

# CIVIL PROCEDURE

## Minnesota Rules of Civil Procedure

Revised Effective January 1, 1989  
With amendments received through August 1, 2001

### TABLE OF HEADNOTES

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

##### **Rule 5. Service and Filing of Pleadings and Other Papers**

5.04 Filing; Certificate of Service

#### III. PLEADINGS AND MOTIONS

##### **Rule 10. Form of Pleadings**

10.01 Caption; Names of Parties

#### VI. TRIALS

##### **Rule 50. Motion for a Directed Verdict; Judgment Notwithstanding Verdict; Alternative Motion**

50.02 Judgment Notwithstanding Verdict

##### **Rule 52. Findings by the Court**

52.02 Amendment

##### **Rule 59. New Trials**

59.03 Time for Motion

##### **Rule 63. Disability or Disqualification of Judge; Notice to Remove; Assignment of a Judge**

63.03 Notice to Remove

#### VII. PROVISIONAL AND FINAL REMEDIES AND SPECIAL PROCEEDINGS

##### **Rule 65. Injunctions**

65.04 Form and Scope of Injunction or Restraining Order

## TEXT OF RULES

*[For text of I., see M.S. 2000, Volume 15]*

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

*[For text of Rule 3. and Rule 4., see M.S. 2000, Volume 15]*

#### **Rule 5. Service and Filing of Pleadings and Other Papers**

*[For text of 5.01 to 5.03, see M.S. 2000, Volume 15]*

##### **5.04 Filing; Certificate of Service**

All papers after the complaint required to be served upon a party, together with a certificate of service, shall be filed with the court within a reasonable time after service, except expert disclosures and reports, depositions upon oral examination and interrogatories, requests for documents, requests for admission, and answers and responses thereto shall not be filed unless upon order of the court or for use in the proceeding.

The administrator shall not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by any court rule or practice.

(Amended effective March 1, 1994; amended effective January 1, 1997; amended effective March 1, 2001.)

#### *Advisory Committee Comment - 2000 Amendments*

*The last sentence of Rule 5.04 is changed to broaden the direction to court administrators not to reject documents for filing for noncompliance with the form requirements of the rules. The rule as amended makes it clear that those form requirements, regardless of which set of rules contains them, should not be the basis for a refusal to file the document. Any deficiency as to form should be dealt with by appropriate court order, including in most cases an opportunity to cure the defect.*

*[For text of 5.05 and Rule 6., see M.S. 2000, Volume 15]*

### III. PLEADINGS AND MOTIONS

*[For text of Rule 7. to Rule 9., see M.S. 2000, Volume 15]*

#### **Rule 10. Form of Pleadings**

##### **10.01 Caption; Names of Parties**

Every pleading shall have a caption setting forth the name of the court and the county in which the action is brought, the title of the action, the court file number if one has been assigned, and a designation as in Rule 7, and, in the upper right hand corner, the appropriate case type indicator as set forth in the subject matter index included in the appendix as Form 23. If a case is assigned to a particular judge for all subsequent proceedings, the name of that judge shall be included in the caption and adjacent to the file number. In the complaint, the title of the action shall include the names of all the parties, but in other pleadings it is sufficient to state the first party on each side with an appropriate indication of other parties.

(Amended effective March 1, 1994; amended effective March 1, 2001.)

*Advisory Committee Comments - 2000 Amendments*

*Rule 10.01 is amended to facilitate case management and document management in cases where a judge has been assigned to the case. By placing the judge's name on the caption, it is often possible to expedite the delivery of filed documents to that judge. This provision is commonly required in federal court cases where all matters are assigned to a judge, including in the United States District Court for the District of Minnesota. See LR 5.1 (D. Minn.). The rule is also amended to require the inclusion of a court file number if one has been assigned.*

*[For text of 10.02 to 16:06, IV., and V., see M.S. 2000, Volume 15]*

## VI. TRIALS

*[For text of Rule 38. to Rule 49., see M.S. 2000, Volume 15]*

### **Rule 50. Motion for a Directed Verdict; Judgment Notwithstanding Verdict; Alternative Motion**

*[For text of 50.01, see M.S. 2000, Volume 15]*

#### **50.02 Judgment Notwithstanding Verdict**

(a) A party may move that judgment be entered notwithstanding the verdict or notwithstanding the jury has disagreed and been discharged, whether or not the party has moved for a directed verdict, and the court shall grant the motion if the moving party would have been entitled to a directed verdict at the close of the evidence.

(b) A motion for judgment notwithstanding the verdict may include in the alternative a motion for a new trial.

(c) A motion for judgment notwithstanding the verdict or notwithstanding the jury has disagreed and been discharged shall be served and heard within the times specified in Rule 59 for the service and hearing of a motion for a new trial and may be made on the files, exhibits, and minutes of the court. On a motion for judgment notwithstanding the jury has disagreed and been discharged, the date of discharge shall be the equivalent of the date of rendition of a verdict within the meaning of that rule, but such motion must in any event be served and heard before a retrial of the action is begun.

(d) If the motion for judgment notwithstanding the verdict is granted, the court shall also rule on the motion for a new trial, if any, by determining whether it should be granted if the judgment is thereafter vacated or reversed, and shall specify the grounds for granting or denying the motion for the new trial. If the motion for a new trial is thus conditionally granted, the order thereon does not affect the finality of the judgment. In case the motion for a new trial has been conditionally granted and the judgment is reversed on appeal, the new trial shall proceed unless the appellate court has otherwise ordered. In case the motion for a new trial has been conditionally denied, the respondent on appeal may assert error in that denial; and if the judgment is reversed on appeal, subsequent proceedings shall be in accordance with the order of the appellate court.

(e) The party whose verdict has been set aside on motion for judgment notwithstanding the verdict may serve a motion for a new trial pursuant to Rule 59 except that the times for serving and hearing said motion shall be determined from the date of notice of the trial court's order granting judgment notwithstanding rather than the date the verdict is returned.

(f) If the motion for judgment notwithstanding the verdict is denied, the party who prevailed on that motion may, as respondent, assert grounds entitling that party to a new trial in the event the appellate court concludes that the trial court erred in denying the motion for judgment notwithstanding the verdict. If the appellate court reverses the judgment, nothing in this rule precludes it from determining that the respondent is

entitled to a new trial, or from directing the trial court to determine whether a new trial shall be granted.

(Amended effective March 1, 2001.)

*Advisory Committee Comment - 2000 Amendments*

*Although the text of this Rule 50.02 is not changed substantively by these amendments, it is worth noting that Rule 59.03, governing the time for filing a motion for a new trial is changed to expand the time from 15 days to 30 days for filing the motion and from 30 days to 60 days for having the motion heard. This amendment has the practical effect of extending the time for filing a motion under Rule 50 because Rule 50.02(c) incorporates the filing and hearing time limits of Rule 59.*

*[For text of Rule 51., see M.S. 2000, Volume 15]*

**Rule 52. Findings by the Court**

*[For text of 52.01, see M.S. 2000, Volume 15]*

**52.02 Amendment**

Upon motion of a party served and heard not later than the times allowed for a motion for new trial pursuant to Rule 59.03, the court may amend its findings or make additional findings, and may amend the judgment accordingly if judgment has been entered. The motion may be made with a motion for a new trial and may be made on the files, exhibits, and minutes of the court. When findings of fact are made in actions tried by the court without a jury, the question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made in the district court an objection to such findings or has made a motion to amend them or a motion for judgment.

(Amended effective March 1, 2001.)

*Advisory Committee Comment - 2000 Amendments*

*Although the text of this Rule 52.02 is not changed substantively by these amendments, it is worth noting that Rule 59.03, governing the time for filing a motion for a new trial is changed to expand the time from 15 days to 30 days for filing the motion and from 30 days to 60 days for having the motion heard. This amendment has the practical effect of extending the time for filing a motion for amended findings under Rule 52 because Rule 52.02 incorporates the filing and hearing time limits of Rule 59.*

*[For text of Rule 53. to Rule 58., see M.S. 2000, Volume 15]*

**Rule 59. New Trials**

*[For text of 59.01 and 59.02, see M.S. 2000, Volume 15]*

**59.03 Time for Motion**

A notice of motion for a new trial shall be served within 30 days after a general verdict or service of notice by a party of the filing of the decision or order; and the motion shall be heard within 60 days after such general verdict or notice of filing, unless the time for hearing be extended by the court within the 60-day period for good cause shown.

(Amended effective March 1, 2001.)

Revisor's Note: Minnesota Supreme Court Order C6-84-2134, dated December 19, 2000, provides in part "[t]he amendments to Rule 59 shall apply to all actions or proceedings commenced on or after the effective date and all actions or proceedings pending on or decided before the effective date in which the time periods stated in the former Rule 59 have not expired."

*Advisory Committee Comment - 2000 Amendments*

*The single purpose of the amendment of this Rule 59.03 in 2000 is to create a longer and more reasonable period in which to hear post-trial motions. At the time this rule was adopted, post-trial motions were often heard in a somewhat perfunctory manner and court assignment practices permitted the scheduling of cases in this manner.*

*This amendment will also reduce, although not eliminate, the potential consequences of failing to have a post-trial motion heard in a timely manner.*

*The change in Rule 59 will serve to extend the deadline for other post-trial motions as well, because the current rules specifically tie the deadlines for those motions to Rule 59. See MINN. R. CIV. P. 50.02(c) (judgment notwithstanding the verdict); 52.02 (motion for amended findings). It will also have an indirect impact on Rule 60.02(b), which allows for relief from an order or judgment on the grounds of newly discovered evidence which could not have been discovered in time to move for a new trial. This latter impact will be negligible.*

*[For text of 59.04 to Rule 62., see M.S. 2000, Volume 15]*

**Rule 63. Disability or Disqualification of Judge; Notice to Remove; Assignment of a Judge**

*[For text of 63.01 and 63.02, see M.S. 2000, Volume 15]*

**63.03 Notice to Remove**

Any party or attorney may make and serve on the opposing party and file with the administrator a notice to remove. The notice shall be served and filed within ten days after the party receives notice of which judge or judicial officer is to preside at the trial or hearing, but not later than the commencement of the trial or hearing.

No such notice may be filed by a party or party's attorney against a judge or judicial officer who has presided at a motion or any other proceeding of which the party had notice, or who is assigned by the Chief Justice of the Minnesota Supreme Court. A judge or judicial officer who has presided at a motion or other proceeding or who is assigned by the Chief Justice of the Minnesota Supreme Court may not be removed except upon an affirmative showing of prejudice on the part of the judge or judicial officer.

After a party has once disqualified a presiding judge or judicial officer as a matter of right, that party may disqualify the substitute judge or judicial officer, but only by making an affirmative showing of prejudice. A showing that the judge or judicial officer might be excluded for bias from acting as a juror in the matter constitutes an affirmative showing of prejudice.

Upon the filing of a notice to remove or if a litigant makes an affirmative showing of prejudice against a substitute judge or judicial officer, the chief judge of the judicial district shall assign any other judge of any court within the district, or a judicial officer in the case of a substitute judicial officer, to hear the cause.

(Amended effective January 1, 1992; amended effective March 1, 2001.)

*Advisory Committee Comments - 2000 Amendments*

*Rule 63.03 is amended to make clear the fact that a judge specially assigned by the Chief Justice to hear cases originally pending in more than one district cannot be removed by mere filing of a notice to remove. This amendment is a companion to the amendment of Rule 113.03 of the Minnesota General Rules of Practice in 2000, effective March 1, 2001, to provide a formal mechanism for requesting the Chief Justice to make such an*

*assignment. This rule codifies the existing practice in special cases such as special assignment of a judge by the Chief Justice. The rule makes it clear that even a judge assigned by the Chief Justice may be removed for cause.*

*[For text of 63.04, see M.S. 2000, Volume 15]*

## VII. PROVISIONAL AND FINAL REMEDIES AND SPECIAL PLEADINGS

*[For text of Rule 64., see M.S. 2000, Volume 15]*

### **Rule 65. Injunctions**

*[For text of 65.01 to 65.03, see M.S. 2000, Volume 15]*

#### **65.04 Form and Scope of Injunction or Restraining Order**

Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

(Added effective March 1, 2001.)

#### *Advisory Committee Comments - 2000 Amendments*

*This rule is entirely new in the Minnesota rules; it is drawn directly from FED. R. CIV. P. 65(d). There is no comparable provision currently in the Minnesota rules and questions do arise about what is necessary to make sure that a party is subject to a court's injunctive order. The amended rule is intended to resolve those questions.*

*[For text of Rule 66. to Rule 71., VIII., Appendix A, B(1), B(2), and Appendix of Forms, see M.S. 2000, Volume 15]*