the petitioner. Service of the notice of review shall be in accordance with Rule 14 of these rules.

A judge's review of a decision recommended by the referee shall be based upon the record established before the referee. Upon the request of any party, a hearing shall be scheduled before the reviewing judge.

\* \* \*

## **RULE 703. CERTIFICATES OF REPRESENTATION**

In any criminal case, a lawyer representing a client, other than a public defender, shall file with the court administrator on the first appearance a "certificate of representation," in such form and substance as a majority of judges in the district specifies.

Once a lawyer has filed a certificate of representation, that lawyer cannot withdraw from the case until all proceedings have been completed, except upon written order of the court pursuant to a written motion, or upon written substitution of counsel approved by the court ex parte.

A lawyer who wishes to withdraw from a criminal case must file a written motion and serve it by mail or personal service upon the client, and upon the prosecutor; by mail, personal service or electronic service if required or permitted by Rule 14. ~~and t~~ The lawyer shall then have the matter heard by the court. No motion of withdrawal will be heard within ten days of a date certain for hearing or trial.

If the court approves the withdrawal, it shall be effective when the order has been served on the client and the prosecutor ~~by mail or personal service~~ and due proof of such service has been filed with the court administrator.

\* \* \*

## **RULE 809. DISCRIMINATION PROHIBITED**

A citizen shall not be excluded from jury service in this state on account of race, color, creed, religion, sex, national origin, marital status, status with regard to public assistance, disability, age, occupation, physical or sensory disability, sexual orientation, or economic status.

### **Advisory Committee Comment—2015 Amendments**

Rule 809 is amended to include a specific prohibition against discrimination on the basis of sexual orientation in jury service. This change is consistent with terms used in legislative definitions of prohibited discriminatory conduct. *See, e.g.* Minn. Stat. §§ 363A.02 (Minnesota Human Rights Act); 82B.195, subd. 3 (vii) (real estate appraisers).

FORM 417.02 TRUSTEE'S ACCOUNTING

State of Minnesota

District Court

COUNTY

JUDICIAL DISTRICT  
CASE NO.

Case Type: \_\_\_\_\_

In the Matter of the Trust Created under Article  
\_\_\_\_\_ of the Last Will of \_\_\_\_\_.

ALTERNATIVE FOR INTER VIVOS TRUSTS:

In the Matter of the Trust Created under  
Agreement By and Between \_\_\_\_\_,  
Settlor, and \_\_\_\_\_ and \_\_\_\_\_,  
Trustees, dated \_\_\_\_\_.

\* \* \*

[The only change in this form is to the signature block]

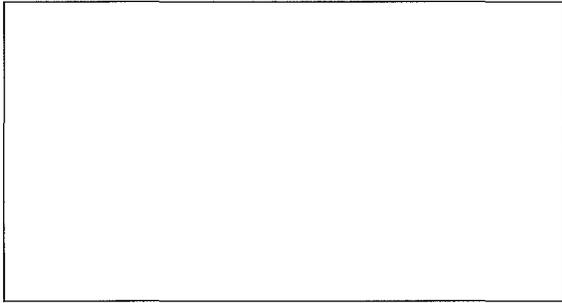
Under penalties of perjury, we have read this Annual Account and we know or believe  
its contents are true and correct.

\_\_\_\_\_  
Trustee  
Date  
Address:

\_\_\_\_\_  
Trustee  
Date  
Address:

Notarial Stamp or Seal (or Other Title or Rank)

Signed and sworn to (or affirmed) before  
me on (date) \_\_\_\_\_



by \_\_\_\_\_  
and \_\_\_\_\_  
Trustees.

\_\_\_\_\_  
Signature of Notary Public or Other  
Official

**I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116.**

Signed at: \_\_\_\_\_ County, \_\_\_\_\_  
\_\_\_\_\_ State.

On \_\_\_\_\_, 20\_\_\_\_.

Signature

\_\_\_\_\_

Name \_\_\_\_\_

Agency or Business Name, if applicable: \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Telephone (        ) \_\_\_\_\_