

Hennepin County Municipal Court Special Rules of Procedure

Revised November 1, 1982

Effective January 1, 1983

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TEXT OF RULES**Rule 1. Title - Applicability****1.01 Title**

These rules shall be identified as Hennepin County Municipal Court Special Rules of Procedure, or "HCMC Special Rules".

Paper size. An order of the Minnesota Supreme Court on April 16, 1982, provided that effective July 1, 1983, only the standard size of 8-1/2 x 11 inch paper will be used for all filings, pleadings, motions and petitions in all courts in the State of Minnesota.

1.02 Applicability

The rules of procedure used by this Court shall be those promulgated by the Supreme Court of the State of Minnesota for District and Municipal Courts in both civil and criminal cases, except where a special rule promulgated by this Court is applicable.

Rule 2. Court Operations

2.01 Court Authority

The jurisdiction and authority of this Court is set forth in Section 488A.01 of Minnesota Statutes, and any amendment thereto, and such jurisdiction is limited geographically to the County of Hennepin and the City of St. Anthony.

The Court shall operate in the locations within Hennepin County specified by statute and carry out the functions therein designated for each such place; except that, if the governing body of the municipality and the Court concur, any function of the Court may be held at any location within the county where adequate facilities are available.

2.02 Places of Holding Court

The Court shall sit in the division and locations hereinafter designated, at which all functions of the Court may be discharged:

FIRST DIVISION	Government Center, Minneapolis
SECOND DIVISION	6125 Shingle Creek Parkway, Brooklyn Center.
THIRD DIVISION	12601 Ridgedale Drive, Minnetonka.
FOURTH DIVISION	City Hall, Bloomington.

Such divisions shall be the venue for proceedings arising therein.

(Amended October 8, 1982; July, 1983.)

2.021 Criminal and Traffic Matters without Jury Place of Arraignment and Trial

In addition to the places for holding Court enumerated in Rule 2.02, arraignments and trials to the Court without a jury of criminal and traffic matters will be held in the following places for the municipalities specified.

FIRST DIVISION:

At Minneapolis for

Fort Snelling
Metropolitan Airport
Minneapolis
St. Anthony

SECOND DIVISION:

At Brooklyn Center for

Brooklyn Center
Brooklyn Park
Champlin
Corcoran
Dayton
Golden Valley
Greenfield
Hanover
Hassan
Maple Grove
New Hope
Osseo
Robbinsdale
Rockford
Rogers

THIRD DIVISION:

At Minnetonka for

Chanhasen
Deephaven
Excelsior
Greenwood

THIRD DIVISION:

At Minnetonka for

- Hopkins
- Independence
- Long Lake
- Loretto
- Maple Plain
- Medicine Lake
- Medina
- Minnetonka
- Minnetonka Beach
- Minnetrista
- Mound
- Orono
- Plymouth
- St. Bonifacius
- St. Louis Park
- Shorewood
- Spring Park
- Tonka Bay
- Woodland

FOURTH DIVISION:

At Bloomington for

- Bloomington
- Eden Prairie
- Edina
- Richfield

(Amended October 8, 1982.)

2.03 Court Sessions

The sessions of the Court shall commence Monday through Friday (except on legal holidays) in all divisions for the transaction of such business as may come before the Court, provided, however, that a session of the Court may be held on a Saturday, Sunday or legal holiday whenever the Court deems the same to be necessary.

2.04 Calendars

The calendars of this Court shall be prepared under authority of the administrator. Separate calendars may be prepared where feasible for (1) Criminal (non-traffic) cases, (2) Traffic cases, (3) Civil cases, (4) Unlawful Detainer cases, (5) Preliminary Hearing or Omnibus Hearing cases, (6) Motions, and (7) such other calendars as may be directed by a majority of judges of this Court. The person filing a case in this Court shall designate the classification of case for calendar purposes.

The order in which cases are set shall be the sequence of filing, unless a judge of this Court orders an acceleration for hearing or trial.

2.05 Special Term, First Division

In the First Division a Special Term of the Court will be held to hear motions and unlawful detainers according to the following schedule:

- Motions: Monday and Thursday of each week commencing at 9:00 A.M.
- Unlawful Detainers: Tuesday and Friday of each week commencing at 9:00 A.M.

and at such other times as deemed necessary by a majority of the Judges of the Court.

2.06 Special Term, Suburban Divisions

In the Second, Third and Fourth Divisions a Special Term of the Court will be held to hear motions and unlawful detainers according to the following schedule:

Motions:	Thursdays of each week.
Unlawful Detainers:	Mondays and Thursdays of each week.

and at such other times as deemed necessary by a majority of the Judges of the Court.

(Amended October 8, 1982.)

2.07 Caption of Pleadings

All pleadings and procedural instruments, both civil and criminal, and other process filed in any action or proceeding in this Court shall bear a caption designating the venue by division and community as illustrated:

STATE OF MINNESOTA COUNTY OF HENNEPIN	MUNICIPAL COURT FIRST DIVISION, MINNEAPOLIS
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STATE OF MINNESOTA COUNTY OF HENNEPIN	MUNICIPAL COURT SECOND DIVISION, BROOKLYN CENTER
--	---

STATE OF MINNESOTA COUNTY OF HENNEPIN	MUNICIPAL COURT THIRD DIVISION, MINNETONKA
--	---

STATE OF MINNESOTA COUNTY OF HENNEPIN	MUNICIPAL COURT FOURTH DIVISION, BLOOMINGTON
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(Amended October 8, 1982.)

2.08 Decorum

All proceedings and trials shall be held in accordance with the Rules for Uniform Decorum in the District Courts of Minnesota.

2.09 Official Records

The Administrator shall be responsible for making and preserving all minutes, records, pleadings, files, documents, instruments, exhibits and indices required by law or applicable rules of Court, and such records shall be the official records of this Court.

2.10 Unofficial Records; Photography

No person shall make an unofficial record or recording, in whole or in part, of any Court proceedings, whether by person or by electronic recording devices.

No photograph, video tape or voice recording shall be taken in any building in which Court is conducted throughout Hennepin County of any attorney, party, witness, or juror involved in the trial, civil or criminal, or proceedings incidental to any such case.

Court reporters or recording instruments may be employed at the direction of any judge of this Court in proceedings being handled by such judge to make verbatim Court records.

2.11 Record Preservation

No official record shall be destroyed, except upon direction of a majority of the judges of this Court under authority of law.

2.12 Employees

The employees of this Court shall be under the direction and control of the Administrator.

Rule 3. Attorneys**3.01 Certificates of Representation**

In any criminal case, an attorney representing a client, other than a public defender, shall file with the clerk on the first appearance a "certificate of representation", in such form and substance as a majority of judges of this Court from time to time specify.

Once an attorney has filed a certificate of representation, such attorney cannot withdraw from the case until all proceedings have been completed in this Court, except upon written order of the Court pursuant to a written motion, or upon written substitution of counsel approved by the Court ex parte.

An attorney 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; and the attorney shall have the matter heard at a special term. No motion of withdrawal will be heard within 10 days of a date certain for hearing or trial, and the application for withdrawal shall set forth such fact.

If the Court approves the withdrawal, it shall be effective after 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 administrator of this Court.

3.02 Client Appearance Guarantees

No attorney practicing in this Court shall be accepted as surety on any written bond or appearance undertaking of any accused; provided, however, that upon request and proper representations to a judge of this Court relative to the future appearance of a client, an attorney may in the discretion of such judge obtain a release on personal recognizance (R.P.R.) of such attorney, who guarantees the appearance of the client at the scheduled times for appearance in this Court. Any failure of the client to appear as scheduled shall warrant the imposition of such sanctions as shall be from time to time approved by a majority of the judges of this Court, together with the revocation of all "R.P.R." privileges for one year.

3.03 Timely Appearances

Once an arraignment court calendar has convened, no attorney shall approach the courtroom clerk or the Bench. Any attorney appearing late must notify the bailiff in the courtroom of his/her presence. The bailiff will then transmit the information to the Court and the case will be called per instruction of the presiding Judge.

(Added December 7, 1981, effective January 1, 1982.)

3.04 Appearance at Arraignments

All jurisdictions will be required to provide an attorney in the courtroom for all regularly scheduled arraignments. Arraignments will not be scheduled for any municipality with part time prosecutors more often than one day per week without prior agreement. Absent objection by the defendant all cases for which no prosecutor is available will be dismissed.

(Added December 7, 1981, effective February 1, 1982.)

Rule 4. Student Practitioners**4.01 Party Approval**

Any eligible law student may appear on behalf of any person in this Court, provided (1) that such person has indicated consent thereto in writing or does so in open Court; (2) that a supervising lawyer is present; (3) that opposing counsel does not object thereto; and (4) that the judge before whom such appearance is to be made has been given notice of such appearance, together with assurance of compliance with said conditions.

Rule 5. Ex Parte Orders

5.01 Representations

Any attorney presenting to a judge of this Court a proposed ex parte order shall be deemed to represent to the Court (1) that the Court has jurisdiction of the matter; (2) that the judge has authority to sign such order; (3) that the order is one that does not require a hearing thereon; and, (4) that the order is in all respects proper to enter and is supported by proper affidavit. Any judge of this Court may sign ex parte orders upon such representations.

5.02 Second Application Procedure

If there has been a previous application for an ex parte order covering the same parties and subject matter, and affidavit shall accompany the second application setting forth, among other things, the disposition of said application, the reason for rejection of the first application, and the new facts or circumstances which warrant reconsideration. If an affidavit which is required under this rule does not accompany an application for an ex parte order, any order obtained in the absence thereof may be vacated.

5.03 Supplementary Proceedings

No orders relative to supplementary proceedings shall be submitted to or entertained by any judge of this Court.

Any order to show cause for hearing subsequent to the entry of judgment in a replevin action shall be deemed to be supplementary proceedings.

Rule 6. Special Term, Motions and Defaults Pertaining to Traffic, Criminal, Unlawful Detainer, and Conciliation Court Cases

6.01 General Provisions

(A) **Applicability.** Any motion pertaining to a civil case not specifically mentioned within the title of this rule shall be governed by the Fourth Judicial District Court Special Rules of Procedure.

(B) **Calendar Requirements.** No case shall be entered on the Special Term calendar of any division of this Court, unless a note of issue is filed with the Administrator not later than three (3) days before the date noticed for the hearing. All pleadings, orders, memoranda, affidavits and other papers relative to the matters to be raised at the Special Term hearing must be filed with the Administrator not later than three (3) days before the date noticed for hearing, unless the Court finds for good cause shown that compliance with this requirement is not practical under the circumstances.

A proposed order shall accompany a motion and notice of motion upon service and filing.

(C) **Calendar Call.** The Special Term judge or the clerk shall at the opening of Court call the calendar, and proceed as follows:

(1) Only matters properly on the calendar when Court opens will be heard, unless a matter has been omitted by mistake or inadvertence of the clerk or if the Court finds other good cause.

(2) Default motions will be heard first.

(3) Default judgments will then be heard.

(4) Contested motions will be heard last.

(D) **Post Trial Motions.** Any post trial motion and any motion on a case previously assigned to a judge shall be referred to that judge.

(Amended November 1, 1982; effective January 1, 1983.)

6.02 Criminal Motions

Criminal motions not heard at a pretrial conference, or at arraignment shall be heard by the Special Term judge unless a special judge is required to hear witnesses or for other good cause.

A motion for relief from any official act of a judge shall be referred to that judge.

6.03 Unlawful Detainer Motions

All motions involving actions for forcible entry and unlawful detainer shall be submitted to the court on the days scheduled to hear unlawful detainer cases. Said motions shall be in accordance with the provisions of Rules 6.01 and 10 hereof.

(Old Rule 6.04 deleted November 1, 1982, effective January 1, 1983.)

6.04 Default Judgments

In any case where a party is in default, and the case has not been assigned to a judge for trial, the matter shall be heard by the Special Term judge.

In any case where the defendant is in default and application to the Court is required, the plaintiff shall: (1) establish jurisdiction of the Court over the person of the defendant and the subject matter of the cause of action; (2) prove the essential elements of the cause of action by a fair preponderance of the evidence; and (3) present to the Court, in writing, suggested findings of fact and conclusions of law and proposed order for judgment.

In any case where the plaintiff fails to appear for trial, the defendant may move to have the case stricken from the calendar or dismissed; or if a counter-claim has been asserted, the defendant may proceed to establish a right to relief as required by the plaintiff above.

(Amended and renumbered November 1, 1982, effective January 1, 1983.)

Rule 6.05 Deleted November 1, 1982, effective January 1, 1983.

Rule 7. Criminal Proceedings

7.01 Tab Charges

Tab charges shall be placed upon the appropriate calendar at the earliest possible time. If the division in which the offense occurred is not in session, the defendant shall be brought or directed to appear in any division which is in session.

7.02 Complaints - Fine Only Offenses

Any complaint which sets forth the essential facts charging an offense punishable by fine only may be submitted to the Administrator or court deputies of this court for the administration of the required oath and the issuance of a summons.

7.03 Complaints - Submission to Second Judge

A complaint which is found by a judge to be defective or otherwise insufficient shall not be submitted to another judge without a full and complete disclosure of such finding to the second judge.

7.04 Bail Schedule

A majority of the judges of this court may from time to time specify bail amounts for specified offenses, which schedule shall be furnished detention authorities in Hennepin County, Minnesota.

Any person under detention for any offense in this county shown in the bail schedule upon posting bail as set forth therein shall be released prior to arraignment upon written assurance that due appearance in court will be made at a time and place stated, and that defendant will conform to the conditions of the release.

7.05 Pre-Arrest Release

No person under detention charged with an offense not on the bail schedule shall be released prior to the first appearance in court, except as provided in Minnesota Rules of Criminal Procedure.

The nature of the release and the conditions thereof shall be in writing signed by the accused, and the person authorizing such release.

7.06 Sentencings

(A) **Multiple Sentences.** Where multiple or successive sentences are imposed, the Court shall declare them "concurrent" or "consecutive"; and in the absence of such declaration, the sentences shall be deemed to be "concurrent".

(B) **Good Time Credit.** Unless otherwise ordered by the Court, any person committed to a place of detention shall be given one (1) day credit for each seven (7) consecutive days of good behavior; and, the time of commitment shall be so reduced, except in cases of probation or parole violations, or escapes.

7.07 Procedure on Revocation of Stay or Probation

Any judge or the Administrator upon being advised that reasonable grounds exist to believe that a defendant who is under a stayed sentence or on probation may have violated the terms and conditions of such stay or probation, shall refer the matter to the sentencing judge. If the sentencing judge is no longer a member of this Bench, the matter may be handled by any other judge.

The Administrator or a probation officer shall forthwith prepare a report to the Court setting forth in substance that the defendant was under a stayed sentence or on probation and it appears that the defendant has violated the terms of such stay or probation.

The Court may thereupon issue an order for the arrest and detention of the defendant to abide the further order of the Court and for service of said report and order upon defendant. The defendant may be released on bail pending the hearing on the report of probation or stay violation. Bail need not be set if the Court determines that the interest of public safety would be jeopardized by releasing the defendant or that there is a high probability that defendant will flee the jurisdiction. However, if the Court declines to set bail, it shall set forth the reason for its refusal in writing.

A notice of hearing, to be held at the earliest practical date, to determine whether the defendant has violated the terms or conditions of said stay or probation as set forth in the report and whether the same should be revoked shall be served upon the defendant as soon as possible.

In the absence of a waiver, the judge hearing the matter shall immediately make findings of fact and conclusions of law in writing or on the record as to whether or not a factual basis exists for revocation of such stay or probation. The judge shall then proceed to determine whether or not defendant's probation or stay should be revoked and shall make an order accordingly.

7.08 Warrants

Any warrant issued by this Court, when served, shall be returned and filed with the Administrator of this Court.

7.09 Exhibits

Exhibits in criminal cases shall be kept by the Administrator for 40 days after the finding or verdict, unless surrender of the same shall be directed by order of the judge before whom the case was tried.

7.10 Scheduling of Arraignments

For those defendants not in "in custody status" no arraignments will be scheduled nor conducted earlier than the eighth day after arrest or issuance of citation for mandatory court appearance violations. If the prosecuting authority is unable to provide the Court and the defendant with sufficient factual information in the form of a police report or other documents so as to make informed decisions.

on pleas and/or pretrial release, the charges will be dismissed by the Court on its own motion.

(Added December 7, 1981, effective January 1, 1982.)

7.11 Deleted October 8, 1982

Rule 8. Violation Bureaus

8.01 Location

Violation bureaus are established and maintained at the location of the principal office of each division of the Court.

8.02 Fine Payments

A violator desiring to enter a plea of guilty and to pay the fine prescribed in advance by the Court for the offense charged may, within seven (7) days from the receipt of the violation charge, pay the fine so prescribed in the violation bureau.

8.03 Fine Schedule

A majority of the judges of this Court shall adopt a schedule of fines for violations payable in the violation bureau, which schedule may be from time to time modified or supplemented as required.

Rule 9. Bonds

9.01 Bondsmen Approval Required

No person shall engage in the business of procuring bail bonds, either cash or surety, for persons under detention, until an application is approved by this Court. The application shall be filed with the Administrator hereof stating (1) the name and address and phone number of the person intending to conduct bond business in this Court, (2) the nature and extent of the business to be conducted, and, if such person is to be affiliated, and (3) the criminal record of all persons affiliated with the proposed bondsman.

No person who has been convicted of a felony shall serve as a bondsman, or as an agent or affiliate of a bondsman, without a special order of this Court. The application form shall be obtained from the Administrator.

9.02 Corporate Sureties

Any corporate surety on a bond submitted to this Court shall be approved by the Court and authorized to do business in the State of Minnesota.

9.03 Surety Insolvency

Whenever a corporate surety becomes insolvent, the local agent shall notify the Court in writing forthwith.

Within fourteen (14) days after such notice to the Court, the agent shall file with the Administrator a security bond to cover outstanding obligations of the insolvent surety, which may be reduced automatically as the obligations are reduced.

In the absence of such surety or security bond, a summons shall be sent to all principals on the bonds of the surety; and if no response is made thereto, bench warrants shall issue.

9.04 Bond Solicitations

No bondsman or representative of any bondsman shall solicit business in any detention or Court facility.

Violation of this rule is grounds for suspension or revocation of the privilege to write bonds in this Court.

9.05 Forfeiture of Bonds

Whenever a bail bond is forfeited to a judge of this Court, the bondsman shall be notified thereof by the Administrator in writing, and be directed to make payment in accordance with the terms of the bond within fourteen (14) days from the date of forfeiture.

Any motion for reinstatement of the forfeited bond shall be supported by an affidavit, and filed with the Administrator within ninety (90) days from the date of forfeiture.

The matter of reinstatement of the bond shall be referred to the judge of this Court who forfeited the bond, and no reinstatement of such bond shall be allowed unless the motion is heard within six (6) months from the date of forfeiture.

9.06 Bonding Privilege Suspension

A failure to make the payment on a forfeited bond within fourteen (14) days as above provided, shall automatically suspend the surety and its agent from writing further bonds in this Court; and, such suspension shall continue until the bond principal is deposited in cash with the Administrator of this Court.

9.07 Posting Bonds

Before any person can be released on bond, approval of the issuing bondsman and the issuing bonding company must be on file with the Administrator of the Court.

Rule 10. Forcible Entry and Unlawful Detainer Actions

Revised June 8, 1981

10.01 Venue

Actions for forcible entry and unlawful detainer shall be tried in the First Division of the Court or in the Division in which the premises are situated. The venue of such action shall be specified in the summons issued therein.

10.02 Parties

The action shall be brought in the name of the owner of the property or such other person or legal entity having the present right of possession. No agent shall sue in his own name. Any agent suing for a principal shall attach a copy of the Power of Authority to the complaint at the time of filing, and no person other than a duly licensed attorney shall be allowed to appear unless the Power of Authority is so attached to the complaint.

(Amended June 13, 1980; effective January 1, 1981.)

10.03 Complaint

The complainant shall file with the Administrator of this Court a complaint containing the following:

- (A) A description of the premises which shall disclose the division of this Court in which the property is located;
- (B) The legal owner of the property or such other person or legal entity having the present right of possession of the property;
- (C) A statement disclosing compliance with Minnesota Statute S 504.22;
- (D) The facts which authorize recovery; and
- (E) A prayer for restitution.

The said complaint shall be subscribed by the plaintiff or the plaintiff's authorized agent or a duly licensed attorney. In addition, the complaint shall be verified pursuant to Minnesota Statute S 488A.11.

(Added November 1, 1982.)

Rule 10.04 Issuance of Summons, First Division

In the First Division, no summons shall issue after 3:00 o'clock p.m. on Fridays.

(Added November 1, 1982.)

Rule 10.05 Return of Summons

All summons shall be properly served; and the affidavit of service thereof filed with the Court by 3:00 o'clock p.m. three days prior to the hearing or the matter will be stricken.

(Amended and renumbered effective November 1, 1982; amended effective February 7, 1983.)

Rule 10.06 Filing of Affidavits

Upon return of the sheriff or other process server indicating that the defendant cannot be found in the county and where no person actually occupies the premises described in the complaint, the plaintiff or his attorney shall file an affidavit stating that the defendant cannot be found or on belief that the defendant is not in the state.

Following the filing of such affidavit, the Clerk shall issue copies of the summons and complaint for posting and mailing. A copy of the summons and complaint shall be mailed by the plaintiff or the plaintiff's attorney to the defendant at the defendant's last known address, if any is known to the plaintiff. Service of the summons may then be made upon the defendant by posting the summons in a conspicuous place on the premises for not less than one week.

Upon issuance of the summons and complaint for posting and mailing, the plaintiff or his attorney shall file another affidavit stating that a copy of the summons and complaint has been mailed to the defendant at his last known address or that such an address is unknown to the plaintiff. A separate affidavit shall be filed stating that the summons has been posted and the date of posting.

(Added November 1, 1982.)

Rule 10.07 Calendar Call

At the first call of the calendar the parties shall specify whether the case is a default or for trial, and if for trial, whether by court or jury. When each case is called for hearing the defendant shall be asked whether the defendant admits or denies the charges in the Complaint. Default cases shall be tried first in their calendar order, followed by contested cases triable to the Court without a jury. All cases in which a jury trial is demanded shall be forthwith referred to the Assignment Office for assignment to the first available judge for immediate trial. The jury fee must be paid before the jury is impaneled. All jury trials of actions for forcible entry and unlawful detainer shall be held in the First Division unless otherwise ordered by the Court upon good cause shown.

(Renumbered effective January 1, 1983.)

10.08 Written Answer Required

A defendant asserting an affirmative defense shall file a written answer, setting forth the defenses claimed, and a copy of such answer shall be immediately served upon the plaintiff or plaintiff's attorney.

(Renumbered effective January 1, 1983.)

10.09 Withheld Rent

In any case where a tenant withholds rent in reliance on a defense, the defendant shall deposit forthwith into court an amount in cash equal to the rent due as the same accrues.

(Renumbered effective January 1, 1983.)

10.10 Restitution

A Writ of Restitution shall issue within 24 hours after the entry of judgment, excluding Saturdays, Sundays and legal holidays, unless a stay authorized by law is specifically ordered by the Court.

(Renumbered effective January 1, 1983.)

10.11 Prohibited Motions

The Court will not entertain motions to reinstate a stricken case, for judgment notwithstanding the verdict, for amended findings, or for a new trial.

(Renumbered effective January 1, 1983.)

Rule 11. Civil Proceedings**11.01 Applicability**

All civil proceedings with the exception of unlawful detainers shall be governed by the Fourth Judicial District Court Special Rules of Procedure.

Rules 11.02 to 11.12 Deleted November 1, 1982, effective January 1, 1983.

Rules 12.01 to 12.05 Deleted November 1, 1982, effective January 1, 1983.

Rules 13.01 to 13.03 Deleted November 1, 1982, effective January 1, 1983.

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Ramsey County Municipal Court Special Rules of Procedure

[For text of Rules 1 to 17, see M.S.1982, pages 713 to 716]

Rule 18. State Versus Nordstrom Issue

A motion to dismiss a gross misdemeanor offense, where the basis of such motion is an uncounseled plea of guilty to a prior misdemeanor offense, as provided in *State vs. Nordstrom*, shall be made by written notice of motion, motion and affidavit served on the prosecutor and filed with the court three days prior to the date set for the Omnibus Hearing, unless the court, for good cause shown, permits the notice of motion, motion and affidavit to be served and filed at a later time.

(Added June 9, 1983; effective July 1, 1983.)